ESTTA Tracking number: **ESTTA689594**
Filing date: **08/14/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91204456
Party	Plaintiff Intrust Financial Corporation
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Date	08/14/2015
Attachments	2015-08-14 Opposer Notice of Filing of Depo Testimony.pdf(133332 bytes) Canfarelli - condensed.pdf(42156 bytes) Cullinan - condensed.pdf(173075 bytes) Elliott - condensed.pdf(324190 bytes) Klocek - condensed.pdf(94217 bytes) MacGregor - condensed.pdf(151999 bytes) Morrison - condensed.pdf(217973 bytes) Reed - condensed.pdf(61527 bytes) Ex 1A - 4.pdf(1166859 bytes) Ex 5.pdf(5390853 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Intrust Financial Corporation, Opposer, v. nTrust Corp., Applicant.	))))))))))	Opposition No. 91204456 Application Serial No.: 85/250992 Mark: NTRUST

Opposer's Notice of Filing of Testimony Depositions

Opposer Intrust Financial Corporation ("Intrust"), pursuant to Trademark Trial and Appeal Board Manual of Procedure § 703.01, hereby gives notice of the filing of the following testimony depositions and exhibits:

1. The March 25, 2014, testimony of Lisa Elliott;
2. The March 25, 2014, testimony of Kimberly Klocek;
3. The March 26, 2014, testimony of Linda Cullinen;
4. The March 26, 2014, testimony of Thomas Morrison;
5. The October 16, 2014, testimony of Geno Reed;
6. The October 16, 2014 testimony of Deborah Canfarelli;
7. The April 24, 2015, testimony of Robert McGregor; and
8. The exhibits accompanying the above depositions, numbered 1-81, 101-126, 130-133, and 201-225.

Respectfully submitted,

Dated: August 14, 2015

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Certificate of Service

I certify that a copy of **Opposer's Notice of Filing of Testimony Depositions** was sent this 14th day of August, 2015, via email to counsel of record as follows:

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

INTRUST FINANCIAL)
CORPORATION,)
)
Opposer,) Opposition No. 91204456
) Application Serial
vs.) No. 85/250992
) Mark: NTRUST
nTRUST CORP.,)
)
Applicant.)

The deposition of DEBORAH R. CANFARELLI taken before Susana Albor-Hoyt, Certified Shorthand Reporter, Registered Professional Reporter, taken at 205 Remington Boulevard, Bolingbrook, Illinois, commencing at 12:51 p.m. on the 16th day of October, A.D., 2014.

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* * * * * *

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E X H I B I T S

(NO EXHIBITS MARKED)

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(Witness sworn.)
WHEREUPON:
DEBORAH R. CANFARELLI,
called as a witness herein, having been
first duly sworn, was examined and testified
as follows:
EXAMINATION
BY MR. NORTON:
Q. Could you please state your name for the record.
A. Deborah Canfarelli.
Q. Ms. Canfarelli, my name is Michael Norton. I am one of the attorneys for Intrust Financial Corporation and Intrust Bank, and to my left is Jimmy Nguyen, who is the attorney for nTrust Corp.
You understand we're here today to take your deposition?
A. Yes.
Q. Okay. Throughout the deposition today, I will refer to Intrust Bank as an entity. That first name Intrust begins with an I; is that okay?
A. Yes.
Q. And then nTrust Corp. is an entity

Page 6

whose first name begins with just the letter n.
A. Okay.
Q. Okay? So if I say nTrust Corp. or nTrust with an n, I'm referring to the one without an I at the beginning. And if I say Intrust Bank, I'm referring to the other; do you understand that?
A. Yes, I understand.
Q. If there's any confusion or you have any questions about that, just let me know, and we'll try to clarify it, okay?
A. Okay.
Q. All right. We're gonna start with just a little bit of background. First, Ms. Canfarelli, where are you currently employed?
A. FIS.
Q. And how long have you been employed at FIS?
A. About ten months.
Q. And where did you work prior to FIS?
A. JP Morgan.
Q. Okay. Had you worked at FIS at any other time before you began ten months ago?

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A. No.
Q. What is your position at FIS?
A. Client services manager one.
Q. Okay. What does that mean?
A. I am an account manager for a list of clientele.
Q. What are your daily duties as a client manager?
A. Questions pertaining to credit card programs, setting up programs as they relate to credit card production, questions about existing card production jobs, escalations.
Q. Where is your office located?
A. At 270 Remington.
Q. Is that in Bolingbrook?
A. Yes.
Q. Okay. What did you do for JP Morgan?
A. I was a relationship manager.
Q. And how long were you at JP Morgan?
A. Three and a half years.
Q. Okay. Now, at FIS, are you assigned specific clients?
A. Yes.
Q. Is Intrust Bank one of your clients?

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A. Yes.
Q. When were you first assigned Intrust Bank as one of your clients?
A. March 2014.
Q. Who's your primary contact at Intrust Bank?
A. Jenny Githens.
Q. Is there anyone else at Intrust Bank that you communicate with?
A. Jerry Chandler.
Q. Anyone else?
A. Very rare, mainly with onsite visits, Tom, Thomas Morrison.
Q. Okay. Is nTrust Corp. or nTrust with an n one of your clients?
A. No.
Q. Have you ever spoken with anyone at nTrust Corp.?
A. No.
Q. Do you know whether nTrust Corp. is a customer or client of FIS?
A. I do not know.
Q. Have you ever seen any artwork submitted to FIS by nTrust Corp.?
MR. NGUYEN: Objection, lacks

Page 9

1 foundation.
2 BY THE WITNESS:
3 A. I don't know.
4 **Q. All right. Could you give us just,**
5 **like, a ten-second overview of your**
6 **educational background?**
7 A. High school graduate. I have an
8 associate's degree from DeVry Institute of
9 Technology.
10 **Q. And what's your associate's degree**
11 **in?**
12 A. Electronics technology.
13 **Q. Okay. Any other post high school**
14 **education?**
15 A. Other than the occasional seminar,
16 no.
17 **Q. Okay. If you could, please describe**
18 **your role at FIS as it relates to Intrust**
19 **Bank.**
20 A. I'm their main point of contact for
21 any questions pertaining to their credit
22 card production.
23 **Q. Okay. Could you give us an example**
24 **of how you deal with --**
25 A. I wasn't sure. So I set up

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1 programs, per their instructions. So credit
2 card programs per their instruction, which
3 includes graphic requests.
4 **Q. Okay. Could you expand a little bit**
5 **on graphic request?**
6 A. So when the client sets up a new
7 program, because we are in the business of
8 doing credit card production, the client has
9 to tell us what they would like to be on the
10 card, everything from graphics to content,
11 you know, what type of card it would be,
12 what brand, Visa, MasterCard, what have you,
13 setting up helping with connectivity to
14 receive their data files, testing of their
15 card packages.
16 **Q. What do you mean by that?**
17 A. So once we have all the materials,
18 once we have the program built, then we
19 receive test data, and we generate a test
20 card package, which is a card and any
21 materials that go with the card such as, you
22 know, a pamphlet, envelope, label, things
23 like that.
24 **Q. Okay. Let's back up for a little**
25 **bit. When you refer to a program, what are**

Page 11

1 **you referring to?**
2 A. Maybe, it's card -- their product.
3 **Q. And in Intrust Bank's case, what**
4 **type of products have you worked with?**
5 A. Gosh. Well, so it's -- I would have
6 to really get descriptive to explain to you
7 what a program really is. But let's go --
8 I'll go back and say a program is -- can
9 only have one type of graphic, one type of
10 insert and envelope and label. If you have
11 another program that needs a different
12 insert, for example, you have to create it.
13 If they need another insert, let's say,
14 pamphlet, then you have to set up another
15 program. So one product can have hundreds
16 of programs. So for example, university
17 card. Univer- --
18 **Q. Have you dealt with any Intrust**
19 **products that show the word Intrust on the**
20 **face of the product?**
21 A. Yes.
22 **Q. Okay. Could you give us some**
23 **examples? Would it be like a credit card?**
24 A. Oh, yes. Yes. Intrust Bank credit
25 card.

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1 **Q. Okay. How about gift cards?**
2 A. No.
3 **Q. How about debit cards?**
4 A. Yes.
5 **Q. If you could, just take us through**
6 **one example of a program that you've worked**
7 **with involving an Intrust Bank debit card.**
8 A. So when I received their account,
9 they were already all set up. So in this
10 case, the only involvement I had was working
11 with them to change the graphics.
12 **Q. Okay. When you say "the graphics,"**
13 **what are you referring to?**
14 A. They previously had a custom card
15 which is something that is manufactured
16 outside of FIS. And then we receive the
17 material and we personalize the card, which
18 means to emboss the card, put data on the
19 mag stripe, et cetera. In this case, they
20 -- they decided not to use custom card
21 anymore and used a standard card stock that
22 we offer.
23 **Q. And when you say "standard card**
24 **stock," again, you're referring to a debit**
25 **card?**

Page 13

A. Yes. It would -- It's called a blank white VHD card. So that allows them to put their own image on it.

Q. Okay. And when you refer to the graphic, is that the appearance that is on the face of the card?

A. Correct. And on the back of the card.

Q. Okay. And you were personally involved in working with Intrust with regard to the graphic for the Intrust debit -- Intrust Bank debit card?

A. Yes.

Q. Do you still work with Intrust Bank?

A. Yes.

Q. Who provides the graphic?

A. Jenny Githens.

Q. From Intrust Bank?

A. Yes.

Q. And you say you do some sort of testing related to the program?

A. Yes.

Q. Could you describe that for us?

A. So after we make any changes to that program, then we ask the client to send us

Page 14

data file, and we create a production job with that data and with that program number so it generates a card and whatever else is built on that program. So I -- So as their client manager, I review all the materials and make sure it's correct.

Q. Okay. When you say review the materials and make sure it's correct, what does that entail?

A. Physically viewing the card, front and back, and viewing the part numbers of all other materials.

Q. Are you -- Do you review it to determine whether the graphic is correct?

MS. WALTER: Object to the form.

BY MR. NORTON:

Q. Let me restate that. When -- Do you review the materials to determine whether FIS has applied the correct graphic for the correct customer?

A. I review the material to verify that the graphic they sent for that program matches what I see on the card. And then they -- And then I do send it out to them also for approval.

Page 15

Q. Okay. Have you ever had an instance where the -- where you were reviewing a graphic for a card and it was obvious that it was incorrect?

A. Yes.

Q. And what do you do under those circumstances?

A. Change the graphic in the program and request another test.

Q. Have you ever had an instance where a graphic that you were reviewing was for the -- was for a different client than it was supposed to have been?

A. No.

Q. Are you trained to look to ensure that you're using the correct graphic for the correct product?

A. Am I trained? I don't understand.

Q. Sure. Has anyone at FIS given you any direction concerning applying the correct graphic with the correct product?

A. No one at FIS.

Q. Okay. Do you view one of your job duties to -- is to ensure that the correct graphic is being used with the correct

Page 16

product?

A. It is.

Q. Do you view one of your job duties to ensure that the graphic that is being applied for a product is for the correct client?

MS. WALTER: Object to the form. You can answer.

BY THE WITNESS:

A. What I do is I verify that the graphic the client sent me matches the graphic on the card.

Q. Sure. Do you verify that -- In doing that, do you ensure that you're not applying graphic to the wrong client's product?

MS. WALTER: Object to the form.

MR. NGUYEN: Objection, lack of foundation, assumes facts.

MS. WALTER: You can answer in your own words.

BY THE WITNESS:

A. I don't know how to answer because I'm only working on my one client at that point in time.

Page 17

1 **Q. Okay. How many clients do you have?**
2 A. Oh, boy. It keeps changing daily.
3 **Q. On average.**
4 A. 30/35.
5 **Q. When you are performing your**
6 **testing, do you make an effort to make sure**
7 **that the graphic that is being shown is for**
8 **the correct product?**
9 MS. WALTER: Asked and answered.
10 MR. NGUYEN: I join that objection.
11 MS. WALTER: You can answer in your
12 own words.
13 BY THE WITNESS:
14 A. Yeah. So based on the information
15 that the client provides me, I match it up
16 to the information they provided me.
17 **Q. I guess what I'm asking is, are you**
18 **just -- just moving paper across your desk**
19 **or are you looking at the information that**
20 **the clients provided you to be sure that it**
21 **is being applied as the client directs?**
22 A. Yes. I'm looking at that
23 information.
24 **Q. Okay. And that includes the**
25 **graphics?**

Page 18

1 A. Yes.
2 **Q. And would you agree that one of your**
3 **duties is to make sure that you're not**
4 **applying a graphic for one client to a**
5 **product for another client?**
6 MS. WALTER: Asked and answered.
7 MR. NGUYEN: Asked and answered.
8 BY THE WITNESS:
9 A. It's not a function that I do as far
10 as -- I guess, it's a odd question because
11 maybe I'm perfect because that's never
12 happened. So I have no -- I don't know how
13 to answer that question.
14 **Q. Sure. Would you -- would you --**
15 A. I like to think I'm perfect at my
16 job, but we're all human.
17 **Q. Let me ask it a different way.**
18 A. Okay.
19 **Q. Would you get in trouble at work if**
20 **you applied the graphic for one client to**
21 **another client's product?**
22 MS. WALTER: Object to the form.
23 MR. NGUYEN: Calls for speculation.
24 BY THE WITNESS:
25 A. It would be -- As part of our

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1 testing process, that's -- it's our
2 responsibility to verify that what is on the
3 card and with the card is what the client
4 asked us to put. So it would be caught. I
5 would catch it.
6 **Q. Okay.**
7 A. So I wouldn't be in trouble with
8 anyone. It would be part of my
9 responsibilities to ensure that it's correct
10 before I send it to the client for approval.
11 **Q. I want to hand you what has**
12 **previously been marked as Exhibit No. 131.**
13 A. Okay.
14 **Q. If you could take just a few seconds**
15 **or minutes to look at that e-mail or that**
16 **document and let me know once you've had a**
17 **chance to look at it.**
18 **(Witness viewing document.)**
19 BY THE WITNESS:
20 A. Okay. I read it.
21 **Q. Can you tell us what Exhibit No. 131**
22 **is?**
23 MR. NGUYEN: Objection, lacks
24 foundation.
25 BY THE WITNESS:

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1 A. According to what's stamped on the
2 sheet, it is an e-mail chain, and page two
3 is a picture.
4 **Q. Okay. We'll do it the long way. Do**
5 **you see at the top of the document that**
6 **there is a from label?**
7 A. Yes.
8 **Q. Okay. And it says from Canfarelli,**
9 **comma, Deborah R?**
10 A. Yes.
11 **Q. And you are Canfarelli, comma,**
12 **Deborah R --**
13 A. Yes.
14 **Q. -- correct?**
15 A. Yes.
16 **Q. Do you recall having received this**
17 **e-mail?**
18 A. Actually --
19 MR. NGUYEN: Objection, lacks
20 foundation --
21 THE WITNESS: Actually, I --
22 THE REPORTER: What? What?
23 MR. NORTON: Okay.
24 THE REPORTER: I'm sorry. What did
25 he say?

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MR. NORTON: He said objection, lacks foundation.
THE REPORTER: And what was after that?
MR. NGUYEN: And assumes facts.
THE REPORTER: What was your answer?
THE WITNESS: (No verbal response.)
THE REPORTER: Ma'am, what was your answer?
THE WITNESS: Now I forgot the question.
MR. NORTON: She said actually, I sent this e-mail.
THE REPORTER: Thank you.
BY MR. NORTON:
Q. Okay. All right, Ms. Canfarelli. Thank you for that clarification. We'll just go line by line.
After having reviewed this document, does it refresh your recollection as to whether you sent the e-mail or sent an e-mail containing the content that is shown on Exhibit No. 131?
A. I did send an e-mail.
Q. Did you send an e-mail that is --

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that contains the contents that is shown in the exhibit --
A. Oh, yes, yes, yes.
Q. I'm not trying to make it difficult.
A. No. I know. I'm just --
Q. And --
A. -- just trying to understand the questions.
Q. No. You're doing fine.
Let's start at the bottom on the front page of Exhibit 131. And you'll see that there's a label that says from Geno Reed; do you see that?
A. Yes.
Q. And sent Monday, April 7th, 2014 at 2:34 p.m.; do you see that?
A. Yes.
Q. And then there is a to line, and it states, Romeoville, dash, client services; do you see that?
A. Yes.
Q. Okay. And then finally, the subject, art looking for an owner; do you see that?
A. Yes.

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Q. Okay. First, who's Geno Reed?
A. He is our inhouse graphic support.
Q. He's a co-employee at FIS?
A. Yes.
Q. And the to line is Romeoville, dash, client services. Can you tell us what that is?
A. That is a distribution e-mail address for the client services department.
Q. Okay. And are you part of that distribution e-mail list?
A. Yes.
Q. All right. Now, do you recall receiving an e-mail that contains what is shown on the bottom portion of Exhibit No. 131?
A. I recall receiving the e-mail.
Q. Okay. And do you -- Would you have received it around April 7th of 2014?
A. It sounds about right. It was a long time ago.
Q. Do you have any reason to believe that that's not an accurate date?
A. No. I have no reason to believe that.

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Q. And then if you look on the second page, there is a graphic shown there; do you see that?
A. Yes.
Q. And it is a blue rectangle with nTrust, spelled N T R U S T, cloud money, and then a graphic; do you see that?
A. Yes.
Q. Do you recall receiving this graphic?
A. I don't recall this exact graphic.
Q. Okay. Do you recall seeing a graphic similar to this as part of the e-mail that you received in April?
A. Can you expand on similar?
Q. Okay. If we look at the top of Exhibit No. 131, again, the top line says from Deborah Canfarelli, correct?
A. Yes.
Q. To Jennie Githens, correct?
A. Yes.
Q. Jennie Githens is your contact at Intrust Bank, correct?
A. Yes.
Q. CC Jerry Chandler, correct?

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A. Yes.
Q. And Mr. Chandler is another one of your contacts at Intrust Bank, correct?
A. Yes.
Q. And would you agree with me that you forwarded Mr. -- the e-mail purportedly from Mr. Smith?
A. I forwarded the graphic. I don't -- I apologize. I don't recall the details of the graphic, but I know I forwarded a graphic to the --
Q. Okay.
A. -- to Intrust.
Q. And if you look at the top of that 131, the e-mail that you forwarded, it says attachments, nTrust Cloud Money Card, dot, pdf; do you see that?
A. Yes.
Q. Do you have any reason whatsoever to believe that the second page of Exhibit No. 131 is not the graphic that you forwarded to Ms. Githens?
A. I don't have any reason not to believe that.
Q. Do you recall forwarding a graphic

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to Ms. Githens in --
A. Yes --
Q. -- April?
A. -- I do.
Q. Why would you have forwarded a graphic to Ms. Githens in April of 2014?
A. This graphic or a graphic? The name.
Q. What name?
A. The name in the graphic seemed similar.
Q. What name?
A. I'm sorry. nTrust.
Q. Did you forward this graphic to any other clients of yours?
A. No.
Q. And if you look in the top of 131, your e-mail states -- And you do agree this is an e-mail you sent, correct?
A. Yes, I do.
Q. It says, Hello Jennie. Please confirm if you sent the attached image file to us. I don't recall seeing an e-mail from you for this image, period. Thank you. Debbie. Did I read that directly?

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A. Yes.
Q. Did you believe that the image with nTrust with an n may have belonged to Intrust Bank?
A. Yes.
Q. And why is that?
A. It sounded similar to me, nTrust.
Q. When you -- Have you received any other e-mails from Geno Reed or anyone else asking if you know the owner of a particular graphic --
A. Yes.
Q. -- image? Do you automatically send those on to all of your clients?
A. No.
Q. Okay. Why not?
A. Because it's to a distribution e-mail address. So I wait to see -- We wait to see a response from someone.
Q. But in this case, you chose to forward Exhibit No. 131 and an nTrust graphic on to Intrust Bank, correct?
A. Yes.
Q. And that's because you -- Well, strike that.

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Now, you put some thought into whether the graphic with nTrust belonged to Intrust Bank, correct?
A. Yes.
MS. WALTER: Object to the form.
MR. NGUYEN: Yeah. Lacks foundation, assumes facts.
BY MR. NORTON:
Q. Because you didn't just send it on to all of your clients, correct?
A. That is correct.
Q. And did you think about whether that graphic might belong to Intrust Bank before you forwarded it to Intrust Bank?
A. Yes.
Q. And you believed that it might?
A. Yes.
Q. You weren't sure who the owner of that graphic was, correct?
A. Correct.
Q. And if you look at the -- the time stamps for these e-mails that are shown on Exhibit 132 -- I'm sorry. Strike that. I pulled the wrong document in front of me.
A. Okay.

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Q. If we look at the time stamps that are shown on the Exhibit No. 131, it appears that Mr. Reed or someone on his behalf sent the original e-mail at 2:34 p.m.; do you see that?
A. Yes, I see that.
Q. Do you have any reason to believe that that's not the correct time?
MR. NGUYEN: Objection, lacks foundation.
BY THE WITNESS:
A. No reason to believe otherwise.
Q. And then the date stamp for the e-mail that you sent is 3:20 p.m. on the same day, April 7th; is that correct?
A. That's correct.
Q. So at least according to the date stamps, you forwarded the nTrust graphic on to Intrust Bank in less than an hour, correct?
A. Correct.
Q. Did you -- Strike that.
Is Intrust Bank the only FIS customer to whom you sent the nTrust graphic?
A. Yes.

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Q. Did you get a response from Intrust Bank?
A. I don't recall.
Q. Okay. Did you talk with anyone about the nTrust with an n graphic before forwarding it on to Intrust Bank?
A. No.
Q. You talked with Geno Reed about it?
A. Before?
Q. Before.
A. No.
Q. Have you talked with him about it since?
A. I think, one time.
Q. Okay. Do you remember approximately when that was?
A. Probably a couple weeks after this.
Q. Okay. And what did you say to Mr. Reed?
A. I think it was -- I don't know.
Q. Do you remember the conversation at all?
A. I really don't, no.
Q. Do you know who -- If you look on Mr. -- the e-mail that is from Geno Reed, it actually says thanks, Tammy; do you see that at the bottom?
A. Yes.
Q. Do you know who Tammy is?
A. Yeah. Tammy is on Geno's team.
Q. Okay. Have you spoken with Tammy about the graphic that you forwarded on to Intrust Bank?
A. No.
MR. NORTON: Thank you, ma'am. Those are all the questions that I have.
THE WITNESS: Okay.
MR. NORTON: I'm sure Mr. Nguyen has a few.
MR. NGUYEN: Yes. I just have some follow-up questions.
MS. WALTER: Do you need a break before that?
THE WITNESS: I guess, I'm okay. Actually, you know what? I would like to get some coffee.
MS. WALTER: Go off the record then. Is that okay?
MR. NORTON: Yeah.
(Discussion off the record.)

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Page 32

EXAMINATION
BY MR. NGUYEN:
Q. Hello, Ms. Canfarelli. My name is Jimmy Nguyen. As you heard earlier, I represent the other party in the case that is triggering this deposition today. My client is called nTrust Corp. I just have a few follow-up questions for you.
So you testified earlier that you began working at FIS only about ten months ago; is that correct?
A. Yes.
Q. So you began working there in January of this year?
A. December of 2013.
Q. So by the time the e-mail chain in Exhibit 131 happened, which is in April of 2014, you had been at the company for about four, at most, five months?
A. Right. Correct.
Q. So you -- Would you agree with me that at that point in time, you were relatively new to the company?
A. Yes, I was relatively new.
Q. At that point in time, were you

Page 33

1 **familiar with all of the clients of FIS?**
2 A. No.
3 **Q. Today are you familiar with all the**
4 **clients --**
5 A. No.
6 **Q. -- of FIS?**
7 A. No.
8 **Q. Did you know in April 2014 whether**
9 **or not nTrust Corp. was a client that FIS**
10 **did work for or not?**
11 A. I did not know that.
12 **Q. Sitting here, do you know that**
13 **today? Whether --**
14 A. No. I still have no idea.
15 **Q. When you received the e-mail on**
16 **April 7, 2014 on Exhibit 131 saying art**
17 **looking for an owner, at that point in time,**
18 **was Intrust Bank the only client of FIS that**
19 **you're aware of which had a name that you**
20 **thought might be similar to nTrust?**
21 A. Can you -- Can you ask me that
22 question? It was long.
23 **Q. Let me rephrase that question.**
24 **You were asked earlier about why you**
25 **forwarded the e-mail in Exhibit 131 to your**

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1 **contact at Intrust Bank; do you recall --**
2 A. Yes.
3 **Q. -- talking about that?**
4 A. Yes.
5 **Q. And I believe you testified that you**
6 **did so because you were not sure who the**
7 **owner of the graphic was; is that correct?**
8 A. Correct.
9 **Q. Okay. So you did not know whether**
10 **Intrust Bank owned that graphic?**
11 A. Correct.
12 **Q. But you also did not know whether**
13 **another company might have owned that**
14 **graphic?**
15 A. Correct.
16 **Q. And you were e-mailing it to your**
17 **contact at Intrust Bank to check whether**
18 **they owned the graphic?**
19 A. Correct.
20 **Q. Not necessarily because you thought**
21 **they owned the graphic; is that correct?**
22 MS. WALTER: Object to the form.
23 You can answer.
24 BY THE WITNESS:
25 A. Correct.

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1 **Q. It was possible, in your mind, that**
2 **another company that was a client of FIS**
3 **owned the graphic in Exhibit 131; is that**
4 **correct?**
5 A. Correct.
6 **Q. And I believe you testified that you**
7 **don't remember getting a response to this e-**
8 **mail you sent to Jennie Githens?**
9 A. I don't recall getting one.
10 **Q. So did anyone from Intrust Bank ever**
11 **tell you this was not their graphic?**
12 A. I don't recall. It's like it just
13 went quiet.
14 **Q. After receiving the graphic that is**
15 **attached to Exhibit 31 [sic], was there ever**
16 **any card made for Intrust Bank at your**
17 **company with that graphic?**
18 A. Not that I'm aware.
19 **Q. Were there --**
20 A. For Intrust Bank?
21 **Q. For Intrust Bank.**
22 A. No.
23 **Q. Were there any other materials**
24 **prepared by FIS for Intrust Bank using the**
25 **graphic in Exhibit 131?**

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1 A. No.
2 **Q. Were there any problems within the**
3 **company -- Strike that.**
4 **Were there any problems you had to deal**
5 **with after receiving the e-mail in Exhibit**
6 **131 because of the graphic that was**
7 **attached?**
8 MS. WALTER: Object to the form.
9 BY THE WITNESS:
10 A. Yes. Months later, I was getting --
11 I received a phone call from an attorney. I
12 don't recall who with, and then an e-mail
13 from, I believe, an attorney.
14 **Q. An attorney for whom?**
15 A. I don't know. When I saw the
16 contents, I just forwarded it to my manager,
17 and I said, here you go.
18 **Q. Was it related to this deposition or**
19 **was it trying to set a date for your**
20 **deposition?**
21 MS. WALTER: Object to the form.
22 BY THE WITNESS:
23 A. I don't -- I don't believe so. I
24 believe it was just trying to get
25 information.

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1 **Q. Okay. But besides that contact from**
2 **an attorney, you're not familiar -- or**
3 **you're not aware, for example, of any cards**
4 **that were mistakenly produced by your**
5 **company with the graphic in Exhibit 131 --**
6 A. No. I'm sure --
7 **Q. -- wrong client?**
8 A. -- I'm sure there was no instance of
9 that.
10 **Q. And did you receive any complaints**
11 **from Intrust Bank related to the graphic in**
12 **Exhibit 131?**
13 A. I did not.
14 **Q. So is it fair to say the issue went**
15 **away fairly quickly in your mind?**
16 A. It did.
17 **Q. So it was not a big deal?**
18 MS. WALTER: Object to the form.
19 BY THE WITNESS:
20 A. As I stated, I don't recall
21 receiving any contact. It literally just
22 went away. It just was nothing occurred --
23 **Q. Okay.**
24 A. -- until the phone call.
25 **Q. So sitting here today, are you aware**

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1 **of what nTrust Corp., my client, does for a**
2 **business?**
3 A. I am not aware.
4 MR. NGUYEN: I think, I don't have
5 any more questions.
6 FURTHER EXAMINATION
7 BY MR. NORTON:
8 **Q. Ms. Canfarelli, do you have any**
9 **clients other than Intrust Bank who have**
10 **trust in their name?**
11 A. I do not.
12 **Q. Okay. If you look at Exhibit No.**
13 **131 just real quick, the attachment title is**
14 **nTrust Cloud Money Card; do you see that?**
15 A. Yes.
16 **Q. What do you think of when you read**
17 **that line?**
18 MR. NGUYEN: Objection to form,
19 vague and ambiguous.
20 BY THE WITNESS:
21 A. What do I think of? I think, the
22 name reminds me of Intrust Bank.
23 MR. NORTON: Okay. Thank you. No
24 further questions.
25 MR. NGUYEN: I don't have any more

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1 questions.
2 MR. NORTON: Thank you so much for
3 your time.
4 THE WITNESS: Oh, thank you.
5 MR. NORTON: And by the way, I was
6 the attorney --
7 THE REPORTER: Wait. Signature?
8 MR. NORTON: Oh, sorry.
9 MS. WALTER: Review and sign.
10 THE REPORTER: Thank you.
11 (Discussion off the record.)
12 MR. NGUYEN: Actually, can we go
13 back on the record? I just have one follow-
14 up question. Sorry about that.
15 MR. NORTON: No.
16 MR. NGUYEN: No?
17 THE WITNESS: Okay.
18 MS. WALTER: We're going back on the
19 record. He's gonna ask you another
20 question.
21 THE WITNESS: Okay.
22 FURTHER EXAMINATION
23 BY MR. NGUYEN:
24 **Q. Ms. Canfarelli, I apologize. One**
25 **more quick question.**

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1 **You just testified that the name -- or**
2 **the line nTrust Cloud Money Card reminded**
3 **you of the name Intrust Bank?**
4 A. Yes.
5 **Q. Are you more aware of the names of**
6 **your clients than you are of other financial**
7 **institution names?**
8 A. Yes.
9 **Q. Because you live with them every**
10 **day?**
11 A. That's right.
12 **Q. And you see them every day?**
13 A. Yes.
14 **Q. The names. So you would be more**
15 **sensitized than an average person to the**
16 **names of your clients?**
17 A. Sensitized?
18 **Q. You'd be more aware of them.**
19 MR. NORTON: Object.
20 BY THE WITNESS:
21 A. Yeah. I'm aware of the client
22 names.
23 **Q. And you'd be more aware than -- than**
24 **the -- an average consumer seeing a bank**
25 **name?**

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A. Yes.
MR. NORTON: Object to form.
MS. WALTER: To the form and (inaudible).
THE REPORTER: To the form and?
MS. WALTER: Legal conclusion.
BY MR. NGUYEN:
Q. Do you think that's accurate?
A. I don't know about your average consumer, to be honest. I mean, they might be aware of the clients' name too, for all I know. So I can't say I'm more aware, but I'm aware.
Q. Because it's your job to know --
A. That's right.
Q. -- your 30 or so clients?
A. That's right.
MR. NGUYEN: Okay. Thank you.
THE WITNESS: Okay.
FURTHER EXAMINATION
BY MR. NORTON:
Q. And you're also more aware of the banks that you do your personal business at too than other banks, correct?
A. I would say that's true.

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Q. Yeah. And other financial organizations you may have credit cards with too, correct?
A. Yes and no.
Q. And if you --
A. Whoever gives me the best rate is who I do business with.
Q. Sure. But if you have -- If you have a credit card with a certain financial institution, you're gonna be more familiar with that name than others that you don't do business with, correct?
MR. NGUYEN: Objection, lacks foundation.
BY THE WITNESS:
A. This is -- Oh, I'm sorry. I thought -- I didn't know we were on the record again.
So can you ask me that question again?
Q. Sure. All the questions that Mr. Nguyen asked you that, you know, you're so much more familiar with the Intrust Bank because it's one of your clients and so on and so forth, I'm expanding that to companies that you do personal business

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with.
A company that you have a credit card with, you're more familiar with that company and that company's name than companies you don't do business with?
A. Correct.
MR. NGUYEN: Objection, compound.
MR. NORTON: No further questions.
MR. NGUYEN: That's it.
MR. NORTON: Now we're really finished.
(Witness excused.)
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SIGNATURE
.
The deposition of DEBORAH R. CANFARELLI was taken in the matter, on the date, and at the time and place set out on the title page hereof.
.
It was requested that the deposition be taken by the reporter and that same be reduced to typewritten form.
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It was agreed by and between counsel and the parties that the deponent will read and sign the transcript of said deposition.
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AFFIDAVIT

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STATE OF _____:

COUNTY/CITY OF _____:

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Before me, this day, personally appeared, DEBORAH R. CANFARELLI, who, being duly sworn, states that the foregoing transcript of his/her Deposition, taken in the matter, on the date, and at the time and place set out on the title page hereof, constitutes a true and accurate transcript of said deposition, along with the attached Errata Sheet, if changes or corrections were made.

.

_____

DEBORAH R. CANFARELLI

.

SUBSCRIBED and SWORN to before me this _____ day of _____, 2014 in the jurisdiction aforesaid.

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_____ _____

My Commission Expires Notary Public

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DEPOSITION ERRATA SHEET

RE: APPINO & BIGGS
REPORTING SERVICE, INC.

FILE NO.: 36289

CASE: INTRUST FINANCIAL CORPORATION vs.
NTRUST CORP.

DEPONENT: DEBORAH R. CANFARELLI

DEPOSITION DATE: 10/16/14

To the Reporter:

I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me. I request that the following changes be entered upon the record for the reasons indicated. I have signed my name to the Errata Sheet and the appropriate Certificate and authorize you to attach both to the original transcript.

PAGE LINE FROM TO REASON

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Page 47

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SIGNATURE:_____DATE:_____

DEBORAH R. CANFARELLI

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Susana Albor-Hoyt, Certified Shorthand Reporter, Registered Professional Reporter, do hereby certify that on the 16th day of October, A.D., 2014, the deposition of the witness, DEBORAH R. CANFARELLI, called by the Opposer, was taken before me, reported stenographically, and was thereafter reduced to typewriting under my direction.

The said deposition was taken at 205 Remington Boulevard, Bolingbrook, Illinois, and there were present counsel as previously set forth.

The said witness, DEBORAH R. CANFARELLI, was first duly sworn to tell the truth, the whole truth, and nothing but the truth, and was then examined upon oral interrogatories.

I further certify that the foregoing is a true, accurate, and complete record of the questions asked of and answers made by the said witness, DEBORAH R. CANFARELLI, at the time and place hereinabove referred to.

The signature of the witness, DEBORAH R. CANFARELLI, was reserved by agreement of counsel.

.

1 The undersigned is not interested in the within
2 case, nor of kin or counsel to any of the parties.
3 Witness my signature on this 27th day of October,
4 A.D., 2014.
5 _____
6 SUSANA ALBOR-HOYT, CSR, RPR
7 180 North LaSalle Street
8 Suite 2800
9 Chicago, Illinois 60601
10 (312) 236-6936
11 CSR No. 084-004550
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Confidential

In The Matter Of:

Intrust Financial Corporation v
nTrust Corp.

LINDA CULLINAN
March 26, 2014

Court Reporting Service, Inc
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Wichita, KS 67203 (316) 267-1201
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Intrust Financial Corporation,
Opposer,
vs.
nTrust Corp.,
Applicant.

Opposition No. 91204456
Application Serial No. 85/250992
Mark: NTRUST

Deposition of LINDA CULLINAN, taken by the Opposer, before me, Nancy L. Rambo, a Certified Shorthand Reporter, within and for the State of Kansas, at 1551 North Waterfront Parkway, Suite 100, Wichita, Sedgwick County, Kansas, commencing at 9:04 a.m. on the 26th day of March, 2014.

A P P E A R A N C E S

Opposer, Intrust Financial Corporation, appears by its attorneys, Michael J. Norton and Sharon Rye, Foulston Siefkin LLP, 1551 North Waterfront Parkway, Suite 100, Wichita, Kansas 67206-4466. Also present was Michael Mayans.

Applicant, nTrust Corp., appears by its attorney, Jimmy Nguyen, Davis Wright Tremaine LLP, 865 South Figueroa Street, Suite 2400,

A P P E A R A N C E S (Cont.)

Los Angeles, California 90017-2566. Also present was Rob MacGregor.

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LINDA CULLINAN

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(Sharon Rye not present in the deposition room.)

LINDA CULLINAN,
having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION
BY MR. NORTON:

Q. Could you state your name, please.
A. Linda Cullinan.
Q. And how is that pronounced?
A. Cullinan.
Q. Cullinan. Ms. Cullinan, would you -- are you employed?
A. Yes.
Q. Where are you employed?
A. Intrust Bank.
Q. How long have you worked for Intrust Bank?
A. 26 years.
Q. And what -- just generally speaking, what is it that you do at Intrust Bank?
A. I work in the card department; currently, the senior manager for card compliance and Affinity client relationships.

Page 5

1 Q. And how long have you held that position?
2 **A. That's actually more recent, we just reorganized**
3 **in the last 30 days.**
4 Q. And what were you before the titles were
5 reorganized about 30 days ago?
6 **A. Prior to the title change, senior manager for**
7 **card marketing and promotions.**
8 Q. And how long were you senior manager for card
9 promotions and whatnot?
10 **A. In terms of those responsibilities, about 17**
11 **years.**
12 Q. All right. Let's -- and could you give us just
13 a real brief description of your educational
14 background?
15 **A. I have a bachelor's degree from Wichita State**
16 **University, 1986.**
17 Q. And what's that degree in?
18 **A. Marketing.**
19 Q. As -- in -- because you spent the majority of
20 your time over the last several years as
21 marketing manager -- I'm sorry, senior manager
22 for marketing and promotions, I want to ask you
23 about that time period and what your duties and
24 responsibilities were during that time period.
25 **A. Okay.**

Page 6

1 Q. So what were your duties and responsibilities as
2 senior manager for marketing and promotions?
3 **A. Primarily strategic planning for card products,**
4 **the placement and promotion of all card**
5 **products, compliance with not only MasterCard,**
6 **Visa, but state and federal rules and regs for**
7 **card products, and managing the Affinity client**
8 **relationships.**
9 Q. Okay. And when you say card products, what
10 specifically are you referring to?
11 **A. That would be check cards, ATM cards, credit**
12 **cards, corporate cards, gift cards, payroll**
13 **cards.**
14 Q. And is the check card the same thing as a -- as
15 a debit card?
16 **A. They're interchangeable terms, yes.**
17 Q. Okay. And can you tell us what your day-to-day
18 job entailed as a senior manager for marketing
19 and promotions?
20 **A. Just overseeing active projects, whether there**
21 **was a campaign happening, ad placement creation,**
22 **card designs; again, compliance, internal**
23 **education, website information.**
24 Q. And just so we have a complete record, what are
25 your job duties currently under the new title?

Page 7

1 **A. The new title is really just a splitting off of**
2 **certain functions, so I still retain a lot of**
3 **the compliance for all card products and the**
4 **Affinity relationship management.**
5 Q. Okay. Tell me -- if you could, just describe
6 for me generally what a check card offered by
7 Intrust is.
8 **A. Well, the check card product is -- that we offer**
9 **is Visa branded; it is a device that is**
10 **associated with the checking account at Intrust**
11 **Bank, so it's simply another tool to access the**
12 **funds in the checking account.**
13 Q. Okay. Is a customer of Intrust able to use a
14 check card if there -- if they have no money in
15 their account?
16 **A. No.**
17 Q. So the customer has to fund their Intrust
18 account before they can use a check card?
19 **A. Right, there must be money in the checking**
20 **account.**
21 Q. And then does the -- when someone uses a check
22 card, where does the money come from?
23 **A. Well, again, it's funded from that checking**
24 **account.**
25 Q. Okay. Let's -- well, as far as the check cards

Page 8

1 are concerned, how do -- how does Intrust
2 advertise those?
3 **A. We would promote the check cards in almost every**
4 **channel available to us, the Intrust website,**
5 **product materials, print ads, radio ads,**
6 **billboards, ATMs, internal customer statements.**
7 Q. And who is the -- who is Intrust's customer base
8 for check cards?
9 **A. They would need to be an Intrust Bank checking**
10 **account customer.**
11 Q. Okay. In your marketing efforts, do you target
12 certain demographics?
13 **A. No, anyone with a checking account we would be**
14 **targeting with check card information.**
15 Q. And would that include, for example, college
16 students?
17 **A. Sure.**
18 Q. Blue collar workers?
19 **A. Sure.**
20 Q. High school dropouts?
21 **A. Absolutely.**
22 Q. CEOs?
23 **A. Yes.**
24 Q. Are you required to be a citizen of Kansas to
25 have a Visa check card from Intrust?

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A. No.
Q. All right. If you would, in your -- the notebook that is in front of you, look at -- there's a larger, oversized piece of paper there, and on the bottom right, it says Exhibit 13. Do you see that?
A. Yes.
Q. Are you familiar with that document?
A. Yes, I am.
Q. And did you have any involvement in preparing this document?
A. Yes, I did.
Q. And what involvement did you have?
A. I would have provided most, if not all, of the information for the card products.
Q. And the card products is -- the first column is payroll cards, did you provide information related to payroll cards?
A. Yes.
Q. The second column is Intrust gift cards, did you provide the information related to Intrust gift cards?
A. Yes.
Q. The fourth -- third column is Intrust Visa check cards, did you provide the information for the

Intrust Visa check cards?
A. Yes.
Q. And then the fourth column, the Intrust Bank credit cards, did you provide the information for the Intrust Bank credit card?
A. Yes.
Q. Okay. Let's talk about some of that specific information and let's start with the check card since that's what we were talking about. By the way, you mentioned that it's a Visa -- an Intrust Visa check card, what's the significance of Visa related to the check cards?
A. Well, MasterCard or Visa would be national associations that provide the cardholder with worldwide access so they can use those cards anywhere that those association names are accepted.
Q. Okay. And can the Intrust Visa check card be used in foreign countries?
A. Yes.
Q. In your 17 or so years dealing with check cards or debit cards, do you have any knowledge as to whether just anyone can issue a Visa or MasterCard debit card or check card?
MR. NGUYEN: Objection as to form,

compound.
BY MR. NORTON:
Q. Let me ask it again: Based on your 17 years working at Intrust Bank related to cards, including debit cards, can just anyone issue a debit card using a Visa -- Visa mark?
MR. NGUYEN: Objection as to form.
BY MR. NORTON:
Q. You want me to ask it again?
MR. NGUYEN: I'm not understanding what you mean by anyone.
MR. NORTON: No, I'm sorry, I wasn't talking -- I was asking her, she -- let me -- but I appreciate that, Mr. Nguyen.
BY MR. NORTON:
Q. Let me ask that again. Can an entity that is not a chartered bank in the United States issue a debit or check card using Visa?
A. Well, the Visa brand is worldwide so other institutions, other financial institutions across the world can, including the United States, can issue a Visa-branded product; they have to get application approval from Visa to do so, and they have to meet Visa rules and regulations.

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Q. Okay. Are you -- are entities other than banks able to issue a Visa-branded card in the United States?
A. Not to my knowledge.
Q. And how about MasterCards?
A. Not to my knowledge.
Q. Are you familiar with the gift card rack at Dillons and other grocery stores?
A. Yes.
Q. Are the -- and have you purchased those cards before?
A. I have.
Q. And could you give us some examples of the types of gift cards that are out there?
A. To the best of my recollection, the Dillons gift card options range from Starbucks, you know, Gap, Outback, so restaurants, clothing stores, those would be non-branded or close looped, and those cards can only be used at those places of business. I believe they also offer MasterCard or Visa or American Express gift cards, which would be more general in nature or open looped, and they can be used anywhere those brands are accepted.
Q. Okay. And the open-looped cards that are

Page 13

1 branded by Visa or MasterCard, are you aware of
2 any open-looped cards that are not backed by a
3 bank?
4 **A. I am not aware of that.**
5 Q. Are you aware of any type of gift card that
6 is -- that is sold at a Dillons or at Wal-Mart
7 or other grocery stores that is not backed by a
8 bank?
9 **A. I am not aware.**
10 Q. All right. Let's go back to Exhibit Number 13.
11 Towards the bottom portion of the chart, let's
12 look under the Intrust Visa check cards column
13 and then under the revenue each year for the
14 last ten years row.
15 **A. Uh-huh.**
16 Q. Can you tell us how you went about in gathering
17 the information that is shown in that box or
18 cell?
19 **A. To my knowledge, the revenue information was**
20 **provided by Kim Klocek. I -- I believe she**
21 **pulled it from some GL reports.**
22 Q. Okay. But did you direct her to do that?
23 **A. I may have. I believe she pulled all the**
24 **revenue figures.**
25 Q. Okay.

Page 14

1 **A. At least for the card products.**
2 Q. Are you familiar in your day-to-day job duties
3 as a senior manager with the revenue of the Visa
4 check cards?
5 **A. Yes.**
6 Q. And if you look at the 2013 number, it says
7 through October. Do you know why it says
8 through October?
9 **A. That --**
10 **MR. NGUYEN:** Objection, lacks
11 foundation.
12 **BY MR. NORTON:**
13 Q. You can answer.
14 **A. I can -- great. That was simply the period of**
15 **time in which we were acquiring the information.**
16 Q. And if you could, the figure shown $6,000,085 --
17 $6,085,963 (sic), do you see that?
18 **A. Yes.**
19 Q. And based on your experience as senior manager
20 related to cards, including the Visa debit card,
21 does that figure correspond with your
22 understanding of the revenue generated by those
23 cards?
24 **A. Yes.**
25 Q. And then the figures shown from 2012 back

Page 15

1 through 2007 that range from 5,000,000 up to
2 6.7 million, are those figures -- do those
3 correspond with your understanding of the
4 revenue from the debit Visa -- or, sorry, the
5 Intrust Visa check cards during those time
6 periods?
7 **A. Yes.**
8 Q. Okay. And then the next box down is titled
9 Spend Volume, do you see that?
10 **A. Yes.**
11 Q. And if we look over to the left under the empty
12 column from beginning from the top, number of
13 customers who used each product, slash, service
14 each year for last ten years. Do you see that?
15 **A. Yes.**
16 Q. Were you involved in gathering that information?
17 **A. Yes.**
18 Q. How so?
19 **A. I reviewed the reports that produced those**
20 **numbers.**
21 Q. And is it part of your duties and
22 responsibilities as -- when you were a senior
23 manager for marketing and promotions to be
24 familiar with the spend volume related to the
25 Visa check card?

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1 **A. Yes.**
2 Q. And what is the -- what's included in the spend
3 volume?
4 **A. It's really the dollars transacted through the**
5 **card.**
6 Q. When you say dollars transacted through the
7 card, in layman's terms, what does that mean?
8 **A. The money, so purchases, ATM withdrawals, any --**
9 **any funds transferred through the card.**
10 Q. So if a customer used a debit card to pay for an
11 item at a retailer, let's say the item was $10,
12 would that $10 be included in the spend volume?
13 **A. Yes.**
14 Q. How about the customer withdraws $100 using an
15 ATM and their debit card, would that figure be
16 included in the spend volume?
17 **A. Yes.**
18 Q. And if we look at the 2013 number, again, it's
19 October, it states 1,000,000 -- I'm sorry,
20 $1,149,209,584. Do you see that?
21 **A. I do.**
22 Q. And does that correspond with your understanding
23 of the amount of the spend volume by customers
24 using the Intrust Visa check card through
25 October 2013?

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1 **A. Yes.**
2 Q. And if we look at the following numbers from
3 2012 to 2003, which range from $658,000,000 up
4 to 1.285 billion dollars, do those figures
5 correspond with your understanding of the spend
6 volume by customers using their Visa, Intrust
7 Visa debit card or check card during that time
8 period?
9 **A. Yes.**
10 Q. If you turn to the back page, you'll see it's a
11 continuation of our charge spreadsheet.
12 **A. Uh-huh.**
13 Q. And if you look at the third column over, it
14 would actually be the fourth column if you
15 include the description, and it begins with
16 2013, October, 96,793. Do you see that?
17 **A. Yes.**
18 Q. And then we go to the left and see the row
19 description is number of credit cards issued --
20 I'm sorry, number of cards issued each year for
21 the last ten years. Do you see that?
22 **A. Yes.**
23 Q. Did you have any involvement in gathering the
24 information that is shown on that column
25 beginning with 2013, October, 96,793?

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1 **A. Yes.**
2 Q. And what is included in that figure?
3 **A. The information was pulled from reports, just a**
4 **line item saying total cards.**
5 Q. That would be the total number of Intrust Visa
6 check cards that were issued through October of
7 2013?
8 **A. Yes.**
9 Q. And that's for the 2013 year?
10 **A. Year, yes.**
11 Q. And the 96,793 cards, does that correspond with
12 your understanding with regard to the number of
13 Intrust Visa check cards that were issued during
14 2013?
15 **A. Yes.**
16 Q. And following, then, in the years from 2012
17 through 2004 and the number of cards that were
18 issued between 71,000 and 93,000, does that
19 correspond with your understanding of the number
20 of cards that were issued?
21 **A. Yes.**
22 Q. And it's part of your duties as the senior
23 manager of marketing and promotion to keep up
24 with the number of cards?
25 **A. Yes.**

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1 Q. Let's, then, go back to the marketing of the
2 Intrust Visa check cards. If you would, in your
3 notebook there, turn to Exhibit Number 58. All
4 right.
5 **A. Yes.**
6 Q. And can you tell us what Exhibit Number 58 is?
7 **A. This is a flier or a brochure document to**
8 **promote the Wichita State Visa check card from**
9 **Intrust Bank.**
10 Q. And does Intrust have relationships with In --
11 or relationship with Intrust -- I'm sorry, let
12 me start all over. Does Intrust have a
13 relationship with Wichita State to brand the
14 Intrust Visa check cards with Wichita State
15 material?
16 **A. Yes.**
17 Q. And in the ad there, the card that is shown, is
18 that an example of Intrust Visa check cards that
19 are branded also with Wichita State material?
20 **A. Yes.**
21 Q. Could you describe that card for us?
22 **A. Again, it's just the Intrust Bank check card**
23 **with the Wichita State mascot on the front.**
24 Q. Is the term Intrust also shown on the front?
25 **A. Yes, it is.**

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1 Q. And the flier itself, typically where would this
2 material be made available?
3 **A. This could have been available either in a**
4 **sporting event program ...**
5 Q. And does Intrust advertise its Visa check cards
6 in sporting programs for WSU?
7 **A. Yes, we have from time to time.**
8 Q. And do you use the word -- the term Intrust on
9 the advertisement that you place in Wichita
10 State athletic programs?
11 **A. Yes.**
12 Q. And if you look on Exhibit Number 58 at the
13 bottom of the page there's a date January 29th,
14 2010.
15 **A. Uh-huh.**
16 Q. What is that date?
17 **A. That would indicate that the creation of the ad**
18 **was January of 2010.**
19 Q. And was this ad used by Intrust?
20 **A. Yes.**
21 Q. Would it have been used by Intrust during the
22 year 2010?
23 **A. Yes.**
24 Q. If you would, turn to Exhibit 59, and can you
25 tell us what this document is?

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1 **A. This is also, looks like a brochure or a**
2 **one-page flier.**
3 Q. And where would -- where does Intrust -- or do
4 you recall specifically where Intrust placed
5 this ad?
6 **A. I did not place this directly, but this would**
7 **have been used to promote opening a checking**
8 **account, also promoting the KU check card from**
9 **Intrust Bank.**
10 Q. Was this -- was this ad published to the public
11 in any way?
12 **A. You know, I -- I do not recall.**
13 Q. Is it an example of the type of advertising that
14 Intrust does related to its Intrust Visa check
15 cards?
16 **A. Yes.**
17 Q. And does Intrust have a relationship with the
18 University of Kansas related to Intrust Visa
19 check cards?
20 **A. Yes.**
21 Q. And just describe what that relationship is.
22 **A. It's simply the agreement that we can use the**
23 **Jayhawk logo in promotion for Intrust Bank check**
24 **cards and other products.**
25 Q. And in Exhibit Number 59, you'll see that

Page 22

1 there's a Jayhawk costumed -- a costumed person
2 in a Jayhawk costume holding up a card. Do you
3 see that?
4 **A. Yes.**
5 Q. And is that a representation of the KU or Kansas
6 University branded cards that Intrust issues?
7 **A. Yes.**
8 Q. And does the word Intrust appear on the front of
9 that card?
10 **A. Yes.**
11 Q. And as does Visa?
12 **A. Yeah.**
13 Q. All right. If you would, look at page Number
14 60. Actually, it would be -- is page number 60
15 related to check cards or credit cards?
16 **A. Page number 60 would be related to credit cards.**
17 Q. Okay. We'll come back and talk about that in a
18 bit.
19 **A. The box does mention all products, but the card**
20 **in the ad is a credit card.**
21 Q. I see. Let's go ahead and just talk about it
22 real quick then. What -- you say in the box,
23 what are you referring to?
24 **A. The ad has a box on the -- at the side to**
25 **indicate the different Jayhawk cards that**

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1 **Intrust Bank provides.**
2 Q. Okay, I see. So just to the right, our right of
3 the Jayhawk head is a blue box with white
4 writing. Is that what you're referring to?
5 **A. Yes.**
6 Q. Let's talk about this ad. If you look at the
7 top, it's dated August 18, 2006. Can you tell
8 us what the significance of that date is?
9 **A. This would have been around the time frame that**
10 **we were using the -- the mascot in a lot of ad**
11 **material.**
12 Q. In what type of ad material did Intrust use the
13 Jayhawk mascot?
14 **A. We would have used him in a lot of channels,**
15 **could have been billboards, magazine ads, print**
16 **ads, online.**
17 Q. When Intrust placed ads using the Jayhawk, did
18 it also refer to the In -- to the term Intrust
19 or Intrust Bank?
20 **A. Yes.**
21 Q. Was there ever a time that Intrust advertised a
22 Jayhawk or KU-branded card that did not use the
23 term Intrust or Intrust Bank?
24 **A. Not to my knowledge.**
25 Q. Okay. This ad that is shown in Exhibit 60,

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1 where was it placed?
2 **A. I believe this is the back of a KU alumni**
3 **magazine ad, to the best of my recollection.**
4 Q. And does Intrust advertise its card line in the
5 KU alumni magazine?
6 **A. Yes.**
7 Q. For how long has Intrust been doing that?
8 **A. Oh, many, many years.**
9 Q. And who receives the KU alumni magazine?
10 **MR. NGUYEN:** Objection, lacks
11 foundation.
12 **A. KU alumni.**
13 **BY MR. NORTON:**
14 Q. Okay. And as part of your marketing duties, do
15 you -- do you attempt to determine or
16 investigate the number of magazines that the --
17 that are in distribution that show the Intrust
18 mark or the Intrust Bank mark?
19 **A. They've got an alumni base of over 170,000.**
20 Q. Did you take that into consideration in deciding
21 whether to place an ad in that magazine?
22 **A. Yes.**
23 Q. And has there been any -- has there been a
24 complete year within, say, the last ten years
25 that Intrust did not advertise in the KU alumni

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1 magazine?
2 **A. Not to my recollection.**
3 Q. And you would have been responsible for placing
4 those ads; is that correct?
5 **A. Yes.**
6 Q. And going to the blue box that you mentioned,
7 does it refer to check cards?
8 **A. Yes.**
9 Q. And is that -- the reference here on the Intrust
10 ad, do you see Intrust Bank in that ad?
11 **A. Yes.**
12 Q. Okay. If you look over to the left bottom under
13 the Jayhawk's, it would be his right arm and it
14 would be to our left, there's some language
15 there written in blue ink. Do you see that?
16 **A. Yes.**
17 Q. And is the term Intrust used?
18 **A. Yes.**
19 Q. Is it in conjunction with Intrust Bank?
20 **A. Yes.**
21 Q. Well, look at it.
22 **A. Well --**
23 Q. The statement reads --
24 **MR. NGUYEN:** Asked and answered.
25 **BY MR. NORTON:**

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1 Q. The statement reads, Intrust encourages
2 responsible credit card spending, period. Do
3 you see that?
4 **A. I do.**
5 Q. And is the word bank used in that sentence?
6 **A. It is not in that sentence.**
7 Q. Intrust is used in that sentence on this ad as a
8 stand-alone word, correct?
9 **A. Yes.**
10 Q. All right. And also in this ad to the right is
11 the -- is an Intrust brand that has a stylized I
12 graphic. Do you see that?
13 **A. Yes.**
14 Q. Followed by the word Intrust with bank below it;
15 is that correct?
16 **A. Yes.**
17 Q. If we go back up to that blue box, there's a
18 reference to gift cards. What's that reference
19 to?
20 **A. We also provide and offer Visa-branded gift**
21 **cards.**
22 Q. We'll talk about the gift cards here in a bit.
23 I notice immediately following that sentence, it
24 says, quote, available only at Intrust Bank, end
25 quote. What's the significance of that

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1 statement?
2 **A. These products are exclusively available at**
3 **Intrust Bank.**
4 Q. And when you say these products, what are you
5 referring to?
6 **A. The products listed in the box.**
7 Q. Okay. And those are branded with KU material?
8 **A. Yes.**
9 Q. Are you aware of -- well, for how long has
10 Intrust been the exclusive provider of
11 Jayhawk-branded credit cards, check cards, and
12 gift cards?
13 **A. 1987 we launched the credit card product.**
14 Q. And between 1987 and today -- well, let's back
15 up for just a second. When did the bank change
16 its name to Intrust?
17 **A. I believe 1993.**
18 Q. And beginning in 1993, did the names, words, or
19 graphics marks that you were advertising related
20 to cards change?
21 **A. Yes.**
22 Q. How so?
23 **A. The old bank name was removed and Intrust Bank**
24 **name was added.**
25 Q. From 1993 up until today, has Intrust been an

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1 exclusive provider of Jayhawk credit cards,
2 check cards, and gift cards?
3 **A. Yes.**
4 Q. All right. Between 1993 and today, has there
5 ever been a time that Intrust stopped providing
6 check cards to its customers?
7 **A. No.**
8 Q. Has there been a time between 1993 and today
9 that Intrust stopped using Intrust or Intrust
10 Bank in its advertising of check cards?
11 **A. No.**
12 Q. How about gift cards?
13 **A. No.**
14 Q. How about credit cards?
15 **A. No.**
16 Q. All right. Let's -- well, when you are
17 marketing, for example, this Exhibit Number 60
18 where it is marketing both credit cards, check
19 cards, and gift cards, would you agree with me
20 that those items are included in this ad?
21 **A. Yes.**
22 Q. When placing this ad, do you -- and identifying
23 the cost of the ad and allocating it, do you
24 separate out the spend for each type of card?
25 **A. No, this -- this spend would most likely be**

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1 **reflected in the credit card spend numbers.**
2 Q. Okay. And do you typically attempt to break
3 down spend by specific cards if they're
4 advertised together?
5 **A. Well, when they're advertised together, usually**
6 **the expense will reflect in the credit card**
7 **figures.**
8 Q. And what if the -- for example, are check cards
9 sometimes advertised along with a checking
10 account?
11 **A. Yes.**
12 Q. And when that happens, do you -- are you able to
13 separate out specific expense for the card only?
14 **A. Not in all cases.**
15 Q. And where would the marketing spend in such a
16 situation where both a checking account and a
17 check card are being advertised be allocated?
18 **A. Well, the previous exhibit, 59 --**
19 Q. Uh-huh.
20 **A. -- to my recollection would have been part of a**
21 **promotion for a checking account where we were**
22 **including promoting the check card, and that**
23 **card expense would not be reflected in my**
24 **numbers.**
25 Q. I see. And is that typically -- is that typical

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1 for a situation where a check card is being
2 advertised along with the checking account?
3 **A. Yes.**
4 Q. All right. Let's look at, going back to Exhibit
5 Number 13, and, again, we're going to be looking
6 at the Intrust Visa check card column and the
7 fourth row down that begins marketing, slash,
8 promotion, slash, advertising spend each year
9 for the last ten years. Do you see that?
10 **A. Yes.**
11 Q. Under the Visa check card box, the very first
12 one is 2013, October, $5,318. Do you see that?
13 **A. Yes.**
14 Q. Can you tell us how you determined that figure?
15 **A. That information would have been obtained from**
16 **reports.**
17 Q. And as far -- well, how does an ad make it into
18 this specific designation that's shown in the
19 Intrust Visa check card column?
20 **A. Well, not just the ad but any of these figures**
21 **would appear if I directly and solely**
22 **administered the marketing.**
23 Q. Okay. So if the marketing, for example, was
24 administered by Lisa Elliott and her team, would
25 those marketing figures be included under the

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1 Intrust Visa check card?
2 **A. They would not.**
3 Q. So would you agree with -- well, is the figure
4 shown in the Intrust Visa check card
5 marketing/promotion/advertising expense, is that
6 a complete and total statement of the amount of
7 spend related to Intrust Visa check cards?
8 **A. No.**
9 Q. That is only for specific ads that related only
10 to check cards; is that correct?
11 **A. Yes.**
12 Q. And would the same be true for 2012 to 2004?
13 **A. Yes.**
14 **(Ms. Rye entered the deposition**
15 **room.)**
16 **BY MR. NORTON:**
17 Q. And if we --
18 (Deposition Exhibit Number 79
19 Marked for Identification.)
20 **BY MR. NORTON:**
21 Q. I'm going to hand you what's been marked as
22 Deposition Exhibit Number 79, can you tell us
23 what that is?
24 **A. This is a Intrust Bank check card.**
25 Q. And were you involved with the face of the card

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1 as far as what is contained on it?
2 **A. Yes.**
3 Q. And can you describe the face of the card for
4 us?
5 **A. The face of the card contains a Visa logo, it**
6 **represents Intrust Bank by visually displaying**
7 **our sign.**
8 Q. And that's in the upper right-hand corner?
9 **A. Yes. The product is delineated on the left side**
10 **in the blue bar by saying check card. On the**
11 **two-thirds of the bottom portion of the card is**
12 **just kind of a blue sky with clouds.**
13 Q. And then towards the bottom there, it states
14 Intrust customer, is that where the customer's
15 name would be?
16 **A. Yes.**
17 Q. And is this an accurate depiction of Intrust
18 Visa check cards that Intrust distributed to
19 customers?
20 **A. Yes.**
21 Q. During what time period?
22 **A. I think this card would have been in circulation**
23 **maybe around the 2000s.**
24 Q. Okay. Do you know approximately for how many
25 years?

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1 **A. I -- I would estimate three to four years.**
2 Q. And do the cards, the debit cards that Intrust
3 currently distributes to its customers also
4 include the Intrust Bank name and logo?
5 **A. The current card designs?**
6 Q. Yeah.
7 **A. Yes.**
8 **MR. NORTON:** Would you mark that?
9 (Deposition Exhibit Number 80
10 Marked for Identification.)
11 **BY MR. NORTON:**
12 Q. Handing you what's been marked as Deposition
13 Exhibit Number 80, can you tell us what that
14 document is?
15 **A. This looks to be possibly a billboard**
16 **advertising the Intrust Bank check card, credit**
17 **card, and gift cards for KU.**
18 Q. Were you involved in designing the layout for
19 the billboard?
20 **A. I would not have been.**
21 Q. Okay. And did you have any involvement in
22 placing an ad related to the billboard?
23 **A. I would not have placed the billboard ad.**
24 Q. Okay. Who would have placed that?
25 **A. Lisa Elliott would have placed that.**

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1 Q. Are you personally familiar with seeing
2 billboards placed by Intrust?
3 **A. Yes.**
4 Q. And can you tell us where you've seen billboard
5 ads placed by Intrust?
6 **A. Got one off of Kellogg at Kellogg and**
7 **Washington.**
8 Q. Okay. Are you aware of Intrust placing a
9 billboard ad that did not include the word
10 Intrust?
11 **A. I'm not aware of that.**
12 Q. Have you ever seen one that didn't include the
13 word Intrust?
14 **A. Not to my recollection.**
15 Q. Okay. All right. Let's talk, then, about the
16 Intrust Bank credit card. First, just tell us
17 what the Intrust Bank credit card is.
18 **A. Intrust Bank credit cards, a credit card, we**
19 **issue Visa cards, we also support MasterCard**
20 **product. It's a unsecured line of credit.**
21 **Cards have been available, we've been issuing**
22 **since 1969.**
23 Q. In 1993, did the way that you issue Intrust
24 credit cards change?
25 **A. Yes.**

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1 Q. How so?
2 **A. We would have transitioned from the old name to**
3 **the new name.**
4 Q. All right. How are Intrust Bank credit cards
5 advertised?
6 **A. Intrust Bank credit cards are advertised through**
7 **multiple channels, the Intrust Bank website,**
8 **billboards, magazine ads, direct mail fliers, in**
9 **branch, telephone service center.**
10 Q. When you advertise the Intrust credit cards, do
11 you include the word Intrust in those
12 advertisements?
13 **A. To my knowledge, yes.**
14 Q. And you place those ads, don't you?
15 **A. Yes.**
16 Q. When you advertise Intrust credit cards in other
17 media, do you also include the word Intrust?
18 **A. Yes.**
19 Q. Do you include the term Intrust Bank?
20 **A. Yes.**
21 Q. Has there been a time period between 1993 and
22 today that Intrust stopped using its -- the term
23 Intrust in its advertising of credit cards?
24 **A. No.**
25 Q. And has Intrust advertised its credit cards

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1 every year since 1993?
2 **A. Yes.**
3 Q. All right. Let's look at a few examples of
4 advertising related to credit cards. If you
5 could look at Exhibit Number 60 again. This is
6 the exhibit that we talked about just earlier,
7 you see that?
8 **A. Yes.**
9 Q. And does this ad advertise the credit cards?
10 **A. Yes.**
11 Q. And I notice that the card here shown, it
12 doesn't appear to show Intrust on its front; is
13 that correct?
14 **A. That is correct.**
15 Q. Is Intrust -- or why is that?
16 **A. The -- the card is designed to showcase the**
17 **Jayhawk KU relationship.**
18 Q. Is Intrust included -- is the term Intrust
19 included anywhere on this type of card?
20 **A. It is listed on the back.**
21 Q. Okay. Is that Intrust or Intrust Bank or both?
22 **A. I believe it would say Intrust Bank.**
23 Q. And earlier, you used the word Affinity, what's
24 an Affinity relationship --
25 **A. That's --**

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1 Q. -- or card?
2 **A. -- simply the term used to imply that somebody**
3 **has a predisposition to a certain group or**
4 **organization. So if you're a KU alumni or a KU**
5 **fan, you may have an affinity or affection**
6 **towards that -- that group.**
7 Q. Okay. Between 1993 and today, has Intrust
8 issued any credit cards that didn't include the
9 term Intrust Bank at some location on the card?
10 **A. It has always been there.**
11 Q. Okay. If you look at Exhibit Number 61, can you
12 tell us what that document is?
13 **A. This is an ad promoting the Intrust Bank KU**
14 **credit card.**
15 Q. Okay. And if you look to the bottom in the
16 words, white words on blue print, is it also
17 advertising other products?
18 **A. Yes.**
19 Q. And what other products are being advertised
20 under Exhibit 61?
21 **A. It is advertising the Intrust check card and**
22 **Intrust gift cards.**
23 Q. Can you tell us approximately when this ad was
24 published?
25 **A. Well, this would have been post 2008, so**

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1 **somewhere between 2008, 2009.**
2 Q. Okay. And how are you able to determine that it
3 was post 2008?
4 **A. The card shown is celebrating the national**
5 **championship, NCAA.**
6 Q. And it mentions 2008?
7 **A. Well, I happen to know -- there are dates on**
8 **that card and 2008 --**
9 Q. Oh, I see.
10 **A. -- was the last date that they won.**
11 Q. And if you look just above that there's a
12 specific reference --
13 **A. Yes.**
14 Q. -- to 2008?
15 **A. Yes.**
16 Q. You're doing a great job, but you're jumping in
17 a little bit.
18 **A. Okay.**
19 Q. So if you let me finish my question --
20 **A. Sorry.**
21 Q. -- it will be a little bit easier. And where
22 was this exhibit -- ad for Exhibit 61 placed?
23 **A. This looks like it would have been the back of a**
24 **KU alumni magazine.**
25 Q. The same type of magazine we discussed earlier?

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1 **A. Yes.**
2 Q. Okay. Let's look at Exhibit Number 62. Can you
3 tell us what that exhibit is?
4 **A. This is a Intrust Bank ad promoting the K-State**
5 **credit card.**
6 Q. And does Intrust have a relationship with Kansas
7 State related to Intrust card products?
8 **A. Yes.**
9 Q. And what is that relationship?
10 **A. It is the relationship to use their logo and/or**
11 **name to promote credit cards, check cards, and**
12 **gift cards through Intrust Bank.**
13 Q. And did you have involvement in placing this ad?
14 **A. Yes.**
15 Q. If you look towards the bottom right, you'll see
16 there's a date of 10/21/09. Do you see that?
17 **A. Yes.**
18 Q. What's the significance of that date?
19 **A. That would have been the date the ad was**
20 **created.**
21 Q. And do you remember approximately when it was
22 placed?
23 **A. It would have been placed around this -- this**
24 **same time frame.**
25 Q. And where was it placed?

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1 **A. This is the back of the K-State alumni magazine**
2 **ad.**
3 Q. And the card that is shown there, is that a
4 credit card?
5 **A. Yes.**
6 Q. And would the -- would Intrust Bank be shown on
7 the back side of that card?
8 **A. Yes.**
9 Q. Were any K-State branded cards issued by Intrust
10 that did not include the term Intrust Bank?
11 **A. No, all cards include the name Intrust Bank.**
12 Q. So if there's an Intrust card that's issued, is
13 it fair to say that under all circumstances
14 Intrust or Intrust Bank will be on that card
15 somewhere?
16 **A. Yes.**
17 Q. Let's look at Exhibit Number 63. Can you tell
18 us what Exhibit Number 63 is?
19 **A. 63 is Duratran panels or backlit panels at the**
20 **K-State basketball arena.**
21 Q. And what do those plates show?
22 **A. Those -- there's three plates, they are**
23 **promoting the K-State credit card from Intrust**
24 **Bank.**
25 Q. And did you have involvement in placing an ad --

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1 or placing this ad for K-State?
2 **A. I did not place this ad.**
3 Q. Okay. Do you know who did?
4 **A. Lisa Elliott.**
5 Q. Okay. Are you familiar with Intrust ads being
6 placed at the K-State basketball arena?
7 **A. Yes.**
8 Q. Have you seen this ad before?
9 **A. Yes.**
10 Q. Do you know approximately when this ad was
11 placed?
12 **A. I do not recollect the time frame.**
13 Q. Have you placed ads at the K-State basketball
14 arena?
15 **A. In general, arena ads are placed by Lisa Elliott**
16 **or someone in her office.**
17 Q. Okay. So as far as the expense related to this
18 ad, does that come under your department, or is
19 that Lisa's?
20 **A. This expense would be under Lisa Elliott's.**
21 Q. So this is -- the expense for this ad in Exhibit
22 63 would not be allocated to a specific card
23 marketing number or account; is that true?
24 **A. That is correct.**
25 Q. All right. Okay. Let's go back to Exhibit

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1 Number 13. And if you could take a look at the
2 Intrust Bank credit card column at the top. Do
3 you see that?
4 **A. Yes.**
5 Q. And then go down to the revenue each year for
6 last ten years row. Do you see that?
7 **A. Yes.**
8 Q. And in your responsibilities as senior manager,
9 marketing and promotions, did you have -- did
10 you keep up with the revenue related to your
11 products?
12 **A. Yes.**
13 Q. Including the Visa credit -- or the credit card?
14 **A. Yes.**
15 Q. And if we look at the top number is -- it states
16 2013 through October, 14 million 42 -- let me
17 start that again, $14,042,049 (sic). Do you see
18 that?
19 **A. Yes.**
20 Q. And what is -- what is that number?
21 **A. That is the revenue for the card product.**
22 Q. And in your experience in your job duties
23 related to cards, is that consistent with the
24 revenue for Intrust credit cards?
25 **A. Yes.**

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1 Q. And that's based yearly, correct?
2 **A. Yes.**
3 Q. And if we look at the figures from 2012 back to
4 2007, the figures range from 17,000,000 upwards
5 to a little over 24,000,000. Do you see that?
6 **A. Yes.**
7 Q. And are those figures consistent with the
8 revenue generated by Visa credit cards?
9 **A. Yes.**
10 Q. And, again, those figures are something that you
11 work with in your job responsibilities at
12 Intrust?
13 **A. Yes.**
14 Q. And on the spend volume, in the next row down,
15 what is the spend volume for Intrust Bank credit
16 cards?
17 **A. This would represent the dollars transacted**
18 **through the card.**
19 Q. If someone used a Intrust credit card to
20 purchase something, that number would go into
21 the spend volume?
22 **A. Yes.**
23 Q. Okay. And as part of your job duties, do you
24 monitor or keep up with the spend volume for
25 your cards?

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1 **A. Yes.**
2 Q. And if we look at the top number is 2013,
3 October, $278,254,364. Do you see that?
4 **A. Yes.**
5 Q. And in your experience as a senior manager, is
6 that consistent with the spend volume for
7 Intrust Bank credit cards?
8 **A. Yes.**
9 Q. Is the same true for the years 2012 through 2003
10 and the numbers that are shown there?
11 **A. Yes.**
12 Q. And on the last page, or the second page, under
13 the -- again, staying with the Intrust Bank
14 credit card, and the last row there is number of
15 cards issued each year for the last ten years.
16 Do you see that?
17 **A. Yes.**
18 Q. And then is part of your -- part of your job
19 duties to keep up with the number of cards that
20 are issued?
21 **A. Yes.**
22 Q. And the top number there is 2013, October,
23 77,385; is that correct?
24 **A. Yes.**
25 Q. What is that number?

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1 A. That number would represent the total number of
2 cards we would have issued to date.
3 Q. And -- for the year 2013?
4 A. Yes.
5 Q. And then if you look at the figures 2012 through
6 2004 and the figures to the right, what are
7 those figures?
8 A. Those figures are, again, for the representative
9 years the number of cards that we would have
10 issued.
11 Q. And the figures shown from 2013 back to 2004,
12 are those consistent with the -- your
13 understanding of the number of cards that were
14 issued?
15 A. Yes.
16 Q. And, again, keeping up with those cards is one
17 of your job duties?
18 A. Yes.
19 Q. Okay. Let's talk just a little bit about
20 stored-value cards. What's a stored-value card?
21 A. Well, stored value is just a definition of a
22 type of card that there's monetary value stored
23 on the card.
24 Q. And does Intrust offer any stored-value cards?
25 A. We do.

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1 Q. And what product is that?
2 A. Stored value can be synonymous with maybe
3 prepaid cards, and so we issue gift cards are
4 prepaid and payroll cards are considered
5 prepaid.
6 Q. Okay. And what do you mean by prepaid, just in
7 layman's terms?
8 A. Again, there's money, for lack of a better word,
9 loaded on the card or loaded at an account at
10 the bank that is accessed through the card, and
11 it's a set amount, it's a preset dollar amount.
12 Q. Okay. And when you say that the dollars are
13 associated with the card, what do you mean by
14 that?
15 A. In the terms of a -- of a payroll card, an
16 employee would earn their wages, those funds
17 would be deposited to an account at the bank,
18 and that card would access those funds. He
19 can't overspend, he can't add to that.
20 Q. With the payroll cards, is -- well, how do --
21 how do payroll cards come to be, what's the
22 process?
23 A. Well, the -- we sell the product through our
24 employer relationships, through our commercial
25 relationships, so if you are working at one of

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1 those companies, you may elect to have your
2 funds -- your wages paid to you on an Intrust
3 Bank Visa payroll card.
4 Q. Is an employee who chooses that required to have
5 an Intrust Bank account?
6 A. No, there is no Intrust Bank checking account
7 associated with that card.
8 Q. So an employee who is receiving a payroll card
9 as you just described wouldn't have to have an
10 account at Intrust of any kind; is that correct?
11 A. That is correct.
12 Q. Does the employer, then, have an account with
13 Intrust?
14 A. The employer would have a commercial
15 relationship and an account with Intrust Bank.
16 Q. You know approximately how many employers use
17 the payroll card service?
18 A. 200 to 250 maybe.
19 Q. And if you would look at Exhibit Number 68. Can
20 you tell us what Exhibit Number 68 is?
21 A. 68 is a one-page flier promoting features and
22 benefits of the Intrust Bank Visa payroll cards.
23 Q. Okay. And if you would just flip through that
24 exhibit. And can you tell me what the second
25 page --

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1 A. The second page is virtually the same instrument
2 or tool, just a different version, a more
3 current version.
4 Q. I see. And the Bates number at the bottom of
5 that second document is 1519. Do you see that?
6 A. Yes.
7 Q. Where -- during what time period did Intrust
8 utilize this document that's on 1519?
9 A. This would be possibly even still in use today,
10 this is a pretty current ...
11 Q. Do you remember approximately when Intrust would
12 have began using this document?
13 A. Well, in terms of this tool, this 1519
14 represents the current card design, but this
15 tool of a one-page flier would have been
16 introduced as far back as when the product was
17 introduced.
18 Q. Okay. And when was the product introduced?
19 A. Payroll cards are 2002, I believe.
20 Q. All right. So -- and then if we look at the
21 third page, 1520, can you tell us what that is?
22 A. Again, 1520 is basically the same thing, it
23 looks like it's just been edited; so from my
24 internal perspective, it's the same tool, we're
25 just editing and keeping it current.

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1 Q. Okay. And then 1521, what is that document?
2 **A. 1521 would be a different part of a promotional**
3 **tool that would be delivered to a prospect**
4 **employer quoting the pricing.**
5 Q. And then 1522?
6 **A. 1522 is a multipaged, kind of pocket brochure,**
7 **that the cardholder could use, describing how to**
8 **use the card.**
9 Q. And then 1526?
10 **A. 26 appears -- also is kind of a informational,**
11 **promotional tool to promote Intrust Visa payroll**
12 **cards. In addition, it promotes other products**
13 **that we might be offering that the same**
14 **commercial client might be interested in so ...**
15 Q. Okay. Let's look at -- just go back to the very
16 first page of Exhibit Number 68, it's Bates
17 number 1518. Did you have any involvement in
18 designing or preparing this document?
19 **A. Yes.**
20 Q. What involvement?
21 **A. This would have been something I would have**
22 **overseen directly.**
23 Q. Do you remember approximately when this version
24 of this document was used by Intrust?
25 **A. This is probably somewhere in the 2003, 2004**

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1 **range.**
2 Q. And who receives this document?
3 **A. This document would have been included with any**
4 **employer who might have inquired directly about**
5 **the product. It -- it could have also been**
6 **included in just a general inquiry of our**
7 **commercial services. It might have just been**
8 **included as -- to make sure the customer was**
9 **aware the product was out there.**
10 Q. And have you reviewed this document?
11 **A. Not carefully.**
12 Q. Sure. When you were putting the document
13 together, did you review it?
14 **A. Yes.**
15 Q. And does this document accurately describe
16 Intrust's payroll card service?
17 **A. Yes.**
18 Q. And how about 1519, did you have involvement in
19 preparing it?
20 **A. Yes.**
21 Q. And approximately what time period was it used?
22 **A. Again, this one would be more current because**
23 **it's reflecting the current card design, so**
24 **that's probably within the last five years.**
25 Q. And what involvement did you have in preparing

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1 this document?
2 **A. I would have had direct involvement.**
3 Q. And does page 1519 accurately state or describe
4 Intrust's payroll card service?
5 **A. Yes.**
6 Q. And 1520, do you know approximately when that
7 version of the document was used?
8 **A. I would have to say the same time frame, it's**
9 **just a different edited version.**
10 Q. Okay. And does 1520 accurately reflect
11 Intrust's payroll card service?
12 **A. Yes.**
13 Q. Page 1521, who would receive this document?
14 **A. This document would -- would most likely be**
15 **received by somebody who was directly**
16 **interested, an employer directly interested in**
17 **the product.**
18 Q. Okay. And where did Intrust offer this 1521?
19 **A. This would have been included -- could have been**
20 **included in a packet that might have been mailed**
21 **to the employer and most likely it was included**
22 **in a face-to-face conversation with the**
23 **employer.**
24 Q. Were you involved in any direct communication
25 with employers who were interested in this

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1 service?
2 **A. Yes.**
3 Q. Do you recall giving this document that is 1521
4 to employers?
5 **A. Yes.**
6 Q. How about the first page of Exhibit 68, 1518, do
7 you recall giving this page or document to
8 employers?
9 **A. Yes.**
10 Q. And would the same be true for 1519 and 1520?
11 **A. Again, those are later versions, I no longer**
12 **directly sell the product. When it launched, I**
13 **directly sold the product.**
14 Q. I see.
15 **A. So, yes, I had delivered these tools directly,**
16 **but I no longer directly sell it --**
17 Q. I see.
18 **A. -- today.**
19 Q. And does the -- does Exhibit 1521 accurately
20 describe the fee structure for Intrust Bank's
21 payroll cards?
22 **A. Yes.**
23 Q. All right. Looking at 1521, were you involved
24 in preparing the document that begins at 1521
25 and ends at 1525?

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1 **A. Yes.**
2 Q. What was your involvement?
3 **A. I would have had --**
4 **MR. NGUYEN:** Do you mean the
5 document that starts at 1522?
6 **MR. NORTON:** Yes, I'm sorry.
7 **BY MR. NORTON:**
8 Q. Were you involved in preparing the document that
9 starts at 1522 and ends at 1525?
10 **A. Yes.**
11 Q. And what was your involvement?
12 **A. I would have had direct involvement.**
13 Q. In preparing it?
14 **A. Yes.**
15 Q. Approximately when was this set of documents
16 utilized or used by Intrust?
17 **A. I could estimate around 2003, 2004.**
18 Q. And who received this document?
19 **A. Payroll cardholders would have received this**
20 **document.**
21 Q. And how would they receive it?
22 **A. We would either deliver it to the companies who**
23 **would disburse it as the cards were disbursed.**
24 **If we were attending training sessions with**
25 **direct contact with employees, we would hand it**

1 **out directly.**
2 Q. And did you personally hand this out to
3 employers or employees?
4 **A. Yes.**
5 Q. During that 2003, 2004 time period?
6 **A. Yes.**
7 Q. And Intrust still offers its payroll card
8 service; is that correct?
9 **A. Yes.**
10 Q. Is the service that Intrust currently offers any
11 different than what is described in 1518, the
12 first page of Exhibit 68?
13 **A. No.**
14 Q. All right. If you could look at Exhibit 69.
15 Can you tell us what Exhibit 69 is?
16 **A. Exhibit 69 is a screen shot of Intrust Bank**
17 **online page, talking about disbursement options**
18 **for payroll funds.**
19 Q. And did you have any involvement in preparing
20 this Internet page?
21 **A. No.**
22 Q. At the upper -- have you seen this Internet page
23 before?
24 **A. I have.**
25 Q. And up at the left-hand corner there's a date of

1 February 18th, 2014, and then down at the bottom
2 left, there is a web address beginning with
3 intrustbank.com. Do you see that?
4 **A. Yes.**
5 Q. Did you view this, the page shown at that web
6 link on or around February 18th, 2014?
7 **A. I honestly, I don't recall.**
8 Q. Do you remember when approximately the last time
9 you looked at this page was?
10 **A. I don't -- I really couldn't tell you the -- I**
11 **don't know if this is a new page they created or**
12 **if this page has been out here for awhile and**
13 **they just recently added the card.**
14 Q. Did you have any involvement in preparing an
15 Internet page describing payroll services at any
16 point in the past?
17 **A. My recollection is that in the early years when**
18 **the product launched, it may not have been**
19 **directly online because it was offered to**
20 **companies.**
21 Q. And do you remember approximately when it came
22 online?
23 **A. I do not recall.**
24 Q. Okay. Though you do not recall looking
25 specifically at this web address, have you

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1 reviewed this page that is Exhibit 69?
2 **A. Yes.**
3 Q. And does it accurately describe Intrust's
4 payroll card service?
5 **A. Yes.**
6 Q. Going back to Exhibit Number 13, if you look at
7 the next-to-last row under the payroll cards
8 column, do you see that?
9 **A. The -- what's the definition?**
10 Q. Payroll cards --
11 **A. Uh-huh.**
12 Q. -- column and then the revenue for each year for
13 the last ten years row. Do you see that?
14 **A. Yes.**
15 Q. And then there's a box immediately following
16 that begins 2013 through October, $144,807. Do
17 you see that?
18 **A. Yes.**
19 Q. What is -- what is that figure?
20 **A. That is the revenue earned through 2013 on**
21 **payroll cards.**
22 Q. And would the same be true from year 2012
23 through 2007?
24 **A. Yes.**
25 Q. And had that figure been increasing from 2007

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1 through 2012?
2 **A. Yes.**
3 Q. And then in 2013, not including November and
4 December, it was about 9,000 behind 2012?
5 **A. Yes.**
6 Q. And the next row down begins with number of
7 customers who used each product or service each
8 year the last ten years. Do you see that?
9 **A. Yes.**
10 Q. And were you able to determine specifically the
11 number of customers who used payroll cards?
12 **A. Well, this column is showing the funds -- the**
13 **load value on the cards.**
14 Q. Okay.
15 **A. So it's tracking funds.**
16 Q. I see. And what is the load volume, what --
17 just what is that?
18 **A. By definition, those are the wages earned that**
19 **were, quote, unquote, available for use on the**
20 **card.**
21 Q. Okay.
22 **A. Or loaded to the card.**
23 Q. And the first figure there through October 2013,
24 the load volume for payroll cards was
25 $22,598,220?

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1 **A. Yes.**
2 Q. And then the spend volume is immediately below
3 that, what is the spend volume?
4 **A. The spend volume would be the transactions**
5 **reflecting the purchases for the card.**
6 Q. And so those would be purchases made by the
7 employee who has a payroll card?
8 **A. Yes.**
9 Q. And in the very last page, the payroll column
10 and the row is number of cards issued each year
11 for the last ten years. Do you see that?
12 **A. Yes.**
13 Q. In 2013 through October, 3,974. Do you see
14 that?
15 **A. Yes.**
16 Q. Were you involved in gathering that information?
17 **A. Yes.**
18 Q. And in your day-to-day duties, are you
19 responsible for payroll cards?
20 **A. Yes.**
21 Q. And are you, as part of that job responsibility,
22 to keep up with the number of payroll cards that
23 are issued?
24 **A. Yes.**
25 Q. So is the 3,974, is that the number of cards

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1 issued through October 2013?
2 **A. Yes.**
3 Q. And that's for the year 2013?
4 **A. Yes.**
5 Q. And then if we go from 2012 back to 2004, the
6 numbers reflected there, what are they?
7 **A. Those are also the, for each respective year,**
8 **the number of cards that we've issued.**
9 Q. And is Intrust shown on payroll cards that it
10 issues? The word Intrust?
11 **A. On the -- on the card plastic?**
12 Q. Yes.
13 **A. Yes.**
14 **MR. NORTON:** Guys, we've been going
15 for an hour and 15, why don't we take a
16 couple of minutes.
17 **MR. NGUYEN:** Sure.
18 (Thereupon, a recess was taken;
19 whereupon, the following was had.)
20 **BY MR. NORTON:**
21 Q. All right. Linda, we're back from a short
22 break. Let's talk for just a moment about
23 Intrust gift cards. Tell us what the Intrust
24 gift cards are.
25 **A. Intrust gift cards are prepaid cards for**

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1 **consumer use. Much as the name implies, they're**
2 **predominantly used as gifts, with a preset,**
3 **predetermined dollar value.**
4 Q. And does someone have to have an Intrust account
5 in order to purchase a gift card, an Intrust
6 gift card?
7 **A. No.**
8 Q. And does someone have to have an Intrust account
9 in order to use an Intrust gift card?
10 **A. No.**
11 Q. Can Intrust gift cards be purchased online?
12 **A. Yes.**
13 Q. For how long has Intrust offered gift cards?
14 **A. I believe 2003.**
15 Q. And does Intrust brand its gift cards with
16 Intrust Bank?
17 **A. Yes.**
18 Q. Okay. Are there any gift cards that are issued
19 by Intrust that do not include the word Intrust
20 or Intrust Bank?
21 **A. No.**
22 Q. Earlier you'd mentioned that there are close
23 looped and open looped types of gift cards.
24 Could you describe what that difference is?
25 **A. A close-looped, excuse me, gift card would be,**

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1 **absent MasterCard or Visa or any other**
2 **association logo, can only be used at the brand**
3 **that's on the front of the card or stores**
4 **associated with that brand.**
5 Q. Okay. And what's an open-looped gift card?
6 **A. An open-looped gift card would have a MasterCard**
7 **or Visa brand, or AmEx, on the face of the card**
8 **allowing it to be used anywhere that brand is**
9 **accepted.**
10 Q. Okay. And what type of cards do -- does Intrust
11 offer?
12 **A. Intrust Bank offers Visa-branded gift cards.**
13 Q. And would those be an open-looped gift card?
14 **A. Those would be open-looped cards.**
15 Q. So they could be used at any retailer --
16 **A. Yes.**
17 Q. -- in the United States?
18 **A. Yes.**
19 Q. Does Intrust currently offer reloadable gift
20 cards?
21 **A. No.**
22 Q. And has Intrust considered offering reloadable
23 gift cards in the future?
24 **A. We have discussed reloadable cards in general.**
25 **Most reloadables are considered general purpose**

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1 **and may or may not be defined as a gift card,**
2 **but we continue to look at that.**
3 Q. Does Intrust advertise its ability to offer gift
4 cards?
5 **A. Yes.**
6 Q. How does it advertise those cards?
7 **A. We would advertise through multiple channels,**
8 **the Intrust Bank website, some of the ads in**
9 **exhibits we've already seen reference gift**
10 **cards, insert messages to our customers,**
11 **billboards, radio.**
12 Q. And when you're advertising an Intrust gift
13 card, do you always do so in conjunction with
14 the term Intrust or Intrust Bank?
15 **A. To my knowledge, yes.**
16 Q. On the face of Intrust gift cards, does the term
17 Intrust -- is Intrust used without immediate
18 conjunction with bank?
19 **A. On our current gift cards?**
20 Q. Yes.
21 **A. I believe so.**
22 Q. Would you look at Exhibit Number 70, please, and
23 flip through it. Can you tell us what Exhibit
24 Number 70 is?
25 **A. 70 looks to be a representation of our online**

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1 **page or pages promoting gift cards.**
2 Q. And are you familiar with how Intrust promotes
3 gift cards online?
4 **A. Yes.**
5 Q. Did you have any involvement in preparing the
6 web pages that are shown in Exhibit 70?
7 **A. Yes.**
8 Q. What was your involvement?
9 **A. I would have had direct involvement.**
10 Q. And how so?
11 **A. I would have assisted in just general layout and**
12 **terminology.**
13 Q. Okay. For how long has Intrust advertised its
14 gift cards online?
15 **A. I don't -- I couldn't recall an exact date, but**
16 **I think it'd be pretty close to when the product**
17 **launched.**
18 Q. Okay. And when was that?
19 **A. 2003.**
20 Q. Are you aware of any time period between, say,
21 2005 and today that Intrust did not advertise
22 its gift cards online?
23 **A. No.**
24 Q. Okay. Let's look at the first page of Exhibit
25 Number 70. Down in the bottom right-hand corner

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1 there's a date, February 18th, 2014. Do you see
2 that?
3 **A. Yes.**
4 Q. And in the bottom left there is a web address,
5 do you see that?
6 **A. Yes.**
7 Q. And did you look at the Intrust gift card web
8 pages that are shown in Exhibit 70 around
9 February -- around -- on or around February
10 18th, 2014?
11 **A. Yes.**
12 Q. And do the web pages shown in Exhibit 70
13 accurately reflect how Intrust offers its gift
14 cards to customers?
15 **A. Yes.**
16 Q. And if we look on the first page, there appear
17 to be several different designs of cards. Do
18 you see that?
19 **A. Yes.**
20 Q. Could you just real briefly describe the
21 different designs that are shown?
22 **A. There are four designs shown on this page, one**
23 **is a Wichita State design, a KU design, a**
24 **K-State design, and a generic gift box design.**
25 Q. And on those, on the face of those cards, do any

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1 of them specify Intrust Bank?
2 **A. No.**
3 Q. And -- but do they use the word Intrust?
4 **A. Yes.**
5 Q. Okay. And then on this page, this web page
6 itself, does it refer to the gift cards as
7 Intrust Bank gift cards?
8 **A. They are referred to as Intrust Visa gift cards.**
9 Q. So the term Intrust is used without -- without
10 immediately being followed by bank, correct?
11 **A. Yes.**
12 Q. And is that consistent with the way that Intrust
13 advertises its gift cards?
14 **A. It's not unusual to just use the word Intrust.**
15 Q. Typically, with gift cards, is the term Intrust
16 Bank used on the reverse side of the card?
17 **A. I believe on the reverse side it would say**
18 **Intrust Bank.**
19 Q. And you had -- did you have involvement in
20 designing the Intrust -- the face of the Intrust
21 gift cards?
22 **A. Yes.**
23 Q. If you look at the seventh page in at the top,
24 it shows Visa gift card order. Do you see that?
25 **A. Yes.**

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1 Q. And what is -- what is this page?
2 **A. This is the order -- this is the first page the**
3 **customer would see to order a gift card online.**
4 Q. Okay. And, again, the customer of a gift card
5 does not have to be an Intrust Bank account
6 holder, correct?
7 **A. That is correct.**
8 Q. There are -- there's pricing shown on this page,
9 is that pricing currently in effect for purchase
10 of gift cards?
11 **A. Yes.**
12 Q. And then the page immediately following that is,
13 again, Visa gift card order at the top, what is
14 that page?
15 **A. That would be the second page or second screen**
16 **shot that the customer would experience in**
17 **ordering the card.**
18 Q. Okay. Are there any geographic restrictions on
19 who can purchase Intrust gift cards online?
20 **A. No.**
21 Q. If you could, look at Exhibit Number 71. And
22 can you tell us what this exhibit is?
23 **A. This is a oversized, direct mail postcard that**
24 **would have been sent to our credit card**
25 **customers, encouraging them during the holiday**

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1 **time to use their credit card, and by doing so**
2 **receiving a $25 Visa gift card.**
3 Q. And approximately when was this ad placed or
4 published?
5 **A. This would have been about 2007.**
6 Q. You see down on the right-hand side of the image
7 is the Intrust Card Center. Do you see that?
8 **A. Yes.**
9 Q. In your duties as senior manager related to
10 cards, did you sometimes use the Intrust Card
11 Center language in your advertisements?
12 **A. Yes.**
13 Q. Okay. Let's look at Exhibit Number 72. Can you
14 tell us what that document is?
15 **A. This would have been a brochure or flier that**
16 **would have been inserted in Intrust Bank**
17 **checking account statements and available at any**
18 **banking center or branch location.**
19 Q. And approximately when was this ad published or
20 used?
21 **A. I could not recall the exact date.**
22 Q. Okay. If you look at the -- there's a green
23 card that's shown. Do you see that?
24 **A. Yes.**
25 Q. And first of all, if you'll notice at the top,

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1 it is described as Intrust Bank gift card?
2 **A. Yes.**
3 Q. So sometimes Intrust Bank will use the Intrust
4 Bank logo on its check cards -- I'm sorry, its
5 gift cards?
6 **A. Yes.**
7 Q. Are you aware of any time that Intrust did not
8 use either Intrust Bank or Intrust on the face
9 of its gift cards?
10 **A. Not to my recollection.**
11 Q. Okay. Having looked at the green card that's
12 shown there, does that help refresh your
13 recollection as to when this ad would have been
14 published or used?
15 **A. This is a more -- a more recent card design, so**
16 **this would be probably prior to 2010, could be**
17 **'08, '09-ish.**
18 Q. Okay. And then what's the second page of
19 Exhibit Number 72?
20 **A. That is the back side of the flier.**
21 Q. You said these fliers were included with
22 customer account statements?
23 **A. Yes.**
24 Q. Let's look at Exhibit Number 73. Can you tell
25 us what that document is?

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1 **A. This would be -- also have been a postcard**
2 **mailed directly to the homes of our credit card**
3 **customers, encouraging them to use their credit**
4 **card for holiday purchases, and in doing so**
5 **receiving an Intrust Bank gift card.**
6 Q. And approximately when would this ad have been
7 published?
8 **A. This is probably 2005.**
9 Q. And if you look at the top, you'll see there's a
10 date, 11/8/05.
11 **A. Yeah.**
12 Q. And is that consistent with your recollection of
13 when this ad was published?
14 **A. Yes.**
15 Q. And on the upper right-hand side of this ad is,
16 again, the Intrust Card Center. Do you see
17 that?
18 **A. Yes.**
19 Q. And on the sample card itself, it is simply
20 Intrust gift card. Do you see that?
21 **A. Yes.**
22 Q. All right. Let's look again at Exhibit Number
23 13. And the column at the top that is Intrust
24 gift cards, do you see that?
25 **A. Yes.**

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1 Q. And if we scroll down to the revenue each year
2 for the last ten years row, do you see that?
3 **A. Yes.**
4 Q. Okay. That box for Intrust gift cards and the
5 revenue for last ten years, what is shown in
6 that box?
7 **A. That is the revenue for each respective year**
8 **from the gift card product.**
9 Q. Okay. And then if we look at the next row down,
10 it's number of customers who used each product,
11 I see again we have a, actually a load volume
12 and spend volume list. Do you see that?
13 **A. Yes.**
14 Q. What's the load volume?
15 **A. The load volume would be the -- the dollar**
16 **amount, funds loaded to the card.**
17 Q. That would be if a customer purchases a card,
18 say, for $50, that $50 would be included in the
19 load volume shown here?
20 **A. Yes.**
21 Q. And does part of your job duties as senior
22 manager related to cards involve keeping track
23 of the load volumes and spend volumes for gift
24 cards?
25 **A. Yes.**

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1 Q. And the load volumes shown for years 2013
2 through 2000 -- looks like 2009, do those
3 correspond with your understanding of the total
4 load volume for those years for Intrust gift
5 cards?
6 **A. Yes.**
7 Q. And the spend volume, what is that?
8 **A. The spend volume would represent the dollars**
9 **transacted or spent on the cards.**
10 Q. And that -- that, for example, if I was given an
11 Intrust gift card for $50 and spent that $50 at
12 Dillons, that $50 spend would be included in the
13 spend volume shown here?
14 **A. Yes.**
15 Q. Okay. And do the spend volumes shown from 2013
16 through 2004 correspond with your understanding
17 of the spend on gift cards during those years?
18 **A. Yes.**
19 Q. And then the last page, or the second page, same
20 column under the number of cards issued each
21 year for the last ten years. Do you see that
22 box?
23 **A. Yes.**
24 Q. What is included in that box?
25 **A. Those are the number of cards issued for the**

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1 **respective years.**
2 Q. And as part of your job duties as a senior
3 manager for cards, do you keep up with the
4 number of gift cards that are issued each year?
5 **A. Yes.**
6 Q. And I noticed that some of these numbers have an
7 asterisk, and then down on the bottom of the
8 page there's a sentence that says, quote, these
9 numbers reflect the number of cards in
10 inventory, not the number of cards actually
11 sold, end quote. What does that mean?
12 **A. For those reporting years, the reporting was**
13 **pulling cards that were actually in inventory,**
14 **so we would have had inventoried cards at the**
15 **banking centers for purchase. Because the card**
16 **had to be staged, if you will, the report was**
17 **pulling cards prior to it being sold.**
18 Q. I see.
19 **A. It was reflecting a higher number.**
20 Q. So for 2007 through 2010, those numbers aren't
21 the actual number of cards sold; it was the
22 number of cards that were available for sale?
23 **A. Yes.**
24 Q. With regard to 2013, 2012, 2006, 2005, and 2004,
25 what are those numbers reflective of?

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1 **A. Those would be actual cards sold.**
2 Q. And that is something you keep up with in your
3 ordinary course of your job duties?
4 **A. Yes.**
5 Q. And you're responsible for that information as a
6 senior manager?
7 **A. Yes.**
8 Q. All right. Ma'am, if you could look at Exhibit
9 Number 76 and can you tell us what that document
10 is?
11 **A. This is a print ad promoting the Wichita State**
12 **credit card issued by Intrust Bank.**
13 Q. And do you know approximately when this ad was
14 placed?
15 **A. Looks like this -- I think this is around 2010.**
16 Q. Okay. If you'll look at the bottom left-hand
17 corner, you'll see there's a date 9/14 of '10.
18 Does that correspond with your recollection of
19 approximately when this ad was placed?
20 **A. Yes.**
21 Q. And where was this ad placed?
22 **A. This ad in this format would have been placed at**
23 **the back of -- or at the WSU alumni magazine.**
24 Q. Okay. And Exhibit Number 77, can you tell us
25 what that document is?

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1 **A. 77 is a print ad promoting the KU credit card**
2 **issued through Intrust Bank.**
3 Q. And approximately when was this ad placed?
4 **A. This is also a 2002 ad -- or 2010 ad.**
5 Q. And if you look in the bottom right, there's a
6 date of 8/17/10. Do you see that?
7 **A. Yes.**
8 Q. Does that correspond with approximately when you
9 believe this ad was placed?
10 **A. Yes.**
11 Q. And where was this ad placed?
12 **A. This ad is actually part of a KU fan guide**
13 **brochure.**
14 Q. Where are those fan guides made available?
15 **A. They would have been made available at sporting**
16 **events.**
17 Q. How about Kansas University basketball?
18 **A. Yes, basketball and/or football.**
19 Q. Okay. Now, the various ads that we've talked
20 about here today, is that an exclusive,
21 comprehensive list of all the ads that Intrust
22 placed related to its credit cards?
23 **A. No.**
24 Q. Would you say that it's a small sampling, large
25 sampling, or other?

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1 **A. Small sampling.**
2 Q. What is -- when you were senior manager of
3 marketing and promotion, what was your average
4 budget per year to spend on advertising and
5 promotions?
6 **A. Well, the budget for card marketing could range,**
7 **probably at the high end, just under 2,000,000.**
8 **Other years, for strategic reasons, it could be**
9 **just around 1,000,000.**
10 Q. Say in 2013, do you know approximately what your
11 budget was?
12 **A. I believe it was under 1,000,000.**
13 Q. Okay. Why was it low that last year?
14 **A. We make strategic decisions every year about**
15 **what to focus on and ...**
16 Q. And so it fluctuates from around a million to
17 around 2,000,000?
18 **A. Yes, it can vary.**
19 Q. All right. Let's look at Exhibit Number 78.
20 Can you tell us what Exhibit Number 78 is?
21 **A. I believe this is a page, an nTrust, with an N,**
22 **web page.**
23 Q. If you look on the bottom left-hand corner,
24 you'll see that there's a web address there, and
25 it's W-W-W, dot, N-T-R-U-S-T, dot, C-O-M, slash,

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1 C-A-R-D-S. Did I read that correctly?
2 **A. Yes.**
3 Q. And it is dated March 24th of 2014. Do you see
4 that?
5 **A. Yes.**
6 Q. Did you look at the pages, web pages that are
7 included in Exhibit 78 on or around March 24th
8 of 2014?
9 **A. Yes.**
10 Q. And do the pages shown in Exhibit 78 accurately
11 reflect what you saw when you looked at those
12 web addresses?
13 **A. Yes.**
14 Q. And is that true of all of the web addresses
15 that are shown in the bottom left of the web
16 pages?
17 **A. Yes.**
18 **MR. NORTON:** Thank you, ma'am.
19 Those are all the questions that I have.
20 **A. Thank you.**
21
22 **CROSS-EXAMINATION**
23 **BY MR. NGUYEN:**
24 Q. Hi, Ms. Cullinan, I want to go over -- is it
25 Cullinan?

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1 **A. Cullinan.**
2 Q. Thank you. I want to go over the distinctions
3 between the different card products which you
4 have discussed today. So as I understand it,
5 Intrust Bank offers the following types of card
6 products, a Visa-branded check or debit card?
7 **A. Yes.**
8 Q. A -- let me make sure I have them all here. Ah,
9 here they are. A Visa-branded credit card; is
10 that correct?
11 **A. Yes.**
12 Q. And a, what you call an open-looped,
13 Visa-branded gift card?
14 **A. Yes.**
15 Q. As well as a payroll card?
16 **A. Yes.**
17 Q. Is the payroll card Visa branded as well?
18 **A. Yes.**
19 Q. And are there any other card products that
20 Intrust Bank offers besides the ones I've just
21 listed?
22 **A. I believe we still have ATM cards in**
23 **circulation.**
24 Q. Okay. And those would be issued to customers
25 who have a checking or savings account at

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1 Intrust Bank?
2 **A. Yes.**
3 Q. And are those also Visa branded?
4 **A. They are not.**
5 Q. They are not. So if I have an ATM card with
6 your bank, I cannot use the ATM card to make a
7 purchase at a merchant? I can only use it to
8 withdraw funds or make a transaction at an ATM?
9 **A. Certain merchants may be set up to receive and**
10 **accept POS transactions.**
11 Q. Okay.
12 **A. But on the whole, it is an ATM card.**
13 Q. So let's talk about the differences between them
14 so we're clear because obviously they all come
15 in a plastic card form; is that correct?
16 **A. Yes.**
17 Q. So a credit card is where your bank actually
18 issues a line of credit to the customer; is that
19 correct?
20 **A. Yes.**
21 Q. Okay. And so that is different than a check
22 card or debit card?
23 **A. Yes.**
24 Q. How is it different?
25 **A. The check card is tied to the checking account,**

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1 **and the funds that the check card uses are the**
2 **same funds in the checking account.**
3 Q. And so a big distinction between a credit card
4 and a check card or debit card is that your bank
5 is making an unsecured -- giving an unsecured
6 line of credit to the customer in the instance
7 of a credit card; is that correct?
8 **A. Yes.**
9 Q. So your bank is taking some credit -- offensive
10 credit risk?
11 **A. Yes.**
12 Q. And taking a risk; is that correct?
13 **A. Yes.**
14 Q. Do you view that as an important distinction
15 between credit cards and check cards?
16 **A. I think the source of the funds is -- is the key**
17 **distinction between the products.**
18 Q. And you would agree with me that is a very
19 important distinction between the credit card
20 source of funds and the source of funds for a
21 check card?
22 **A. It's a distinction, yeah.**
23 Q. And that's what makes them different products,
24 correct?
25 **A. Yes.**

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1 Q. Let's talk now about a stored-value card, which
2 you, I believe, testified that your bank offers
3 two different types, the Visa-branded gift card
4 and the payroll card?
5 **A. Yes.**
6 Q. So let's begin with the gift card. What's the
7 difference between that and a credit card?
8 **A. The gift card, you mentioned stored-value, I**
9 **would call it prepaid.**
10 Q. Okay.
11 **A. The gift card is a, by the nature of being**
12 **prepaid, is a limited funds instrument.**
13 Q. And that's because it's not reloadable in the
14 form that you offer; is that correct?
15 **A. That is correct.**
16 Q. So if I buy a $50 Dillons gift card, for
17 example, if Dillons were, you know, selling gift
18 cards, I could spend up to that $50 and no more
19 at Dillons?
20 **A. Yes.**
21 Q. And with your bank's gift cards, because they
22 are open looped and branded and are associated
23 with the Visa payment association, I could use
24 that card to make up to $50 worth of purchases
25 with any merchant that accepts a Visa card?

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1 **A. Yes.**
2 Q. And you said you would call that a prepaid card
3 as opposed to a stored-value card, why the
4 distinction in your mind?
5 **A. I think stored value is maybe the terminology**
6 **used when -- when that type of product came into**
7 **the industry. More predominantly currently**
8 **they're referred to as prepaid.**
9 Q. Give me an example of a stored-value card in
10 your mind, what's different than a prepaid card?
11 **A. I -- I'm not sure I see a distinction by**
12 **definition.**
13 Q. Okay. And where does the source of funds come
14 from for a gift card?
15 **A. The purchaser is using their own funds.**
16 Q. To buy a card which then the recipient can use
17 as a replacement for those funds?
18 **A. Sure.**
19 Q. And so in that situation, the bank is not
20 offering a line of credit through the card?
21 **A. That is correct.**
22 Q. And the bank is not using the user's funds
23 deposited with the bank to fund the card?
24 **A. That is correct.**
25 Q. And is that an important distinction between a

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1 gift card and a credit card?
2 **A. Certainly a distinction.**
3 Q. And that's a distinction between a gift card and
4 the check card that your bank issues?
5 **A. It is a distinction.**
6 Q. Let's talk now about the payroll cards that your
7 bank offers. What is the source of funds
8 from -- for a payroll card?
9 **A. The -- the wages the employee earns from the**
10 **employer.**
11 Q. And the source of funds is thus a transfer of
12 funds from the employer; is that correct?
13 **A. Yes.**
14 Q. So it's an alternative, for example, to direct
15 deposit of the employee's wages into a
16 designated deposit account?
17 **A. Yes.**
18 Q. In that situation, your bank, again, is not
19 providing any type of line of credit to the
20 employee user?
21 **A. That is correct.**
22 Q. Or to the employer with whom you have a
23 commercial relationship?
24 **A. That is correct.**
25 Q. In that situation, the user, who is the

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1 employee, does not have to actually deposit
2 funds into any account in order to use that
3 card?
4 **A. That is correct.**
5 Q. And do you view that as an important distinction
6 between the payroll card and credit cards that
7 your bank issues?
8 **A. It is a distinction.**
9 Q. And that's also a distinction with the check
10 cards that your bank issues?
11 **A. Yes.**
12 Q. And it's also a distinction from the gift cards
13 that your bank issues?
14 **A. Yes.**
15 Q. Would you agree with me that the Visa credit
16 card that your bank issues is not a stored-value
17 card?
18 **A. That is correct.**
19 Q. And you'd agree with me that the check card or
20 debit card that your bank issues to your
21 customers is not a stored-value card?
22 **A. I would agree.**
23 Q. And you'd agree with me also that ATM cards are
24 not stored-value cards?
25 **A. Correct.**

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1 Q. Have you heard of the phrase online debit card?
2 **A. In what context?**
3 Q. Have you ever heard that phrase used in the bank
4 or in connection with your work at Intrust Bank?
5 **A. You can make online purchases with a debit card.**
6 Q. But you don't know what an online debit card is?
7 **A. I do not.**
8 Q. I'm going to show you -- are you familiar with
9 any of the trademarks that your company has
10 registered?
11 **A. Yes.**
12 Q. Okay. Are you familiar with the -- you've seen
13 some exhibits, which we'll go over again, that
14 use the trademark Intrust Check Card?
15 **A. Yes.**
16 Q. Okay. I'm going to show you -- actually, I
17 think you have a stack of exhibits right in
18 front of you. If you could look to what we
19 marked yesterday as Exhibit 108. They're all in
20 numerical order so ...
21 **A. Uh-huh.**
22 Q. 108, this is a trademark registration which we
23 identified yesterday for the mark Intrust Check
24 Card, and I'm going to refer you to the
25 description of services. It says, it refers to

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1 specifically online debit card. Do you know
2 what that means, Ms. Cullinan?
3 **A. I do not.**
4 Q. Do you know if your company offers anything
5 called an online debit card?
6 **A. We're not -- I am not aware of that.**
7 Q. And any card products or services, you would be
8 aware of; is that correct?
9 **A. I would assume so.**
10 Q. Because that's your area of responsibility and
11 management of the company?
12 **A. Yes.**
13 Q. And you've worked there now for, I believe you
14 said 26 years?
15 **A. Yes.**
16 Q. In your 26 years at the bank, have you ever seen
17 or heard of an online debit card offered by your
18 company?
19 **A. I am not familiar with that.**
20 Q. So, therefore, you would not be familiar with
21 the use by your company of the mark Intrust
22 Check Card on anything that is an online debit
23 card?
24 **A. That is correct.**
25 Q. Okay. Let me -- let's focus in on -- actually,

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1 before we do that -- all right. Let's talk
2 about check cards. So do you use check card and
3 debit card interchangeably as a description for
4 the product you offer?
5 **A. The product is most -- most often referred to as**
6 **a check card.**
7 Q. Might other people associate it with a debit
8 card?
9 **A. Yes.**
10 Q. And that's because when the card is used, money
11 is taken out of or debited out of the customer's
12 account with your bank?
13 **A. That might be why they think that.**
14 Q. That's why it might be referenced as a debit
15 card?
16 **A. Yes. Yes.**
17 Q. The customers who have a check card with your
18 bank, are those individuals only or also
19 businesses?
20 **A. There can be businesses.**
21 Q. Do you know approximately the percentage
22 breakdown of how many check card holders are
23 individuals versus businesses?
24 **A. All the figures reported here would be**
25 **individuals.**

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1 Q. So in Exhibit 13 that we have looked at today,
2 your counsel has referenced you to, for example,
3 the column for Intrust Visa check cards, and the
4 last row is the number of cards issued each
5 year?
6 **A. Yes.**
7 Q. And so all of those cards in that row, you're
8 saying are for Visa check cards issued to
9 individuals?
10 **A. Yes.**
11 Q. And does not count any cards issued to a
12 business customer?
13 **A. That is correct.**
14 Q. You discussed the marketing that your company
15 does for the Visa-branded check cards, and is
16 the advertising focused on only people who are
17 already checking account customers of Intrust
18 Bank?
19 **A. Not in all cases.**
20 Q. In some cases?
21 **A. Some cases.**
22 Q. For example, any direct mail?
23 **A. Direct mail for a check card, yes.**
24 Q. What other of your advertising is focused
25 exclusively just on customers who are already

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1 checking account customers of the bank?
2 **A. You know, I -- I don't know that I could**
3 **specifically identify -- so much is actually**
4 **available to the general public via online or in**
5 **the banking centers so ...**
6 Q. Is there a geographic area to which you target
7 your advertising for the check cards?
8 **A. It would be targeted wherever we have a bank**
9 **presence.**
10 Q. Okay. And that would be in Kansas; is that
11 correct?
12 **A. It would be.**
13 Q. As well as certain cities in Oklahoma?
14 **A. Yes.**
15 Q. And one location in Arkansas; is that correct?
16 **A. Yes.**
17 Q. And you don't target your advertising for the
18 check card to any geographic areas where the
19 bank does not have a physical branch location?
20 **A. Well, as we've already seen, the check cards are**
21 **mentioned in the Affinity advertising because**
22 **that's a cross market.**
23 Q. And do you mean, for example, Affinity
24 advertising with universities?
25 **A. Yes.**

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1 Q. Okay. Any other type of Affinity relationships?
2 **A. No, not for check cards.**
3 Q. So, for example, you would place an ad for a
4 university-branded check card in an alumni
5 magazine for that university?
6 **A. Yes.**
7 Q. And that alumni magazine might be distributed
8 outside of your bank's geographic footprint?
9 **A. Yes.**
10 Q. Other than that, do you target any advertising
11 to people who are outside of the geographic
12 footprint of Intrust Bank?
13 **A. Not to my knowledge.**
14 Q. And with respect to the alumni magazines, you
15 would place the ad in that magazine because the
16 people who receive that magazine have a tie to a
17 university in Kansas; is that correct?
18 **A. Yes.**
19 Q. So they attended a university?
20 **A. I can't speak that they attended, they have a**
21 **tie.**
22 Q. They have a tie. For example, attending or
23 maybe being a faculty member or supporter?
24 **A. Could be any -- any kind of a tie.**
25 Q. Do you have any idea of the circulation numbers

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1 for any of the alumni magazines in which you
2 place ads for check cards?
3 **A. I do not recall.**
4 Q. That's not relevant to you when you place an ad?
5 **A. The alumni file is information that I have at my**
6 **disposal. The frequency of the ads is at my**
7 **disposal. I do not recall the circulation of**
8 **the ad -- of the magazines.**
9 Q. Have you tried to study the geographic location
10 of the customers who hold an Intrust check card?
11 **A. I have not studied it.**
12 Q. Okay. So you have no idea where they are
13 located?
14 **A. I would -- they could be located anywhere in the**
15 **United States.**
16 Q. Do you know whether or not they are concentrated
17 in Kansas?
18 **A. I would make an assumption that there are a**
19 **majority in Kansas.**
20 Q. And why would you make that assumption?
21 **A. Most of our physical locations are here in**
22 **Kansas.**
23 Q. And would you say over 50 percent of your
24 check card holders are in Kansas?
25 **A. I honestly do not know.**

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1 Q. Have you ever undertaken any analysis of the age
2 demographics for the holders of check cards?
3 **A. No.**
4 Q. And when we talk about a Visa-branded check
5 card, that's because your bank has a business
6 relationship with Visa; is that correct?
7 **A. Yes.**
8 Q. And Visa is a payment card association, correct?
9 **A. Yes.**
10 Q. And as a payment card association, it provides a
11 mechanism for -- through which merchants can
12 sign on to accept payments through its card
13 association; is that correct?
14 **A. Yes.**
15 Q. Possibly all over the world?
16 **A. Yes.**
17 Q. And your bank issues the check card in alliance
18 with the Visa payment card associations so that
19 the card can be accepted wherever Visa payments
20 are accepted?
21 **A. Yes.**
22 Q. Earlier you testified that a nonbank cannot
23 issue a Visa card. Is that accurate, I just
24 want to make sure I understood what you said?
25 **A. I don't recall what I would have exactly said.**

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1 Q. Okay. Can a nonbank issue a -- any type of
2 Visa-branded card?
3 **A. To my recollection -- or to my knowledge, no.**
4 Q. Okay. So, for example, one of the Visa-branded
5 cards we've talked about today is a gift card,
6 correct?
7 **A. Uh-huh.**
8 Q. Such as issued by your bank?
9 **A. Yes.**
10 Q. Can a nonbank issue a Visa-branded gift card?
11 **A. Not to my knowledge.**
12 Q. Okay. And if you -- if I were -- are you
13 familiar with -- can a nonbank issue a
14 Visa-branded prepaid card?
15 **A. Not to my knowledge.**
16 Q. Are you familiar with a company called Ceridian,
17 Ms. Cullinan?
18 **A. No.**
19 Q. And if I were to tell you -- strike that, I'll
20 move on.
21 Let's talk about gift cards. So you were
22 asked earlier about advertising examples of your
23 Visa-branded gift card. And you were asked
24 about the use of Intrust or Intrust Bank, the
25 term or phrase in advertising. I want to focus

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1 on that for a moment. In the advertising that
2 your company does for gift cards, does the word
3 Intrust always -- is it always used with another
4 word such as bank, or does it ever appear by
5 itself.
6 **A. It can appear by itself.**
7 Q. Is there a reason why you sometimes have it
8 appear by itself versus with another word?
9 **A. Simply another way to utilize our company name.**
10 Q. Okay. What about on the card itself, have there
11 ever been instances of an Intrust Bank issued
12 gift card that uses Intrust by itself without
13 any other words?
14 **A. Without any other words?**
15 Q. Yes.
16 **A. It would use the words Intrust gift card.**
17 Q. But never just Intrust by itself?
18 **A. Well, the card would have to delineate that it**
19 **is a gift card, so that would always be on the**
20 **card.**
21 Q. Let's talk about the advertising that you do for
22 gift cards. Is there a geographic area on which
23 you focus your advertising for your company's
24 gift cards?
25 **A. It -- it -- it varies.**

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1 Q. How so?
2 **A. It -- it can range from if utilizing the**
3 **Affinity relationships, that would reach all 50**
4 **states. If it was more specific for Intrust**
5 **locations or checking account customers, that**
6 **would be more localized.**
7 Q. Okay. And more localized meaning in the cities
8 where Intrust Bank has a physical branch
9 location?
10 **A. Yes.**
11 Q. So other than marketing to your Affinity
12 relationships such as alumni magazines or
13 universities, do you have any advertising for
14 Intrust gift cards which reaches outside of
15 Kansas, Oklahoma, or Arkansas?
16 **MR. NORTON:** Objection, asked and
17 answered.
18 **BY MR. NGUYEN:**
19 Q. You can answer.
20 **MR. NORTON:** You can answer.
21 **A. So -- well, online certainly is an advertising**
22 **channel, and that's available anywhere the**
23 **Internet is available.**
24 **BY MR. NGUYEN:**
25 Q. Okay. In terms of online advertising, that

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1 would only be seen by whoever visits your
2 website; is that correct?
3 **A. I believe that's correct.**
4 Q. And do you have any idea of the geographic
5 location of visitors to your website?
6 **A. I do not.**
7 Q. Why is it that your bank has chosen to have
8 Affinity relationships with Kansas University,
9 Wichita State University, and I believe there
10 was one more, the University of Kansas?
11 **A. KU, is that what you're trying --**
12 Q. Yeah, is it three universities?
13 **A. There's 14 relationship groups.**
14 Q. Okay. Are they all with universities?
15 **A. They are not.**
16 Q. Okay. Of the 14, are they all with universities
17 or organizations that are located in Kansas?
18 **A. They are not.**
19 Q. Okay. How many are located in Kansas?
20 **A. I believe 12 are located in Kansas.**
21 Q. Okay. Who are the two that are not located in
22 Kansas?
23 **A. Ball State University and Western Illinois**
24 **University.**
25 Q. And Ball State University is in Indiana?

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1 **A. Yes.**
2 Q. And, I'm sorry, what was the other one?
3 **A. Western Illinois.**
4 Q. Western Illinois. And how did you determine to
5 have Affinity relationships with those two
6 universities?
7 **A. We constantly analyze and assess Affinity**
8 **opportunities, and those were programs that we**
9 **currently service.**
10 Q. Let me refer you back to one of the ads for some
11 of the university cards. So if you would turn
12 to Exhibit 60, please. Ms. Cullinan, have you
13 seen in advertising from your company the use of
14 a R in a circle symbol when attached to any of
15 the trademarks in your company?
16 **A. Yes.**
17 Q. Okay. And do you know what that signifies?
18 **A. It's a registered mark, I believe.**
19 Q. And does it signify that your company is
20 claiming trademark rights in that particular
21 term or logo?
22 **A. We certainly have the right to use that, yes.**
23 Q. And are there instances -- strike that. On
24 Exhibit 60, let me refer you to the logo Intrust
25 Bank at the bottom right corner. Do you see

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1 that?
2 **A. Yes.**
3 Q. And there's a little -- it's hard to see here,
4 but there's a fine little R circle next to the
5 bottom right. Do you see that?
6 **A. Yes.**
7 Q. So that's an example of how your companies use
8 the R circle symbol to signify that that is a
9 registered mark of your company; is that
10 correct?
11 **A. Yes.**
12 Q. If you look above, in the blue box next to the
13 Jayhawk's mascot, the words Jayhawk and Visa
14 also have an R symbol next to it; is that
15 correct?
16 **A. Yes.**
17 Q. And is that because the university and Visa
18 expect your company to signify those terms are
19 registered to trademarks for it in connection
20 with your advertising?
21 **A. Yes.**
22 **MR. NORTON:** Objection, foundation.
23 You can answer.
24 **A. Yes.**
25 **BY MR. NGUYEN:**

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1 Q. And am I correct that the word Intrust Bank that
2 appeared underneath there in the phrase
3 available only at Intrust Bank does not have an
4 R circle symbol?
5 **A. That is correct.**
6 Q. Or a TM symbol?
7 **A. That is correct.**
8 Q. Okay. And if you look to the left of the
9 mascot, the bottom-towards left of it, in finer
10 print, it says, Intrust encourages responsible
11 credit card spending. Do you see that?
12 **A. Yes.**
13 Q. And that also does not have an R circle symbol;
14 is that correct?
15 **A. That is correct.**
16 Q. If you look to page 60 -- Exhibit 61, again,
17 there, there is the Intrust Bank logo at the
18 bottom right with an R circle symbol; is that
19 correct?
20 **A. Yes.**
21 Q. And the Jayhawk term has an R circle, is that
22 correct, in the text underneath the ad?
23 **A. Yes.**
24 Q. But the Intrust Bank that's used in that
25 sentence does not; is that correct?

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1 **A. That is correct.**
2 Q. And underneath the phone number that's listed,
3 it says, Intrust encourages responsible credit
4 card spending, that also does not have an R
5 circle or TM symbol next to the word Intrust; is
6 that correct?
7 **A. That is correct.**
8 Q. Who makes the determination about whether to
9 include the R circle symbol or TM symbol in
10 connection with uses of your marks?
11 **A. Lisa Elliott would be the ...**
12 Q. And you have no influence in that or no
13 involvement in that decision making?
14 **A. No.**
15 Q. So you've mentioned several times that your
16 company will take out billboards for
17 advertising, for example, of its check cards or
18 gift cards; is that correct?
19 **A. Yes.**
20 Q. Are those only here in the City of Wichita?
21 **A. I could not say.**
22 Q. Okay. Do you know of any billboards that have
23 been placed outside of Kansas?
24 **A. I could not say.**
25 Q. Do you know of any billboards placed for your

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1 check card or gift card products that are
2 outside of any cities where your company has a
3 physical branch location?
4 **A. I cannot say.**
5 Q. On the Visa-branded credit cards for which you
6 have Affinity relationships, for example, such
7 as with the universities, the term that's used
8 on the card itself to identify your company, is
9 it always Intrust Bank?
10 **A. On the -- are you talking --**
11 Q. On the actual card?
12 **A. Yes.**
13 Q. Okay. And is that usually in the logo form with
14 the I symbol? Or is it just plain text?
15 **A. I think in most cases for the Affinity credit**
16 **cards it would be just text.**
17 Q. Is there a reason that you choose to place the
18 words Intrust Bank on the card itself as opposed
19 to just the word Intrust?
20 **A. The usage of Intrust Bank in text on the back of**
21 **credit cards is required language by Visa.**
22 Q. Do you have any understanding as to why it's
23 required by Visa?
24 **A. It is the issuer of the card.**
25 Q. And in its -- in your bank's agreement with

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1 Visa, does it require that the card state
2 Intrust Bank?
3 **A. I don't have intimate knowledge of our agreement**
4 **with Visa.**
5 Q. What about on check cards that your bank issues
6 to customers, is the identifier of your company
7 on those check cards always Intrust Bank?
8 **MR. NORTON:** Object to the form.
9 **A. Well, we use both terms on the check cards.**
10 **BY MR. NGUYEN:**
11 Q. And is there a reason you use both terms --
12 strike that. Is there a reason you use Intrust
13 in some instances but not Intrust Bank on your
14 check cards?
15 **A. It is simply a preference of our choosing.**
16 Q. Have you reviewed any brand identification
17 guidelines that have been prepared by Lisa
18 Elliott and her team?
19 **A. Not recently.**
20 Q. Okay. And then on the prepaid cards that are
21 the gift cards sold by your company, is the
22 company identifier on those cards Intrust or
23 Intrust Bank?
24 **A. Are you asking what's on the face of the cards?**
25 Q. Let's start with the face.

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1 **A. I believe the face of the cards references**
2 **Intrust.**
3 Q. I believe it says Intrust gift card; is that
4 correct?
5 **A. Yes.**
6 Q. And then on the back of the card, how does it
7 identify the company?
8 **A. I believe it says Intrust Bank.**
9 Q. Okay. Is there a reason it says Intrust Bank on
10 the back of the card?
11 **A. That's the Visa language that is required.**
12 Q. Let's take a look at Exhibit 13 again. I want
13 to look at the line with respect to revenue each
14 year for last ten years. So on the column for
15 Intrust Bank credit card is -- from what I can
16 tell, it says, since 2008 the revenue numbers
17 for your credit card product have been
18 declining. Is that an accurate description?
19 **A. Yes.**
20 Q. Is there any particular reason you know of why
21 the revenue numbers have been declining?
22 **A. The credit industry had a constriction in**
23 **2000 -- starting in 2008 with the economic**
24 **downturn.**
25 Q. And it's continued, your revenue has continued

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1 to decline since then, is that correct --
2 **A. Yes.**
3 Q. -- for credit card products? Collectively, your
4 revenue from the credit card product and the
5 check cards have been in excess of $20,000,000 a
6 year. Is that an accurate summary --
7 **A. Yes.**
8 Q. -- if you combine those two columns? And so is
9 it a fair statement that those two products make
10 up the vast majority of the revenue your company
11 makes from all of its card products?
12 **A. From the revenue standpoint, yes.**
13 Q. Because when you look at the revenue column for
14 gift cards, for example, the revenue has been,
15 at most, $125,000 back in 2007 and has now
16 ranged in the 60 to $70,000 figure the last
17 couple of years; is that correct?
18 **A. Yes, but we did not expect revenue from the gift**
19 **card product. It was one that we chose to -- to**
20 **offer and introduce to our customer base so that**
21 **they would have full banking services and**
22 **choices available to them.**
23 Q. So that's not one of your main revenue driving
24 lines, products?
25 **A. It is not.**

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1 Q. And then also when you look at the revenue
2 figures for payroll cards, that has been, at
3 most, $155,000 in 2012. Do you see that?
4 **A. Yes.**
5 Q. So it's far less and a much smaller percentage
6 of your card revenue than check cards and credit
7 card revenue?
8 **A. Yes.**
9 Q. Turning back to the gift cards -- strike that.
10 For credit cards, have you studied the
11 geographic location of your credit card holders?
12 **A. I have some awareness of that.**
13 Q. Okay. And what's your awareness?
14 **A. We have cards in all 50 states.**
15 Q. Okay. Is there any geographic concentration of
16 your cardholders?
17 **A. There would be a concentration in the Midwest.**
18 Q. In Kansas in particular?
19 **A. In the Midwest.**
20 Q. Okay. And do you have any idea of the
21 percentage of your cardholders that are in the
22 Midwest?
23 **A. I couldn't put it in a percentage.**
24 Q. Is it more than 50 percent?
25 **A. I could not say.**

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1 Q. Let's turn to stored-value cards. So let's talk
2 about the prepaid cards that your bank offers,
3 the gift cards. Where are those sold?
4 **A. Those are sold through the Internet, through the**
5 **Intrust Bank website, those can be sold in a**
6 **banking center or over a -- over the phone with**
7 **our service center.**
8 Q. They're sold essentially directly -- or, excuse
9 me, strike that. They're purchased directly
10 from Intrust Bank; is that correct?
11 **A. Yes.**
12 Q. Are you familiar with gift cards that are sold
13 by retailers?
14 **A. Yes.**
15 Q. Such as, I think, we talked earlier about
16 Dillons offer gift cards?
17 **A. Yes.**
18 Q. Are you familiar with the electronic retail
19 store Best Buy --
20 **A. Yes.**
21 Q. -- that sells gift cards?
22 **A. Yes.**
23 Q. Have you gone to a Starbucks and seen Starbucks
24 gift cards?
25 **A. I don't drink coffee.**

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1 Q. Are you aware that Starbucks sells gift cards?
2 **A. Yes.**
3 Q. And so it's a true statement that gift cards are
4 sold by retailers and merchants?
5 **A. Certainly. That's not the same as issued.**
6 Q. Correct. So there may be a different issuer
7 of -- different company that issues the gift
8 card, but they are -- can be offered and sold by
9 retailers and merchants?
10 **A. Yes.**
11 Q. And by companies who are not banks?
12 **A. Yes.**
13 Q. And by companies who are not financial
14 institutions?
15 **A. That is correct.**
16 Q. And by companies that don't offer banking
17 services?
18 **A. I can't speak to all those companies, if they**
19 **have any banking services.**
20 Q. Let's turn to your payroll cards for a moment.
21 Turn to Exhibit 68. If you turn to the very end
22 of Exhibit 68, two pages, 01526 and 1527. This
23 is -- appears to be some kind of handout that
24 describes payroll services your company offers;
25 is that correct?

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1 **A. Yes.**
2 Q. And you'd agree with me that the payroll card
3 that your company offers is a type of payroll
4 service, correct?
5 **A. Type of pay -- it's a delivery of wages earned.**
6 Q. Okay. So on this document, which you helped --
7 you helped prepare this document we're looking
8 at, correct?
9 **A. Yes.**
10 Q. It's entitled Payroll Services, you see that?
11 **A. Yes.**
12 Q. And it lists among -- and these are payroll
13 services offered by your company?
14 **A. Yes.**
15 Q. Okay. And one of the examples is Visa payroll
16 card. Do you see that?
17 **A. Yes.**
18 Q. And another example is ACH direct deposit. Do
19 you see that?
20 **A. Yes.**
21 Q. So both of those are examples of payroll
22 services offered by your company?
23 **A. Yes.**
24 Q. And the payroll card is an alternate way for an
25 employee to instantly receive their wages that

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1 is another option besides direct deposit to a
2 deposit account they have with the bank; is that
3 correct?
4 **A. Yes.**
5 Q. And the customers to whom your company markets
6 the payroll card are employer companies; is that
7 right?
8 **A. Yes.**
9 Q. So you have -- you used to actually sell the
10 product yourself; is that right?
11 **A. Yes.**
12 Q. And so you would go speak with employers?
13 **A. Yes.**
14 Q. And have actually one-on-one meetings and
15 communications with them to try and offer this
16 service to them?
17 **A. Yes.**
18 Q. And does someone else do that on your behalf
19 now?
20 **A. Yes.**
21 Q. And how many people on your team are engaged in
22 such selling?
23 **A. There -- no one that reports to me sells the**
24 **product.**
25 Q. Do you know how many people are tasked with

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1 selling the product?
2 **A. The treasury services department, I think**
3 **there's four or five people in there.**
4 Q. And the process through -- the channels through
5 which they try to sell the payroll card product
6 are through direct communications with employer
7 companies; is that right?
8 **A. Well, that's one way.**
9 Q. Okay. What other ways do they use?
10 **A. Well, the product is -- certainly we try to make**
11 **it aware, it's now on the website. So a company**
12 **could certainly hear about and learn about the**
13 **product and then inquire. At the point that we**
14 **are providing more personal information, we**
15 **would have a face-to-face conversation, but they**
16 **could certainly have knowledge in Intrust long**
17 **before face to face.**
18 Q. But the main way of ultimately selling the
19 product is having a face-to-face meeting with
20 the employer company?
21 **A. That's probably the most common.**
22 Q. If you could turn to Exhibit 69, there is a web
23 page that you reviewed earlier in which one of
24 the tabs highlighted is payroll services, and
25 again, under that payroll services tab, two

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1 payroll services are listed, direct deposit and
2 Intrust Visa payroll card. Do you see that?
3 **A. Yes.**
4 Q. So this is a way in which you communicate on
5 your website that these are two different
6 payroll services offered by your company; is
7 that correct?
8 **A. Yes.**
9 Q. And is this under the business section of your
10 website or the personal? You see at the top
11 there's the word personal with an arrow,
12 business with an arrow?
13 **A. This is a business.**
14 Q. And that's because this is a service that you
15 are directing to business customers, not
16 individuals?
17 **A. That is correct.**
18 Q. Other than having this page on your website in
19 Exhibit 69, is there any other advertising you
20 do of the payroll service to -- that businesses
21 can see without personal communication with a
22 bank representative?
23 **A. We have on occasion inserted in checking account**
24 **statements to our commercial base, and we have**
25 **done direct mail fliers to our commercial base.**

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1 Q. Okay. Anything else?
2 **A. There could be others, but I don't recall.**
3 Q. If you look back at Exhibit 13, under the column
4 payroll cards, the very last row, which is on
5 the second page of Exhibit 13, page 05490, that
6 lists the number of cards issued each year for
7 the last ten years. So for the last full year
8 reflected of 2012, there were 3,298 cards
9 issued; last year, 2013 through October, there
10 were 3,974 cards issued. Would you agree with
11 me that that's a relatively small number of
12 cards compared to the other card products you
13 offer?
14 **A. That's a smaller number than the other products.**
15 Q. Compared to, for example, for 2013 through
16 October, over 77,000 cards were credit cards?
17 So that's much smaller than that?
18 **A. That is correct, credit cards have been out**
19 **there since '69, this is a newer one, but yes.**
20 Q. Okay. How long have payroll card services been
21 offered?
22 **A. 2002.**
23 Q. Okay. And it's small compared to the number of
24 Visa check cards you issued, which in 2013
25 through October was over 96,000?

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1 **A. That is correct.**
2 Q. Would you agree with me that offering payroll
3 cards are a small portion of your bank's
4 business?
5 **A. Maybe numerically. Again, the product is one**
6 **that we thought was important; we want to make**
7 **sure that we're providing full banking services**
8 **to all of our customers, and this was an**
9 **important product to make sure we -- we provide.**
10 Q. I believe you testified earlier that about 200
11 to 250 employers are enrolled with the payroll
12 card service; is that correct?
13 **A. I -- I believe so.**
14 Q. Are those geographically concentrated in any
15 particular area, those employers?
16 **A. I don't know that I could say where they're all**
17 **located.**
18 Q. Do you know if there are any employers enrolled
19 in the program that are outside of Kansas?
20 **A. I could not say. Again, I have not direct sold**
21 **that product for several years.**
22 Q. On the payroll cards themselves, what is used to
23 identify the name of your company, is it the
24 word Intrust or Intrust Bank?
25 **A. On the current card?**

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1 Q. Let's start with the current card.
2 **A. The current card uses the term Intrust Bank.**
3 Q. Was there a point in time at which the card used
4 only Intrust as the identifier of the bank?
5 **A. I'd have to -- I don't recall all the previous**
6 **designs.**
7 Q. Do you recall at any time in which the payroll
8 card, since it was launched, used the word
9 Intrust by itself to identify the company?
10 **A. I don't recall.**
11 Q. Is there a reason the identifier for your
12 company on the payroll card is phrased Intrust
13 Bank?
14 **A. Again, it certainly identifies who we are.**
15 Q. Is it important to you to have the word bank
16 next to the word Intrust on the card?
17 **A. I think it's all in context.**
18 Q. What do you mean?
19 **A. Well, I think a customer that's experiencing any**
20 **part of our brand arrives at the same -- same**
21 **expectations for our performance and our**
22 **delivery whether it says Intrust Bank or whether**
23 **it just says Intrust.**
24 Q. Let's turn back to gift cards for a moment. You
25 mentioned that currently your bank does not

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1 offer reloadable prepaid cards; is that correct?
2 **A. That is correct.**
3 Q. But there's been some discussion about it
4 internally within the bank?
5 **A. That is correct.**
6 Q. And you've been involved with those discussions?
7 **A. Yes.**
8 Q. But as of now, the bank has not decided to offer
9 reloadable prepaid cards?
10 **A. We have not made any firm decision.**
11 Q. Is there any particular reason why the bank has
12 not made any firm decision either way about
13 whether to offer reloadable prepaid cards?
14 **A. In the landscape of strategic things that we**
15 **need to tackle, that's not at the -- that's not**
16 **active right now, we're tackling other items,**
17 **but I suspect it will come up again very**
18 **quickly.**
19 Q. How long have those discussions been going on?
20 **A. Probably two, three, four years.**
21 Q. You discussed where or how you advertise the
22 Visa-branded gift cards. Is your advertising
23 targeted to any geographic area for the gift
24 cards?
25 **A. No.**

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1 Q. It's not focused in Kansas, for example?
2 **A. No. Again, on the -- through the Affinity**
3 **programs, we would be advertising in all 50**
4 **states, and certainly the Internet would be**
5 **exposure.**
6 Q. But the gift cards, you're not intending to be a
7 significant source of revenue for the bank; is
8 that correct? You're doing it to offer
9 customers another service?
10 **A. Right, we -- we are doing it to provide full**
11 **service to our customers.**
12 Q. So --
13 **A. And anyone who might want to purchase it who is**
14 **not a customer.**
15 Q. And so you do not devote a lot of advertising
16 resources to advertise only the gift cards; is
17 that right?
18 **A. Proportionately.**
19 Q. Because if you look at Exhibit 13, the marketing
20 spend that is allocated just to gift cards was
21 only 16,635 in 2012 and just over $4,000 in 2013
22 through October. Do you see that?
23 **A. I do.**
24 Q. So you'd agree with me that's a relatively small
25 advertising spend just for gift cards?

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1 **A. It is a smaller number. Again, these numbers**
2 **wouldn't necessarily reflect all dollars**
3 **allocated for marketing because of the**
4 **cross-product marketing.**
5 Q. Have you done any analysis to study the
6 geographic location of customers who purchased a
7 gift card?
8 **A. I have not.**
9 Q. Okay. You have no sense of where they are,
10 where they come from?
11 **A. I do not.**
12 Q. If you turn to Exhibit 71 in your binder.
13 **A. I'm sorry, 71?**
14 Q. Yes, 71. It's an ad that you described earlier.
15 And in the graphic, the bottom right corner,
16 there is a logo that says Intrust Card Center,
17 with an R circled. Do you see that?
18 **A. Yes.**
19 Q. What is the Intrust Card Center?
20 **A. For some period of time, many years, we**
21 **delineated card communications with a card**
22 **center.**
23 Q. So any communication or advertising about any of
24 your card products would use the phrase Intrust
25 Card Center?

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1 **A. I don't know that I could be that definitive.**
2 Q. Do you recall in what situations the term
3 Intrust Card Center would be used?
4 **A. It generally was a delineation that the**
5 **communication you were receiving had to do with**
6 **cards.**
7 Q. Do you remember when that phrase, Intrust Card
8 Center, first was used by your company?
9 **A. Would have been -- obviously have been around**
10 **'93.**
11 Q. Okay. At some point in time, did your company
12 stop using the phrase Intrust Card Center in its
13 communications?
14 **A. We are working to do that, yes.**
15 Q. Why?
16 **A. We just are trying to consolidate the -- the**
17 **different names that we might have to track**
18 **internally.**
19 Q. Does your company currently use the mark Intrust
20 Card Center in any advertising promotion for
21 card products?
22 **A. Not to my knowledge.**
23 Q. When was the last time that mark was used in
24 connection with any advertising or promotion of
25 your card products?

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1 **A. I -- I couldn't be 100 percent certain but could**
2 **be three or so years ago.**
3 Q. And it's your understanding that the company is
4 intending to stop using that mark?
5 **A. I can't say that we're giving up any rights to**
6 **that mark, but we are working to suppress the**
7 **use of card center.**
8 Q. What do you mean by suppress the use of card
9 center?
10 **A. Again, our desire is just that the customers**
11 **have the concentrated exposure to the brand, so**
12 **if that means we can eliminate the card center**
13 **tag, then that's fine. If we continue using**
14 **Intrust Bank or just Intrust as a more informal**
15 **term, that just reduces, again, management**
16 **internally of another tag line.**
17 Q. Is that because you're concerned that consumers
18 will be confused at seeing Intrust Card Center,
19 as well as other terms and phrases with the word
20 Intrust?
21 **A. I -- I think with the -- with the brand, that's**
22 **what resonates, and so I don't think the**
23 **customer is confused by seeing Intrust Card**
24 **Center versus Intrust Bank or even just the term**
25 **Intrust.**

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1 Q. But you want some more consistency in how
2 communications are made to consumers about your
3 company?
4 **A. We may be -- we are reducing, certainly,**
5 **those -- those different tags, but it's also**
6 **equally just an internal tracking and management**
7 **that we can reduce.**
8 Q. Are you concerned that Intrust Card Center may
9 have a different commercial impression to
10 consumers than just the word Intrust or Intrust
11 Bank?
12 **A. No.**
13 Q. Has your company ever used the mark Intrust Card
14 Center to advertise or promote any services
15 other than card products?
16 **A. Not to my knowledge.**
17 Q. And that's because Intrust Card Center as a
18 phrase was designed to reference cards; is that
19 correct?
20 **A. That is correct.**
21 Q. And so just to be clear, the -- any other
22 services the bank has offered besides credit
23 cards, check cards, gift cards, and payroll
24 cards have not been offered or marketed with the
25 term Intrust Card Center?

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1 **MR. NORTON:** I'm going to object to
2 the form.
3 **BY MR. NGUYEN:**
4 Q. Well, let me rephrase that.
5 **MR. NORTON:** You kind of went
6 sideways there when you got going.
7 **MR. NGUYEN:** Yeah, I know.
8 **BY MR. NGUYEN:**
9 Q. The Intrust Card Center mark has been used in
10 the past to offer and promote credit cards; is
11 that correct?
12 **A. Yes.**
13 Q. Gift cards, correct? Or prepaid cards?
14 **A. Possibly.**
15 Q. Possibly, you're not sure?
16 **A. I -- yeah.**
17 Q. Okay. Check cards?
18 **A. That would be correct.**
19 Q. Payroll cards?
20 **A. I am not as certain.**
21 Q. Okay. Any other type of cards?
22 **A. (Witness shakes head negatively.)**
23 Q. And --
24 **A. No.**
25 Q. -- other than those card products we've

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1 identified, the mark Intrust Card Center has not
2 been used to offer or promote any other product
3 or service offered by your bank; is that
4 correct?
5 **A. Not to my knowledge.**
6 Q. You testified earlier that your budget for card
7 marketing on a given year might range from maybe
8 about 1,000,000 or under to a high of
9 $2,000,000; is that correct?
10 **A. Yes.**
11 Q. And last year's budget was under 1,000,000; is
12 that correct?
13 **A. To my recollection.**
14 Q. And you said that's because cards became a lower
15 strategic focus for Intrust Bank, correct? For
16 last year?
17 **A. And we simply made the decision to spend less**
18 **money.**
19 Q. Who's we, who made that decision?
20 **A. I report to a division manager, it would have**
21 **been Mr. Rod Pitts.**
22 Q. Why did you and your division manager decide to
23 spend less money in 2013 marketing card
24 products?
25 **MR. NORTON:** Object to the form,

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1 foundation. You can answer.
2 **A. Again, that's just a choice we make.**
3 **BY MR. NGUYEN:**
4 Q. Did you have discussions with your division
5 manager about how much marketing budget to have
6 in 2013 for card products?
7 **A. Yes.**
8 Q. And did you help arrive at the budget number for
9 2013?
10 **A. I did.**
11 Q. And did you know you were having a budget that
12 was lower than past years?
13 **A. The budget is set and then can be fluid**
14 **throughout the course of the year, so what might**
15 **have been set in one point in time may change**
16 **later in the year. Towards the end of the year,**
17 **we made a decision to save some of the money**
18 **that we had budgeted and not spend it. So maybe**
19 **I used the term budget not as accurately as I**
20 **could have. We budget to spend certain money,**
21 **and in 2013 we did not spend all of that money.**
22 Q. Okay. You mentioned earlier that there was a
23 lower strategic focus on cards. Was there a
24 lower strategic focus on cards in 2013?
25 **MR. NORTON:** I'm going to object to

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1 the form.
2 **A. So we simply decided not to spend money -- a lot**
3 **of the money in the budget proportionately may**
4 **go towards credit cards, and that's an expensive**
5 **product, and we simply took a breath and saved**
6 **those dollars to be used at a future date.**
7 **BY MR. NGUYEN:**
8 Q. Okay. Why did you do so?
9 **A. The credit card product is an expensive product**
10 **to acquire. And it's a difficult time, we**
11 **still -- the industry is still feeling the**
12 **effects of the 2008 downturn, and we simply**
13 **decided not to spend those dollars in that**
14 **manner.**
15 Q. When you say it's an expensive product to
16 acquire, what do you mean?
17 **A. The -- the cost to promote and advertise or even**
18 **a more direct channel of marketing is more**
19 **expensive by the time I -- I might book the**
20 **account.**
21 Q. Meaning the cost to acquire -- the amount of
22 money you have to spend to acquire a new
23 customer for your credit card product, that's a
24 high amount?
25 **A. It -- it's higher sometimes than we prefer, yes.**

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1 Q. Have you done any studies to analyze what is
2 your average customer acquisition cost for
3 credit card products?
4 **A. Our average cost for -- to acquire an**
5 **Intrust-branded card can range -- on average I**
6 **would say it's 250.**
7 Q. 200 and --
8 **A. $250.**
9 Q. And when you say an Intrust-branded card, is
10 that for any of your Intrust-branded cards or
11 just the credit cards?
12 **A. Those would be cards most associated with our --**
13 **with other banking customers, customers with**
14 **other relationships.**
15 Q. So can you explain that more?
16 **A. So an Intrust customer who has a checking**
17 **account or a savings account or a boat loan is**
18 **a -- is a lower cost to acquire, so 250.**
19 Q. So it's lower. Do you know what the cost to
20 acquire a new customer for an Intrust-branded
21 card is for an existing Intrust customer?
22 **A. That -- I'm sorry if I'm not clear, that is the**
23 **number I'm --**
24 Q. Oh, that is 250?
25 **A. Maybe I'm not understanding the question but ...**

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1 Q. Okay. I'm just trying to get a clear
2 understanding of what the $250 --
3 **A. $250 would be an average number of the**
4 **acquisition cost to book an Intrust credit card**
5 **with someone who has other relationships with**
6 **us.**
7 Q. Got it. So they're already an existing customer
8 in some capacity with the bank?
9 **A. Yes.**
10 Q. Now, what is the cost for acquisition for an
11 Intrust-branded card customer if they're not
12 already having some relationship with your bank?
13 **MR. NORTON:** Object to foundation.
14 **A. That number would be higher. It can range**
15 **anywhere from -- it can be as low as 200, and it**
16 **can be as high as 800.**
17 **BY MR. NGUYEN:**
18 Q. And these figures you are basing based upon your
19 own analysis of your credit -- or, excuse me,
20 your card business advertising promotion costs;
21 is that right?
22 **A. Yes.**
23 Q. And your knowledge of how customers are acquired
24 for your card products?
25 **A. Yes.**

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1 Q. That's part of your job to keep track of this
2 kind of data?
3 **A. Yes.**
4 Q. Would you agree with me that consumers are very
5 careful before selecting a credit card product?
6 **MR. NORTON:** Object to form,
7 foundation, speculation.
8 **A. I can't speak to what's careful in the minds of**
9 **a consumer.**
10 **BY MR. NGUYEN:**
11 Q. They're not -- consumers are not likely to make
12 a casual decision to try to obtain a new credit
13 card?
14 **MR. NORTON:** Same objection.
15 **A. I -- I would agree with that.**
16 **BY MR. NGUYEN:**
17 Q. So you've spent a lot of money trying to acquire
18 new credit card customers?
19 **MR. NORTON:** Same objection.
20 **BY MR. NGUYEN:**
21 Q. It's not easy for your company?
22 **MR. NORTON:** Same.
23 **BY MR. NGUYEN:**
24 Q. Correct?
25 **A. You got two different questions there.**

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1 Q. You spend a lot of money to try and acquire new
2 customers, is that correct, for your card
3 products?
4 **A. It can be.**
5 Q. Because it's not easy to acquire new customers
6 for your card products?
7 **MR. NORTON:** Object to foundation,
8 speculation.
9 **A. It certainly is -- is a more involved sale.**
10 **BY MR. NGUYEN:**
11 Q. So the $250 figure and the figure up to $800
12 that you've cited as a customer acquisition cost
13 depending on whether the customer has a
14 preexisting relationship with Intrust, I just
15 want to get clear that's for any Intrust-branded
16 card?
17 **A. Those could be for any of the cards that we**
18 **offer, which would all have the Intrust name on**
19 **them.**
20 Q. So that would be for your credit card as one
21 example, correct?
22 **A. Yes.**
23 Q. Check card another example?
24 **A. No, no, I'm sorry, I misunder -- I must have**
25 **misunderstood your previous question, I thought**

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1 **you said it was just for credit cards.**
2 Q. Yeah, that's what I thought you were saying too,
3 I just want to make sure, and then you said any
4 Intrust-branded card. That's what I'm trying to
5 clarify.
6 **A. I'm making the distinction between an Intrust --**
7 **MR. NORTON:** I don't think he's
8 asked a question.
9 **A. Okay.**
10 **BY MR. NGUYEN:**
11 Q. So the numbers you cited, that's for acquisition
12 of a new customer for an Intrust-branded credit
13 card?
14 **A. Say the question again, please.**
15 Q. Sure. The customer acquisition costs that you
16 quoted us are the costs to acquire a new
17 customer for any Intrust-branded credit card?
18 **A. Yes.**
19 Q. Okay. Have you evaluated what the average cost
20 is to acquire a new customer for an Intrust
21 check card?
22 **A. I have not.**
23 Q. Okay. And what about for an Intrust payroll
24 card?
25 **A. No.**

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1 Q. What about an Intrust gift card?
2 **A. No.**
3 **MR. NGUYEN:** I don't have any
4 further questions.
5 **MR. NORTON:** We'll take just a short
6 break.
7 **MR. NGUYEN:** Sure.
8 (Thereupon, a recess was taken;
9 whereupon, the following was had.)
10 **BY MR. NGUYEN:**
11 Q. Back on the record. Okay. Ms. Cullinan, I just
12 had one other set of questions to ask you, which
13 is I wanted you to walk me through the process
14 which I would have to go through as a customer
15 to get a credit card with your bank, as well as
16 a check card. So let's start with credit cards.
17 If I'm interested in getting an Intrust credit
18 card, what would I need to do as a customer?
19 **A. You would submit the proper documentation in the**
20 **form of an application.**
21 Q. Okay.
22 **A. You can do that through an online channel, you**
23 **can do that through a paper channel, you can do**
24 **that through telephone.**
25 Q. Okay. How long is the application?

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1 **A. How long?**
2 Q. How many pages, for example, if it's printed?
3 **A. One page.**
4 Q. Okay.
5 **A. Or less.**
6 Q. Have you done any studies as to the average
7 length of time it takes a customer to complete
8 the application online?
9 **A. I have not.**
10 Q. And then what happens?
11 **A. The application is submitted, reviewed, and upon**
12 **approval, a card is issued.**
13 Q. Okay. What kinds of information does your
14 application request?
15 **A. Name, address -- I don't know that I can get**
16 **everything. Name, address, date of birth,**
17 **Social.**
18 Q. Social Security number?
19 **A. I'm sorry, Social Security number. Income,**
20 **employer. I'm not sure that I can recall**
21 **exactly every field.**
22 Q. Those are the main items?
23 **A. Yes.**
24 Q. So as a potential credit card customer, I have
25 to be willing to give you some financial

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1 information about myself to the bank to consider
2 my credit card application?
3 **A. The only financial information was the income.**
4 Q. And what's the purpose of getting the Social
5 Security number?
6 **A. That is a unique identifier within the United**
7 **States.**
8 Q. And what about the employer, why do you need to
9 get the employer information?
10 **A. Simply references current employment.**
11 Q. And then your company will have a credit check
12 run on the customer in order to evaluate the
13 credit application; is that correct?
14 **A. There's a credit check done, yes.**
15 Q. And as part of the application process, you get
16 consent from the consumer to run a credit check;
17 is that correct?
18 **A. The customer does consent to a credit check,**
19 **yes.**
20 Q. Okay. And then if the card is approved, then a
21 card is issued to the customer, correct?
22 **A. Yes.**
23 Q. Okay. What about the process for getting a
24 check card, can you tell me what that process
25 is?

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1 **A. Customer would provide the requested information**
2 **on -- on a requested doc -- application, that**
3 **information is submitted.**
4 Q. Okay. Let me back up a bit. So to get a check
5 card, I first have to have a checking account
6 with your bank; is that correct?
7 **A. Yes.**
8 Q. So I have to go through all those steps first to
9 open a checking account; is that correct?
10 **A. Yes.**
11 Q. Which provides -- means providing identification
12 information about myself is one step, right?
13 **A. I'm not familiar with the steps to open a**
14 **checking account.**
15 Q. Okay. So I first open a checking account; is
16 that correct?
17 **A. Yes.**
18 Q. And then after I open a checking account, I have
19 to go through another process about submitting
20 an application to get a check card?
21 **A. The check card application information must get**
22 **to us, yes.**
23 Q. And I can complete that in person at a branch,
24 is that one way?
25 **A. Yes.**

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1 Q. I can complete that online, is that another way?
2 **A. I believe so.**
3 Q. Can I do that by telephone?
4 **A. I'm not familiar if we do that by phone.**
5 Q. How long is the application for a check card?
6 **A. Less than a page.**
7 Q. What kinds of information do you request on the
8 application for a check card?
9 **A. Well, depending on the timing, if you're doing**
10 **this at the same time that you are opening the**
11 **checking account, we wouldn't have to re-ask for**
12 **any common information, so it might just be one**
13 **or two additional questions.**
14 Q. But if I did it after I opened a checking
15 account, what kinds of information do you need
16 from me?
17 **A. Again, I don't know that I can recall every**
18 **field, but we certainly need a name, we need an**
19 **address, we'd need the Social Security number;**
20 **if you already had the checking account, we'd**
21 **ask for the checking account number. I'm not**
22 **sure what else is on there.**
23 Q. Okay. Finally, let's talk about the process for
24 getting a payroll card. You've discussed the
25 process through which you sell the payroll cards

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1 to employers. At a certain point, if an
2 employer wants to offer the payroll cards to his
3 employees, what does the employer have to do
4 with you?
5 **A. We would ask for information about the employee**
6 **so that we can build an account so -- there's a**
7 **sign-up form that the employee would complete.**
8 Q. Before we get to that stage, does the employer
9 have to fill out any paperwork or enter into any
10 agreement with your bank to enroll in this
11 program for payroll cards?
12 **A. Yes.**
13 Q. Okay. Tell me what that is.
14 **A. The employer would enter into an agreement for**
15 **services provided.**
16 Q. Okay. It's a written contract?
17 **A. Yes.**
18 Q. Do you know how long that is?
19 **A. I -- I -- I don't know the current length of**
20 **that contract.**
21 Q. Approximately?
22 **A. Two, three pages.**
23 Q. Then after the employer enters into that
24 agreement, does the employer have to do anything
25 else to set up a payroll card program with your

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1 bank for its employees?
2 **A. I don't know that I can speak to the current**
3 **work flow; again, I have not sold that product**
4 **for many years. New technologies have come into**
5 **play since -- since my direct involvement. I**
6 **think things are done online, the employer would**
7 **enter a lot of information online; it's not a**
8 **lot of paper, to my knowledge.**
9 Q. Got it. And I believe I saw in some of your
10 materials that it's about a six-to-eight-week
11 setup process, is that correct, for the
12 employer?
13 **A. Before the product is delivered to the**
14 **employees, yes.**
15 Q. And then for the employees, in order to get a
16 payroll card, first there are some, I believe,
17 educational programs or communications to
18 educate the employees about the card?
19 **A. It would be at the direction of the employer at**
20 **whatever level of involvement the employer**
21 **would -- would ask for.**
22 Q. All right. So the employer has to communicate
23 to its employees, hey, we have this new payroll
24 card service that can be offered if you want to
25 avail yourself of it?

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1 **A. Yeah, it may not be a new -- they may already be**
2 **doing that, it may not be anything new for them.**
3 Q. And then if I'm an employee, how do I get a
4 card?
5 **A. Again, you would provide us with some basic**
6 **information so that we can build an account. I**
7 **believe that happens online.**
8 Q. So I fill out an online form or application to
9 sign up and request a payroll card if I'm an
10 employee?
11 **A. Yes.**
12 Q. Then at some point, a payroll card would be
13 issued to me?
14 **A. Yes.**
15 Q. Finally, with respect to gift cards, are there
16 set denominations at which you sell gift cards?
17 **A. There's a minimum and a maximum.**
18 Q. Okay. What is that?
19 **A. I believe the minimum is a $25 value, and the**
20 **maximum is a $500 value.**
21 Q. So I as the purchaser can determine the value
22 that I want to put on a prepaid card?
23 **A. Yes.**
24 Q. Okay. But you don't sell prepaid cards with
25 fixed denominations?

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1 **A. No.**
2 Q. Okay. Like, for example, you might walk -- I've
3 seen, like, a Starbucks card you can buy for
4 $50, it's already a fixed amount?
5 **A. No.**
6 Q. Okay. So it depends on the purchaser?
7 **A. Purchaser may choose any amount within the**
8 **range.**
9 Q. And the retailer that's selling the card will
10 then set the value of the card; is that correct?
11 **A. I'm not --**
12 **MR. NORTON:** Object to the form.
13 **BY MR. NGUYEN:**
14 Q. I'm sorry, the cards are only sold by your bank;
15 is that correct?
16 **A. That is correct.**
17 Q. You don't sell them through any third-party
18 retailers?
19 **A. That is correct.**
20 **MR. NGUYEN:** Okay. I think that's
21 all the questions I have.
22
23 **REDIRECT EXAMINATION**
24 **BY MR. NORTON:**
25 Q. Just a couple of follow-up. If you could look

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1 at Exhibit Number 70 and turn to the very last
2 page. And does that very last page accurately
3 reflect the online sign-up or purchase process
4 for Intrust gift cards?
5 **A. Yes.**
6 Q. And so a -- one page with data fields for the
7 purchaser to enter specific information?
8 **A. Yes. There may be additional information on the**
9 **continue button.**
10 Q. Okay. Are you aware of any additional
11 information that's needed for someone to
12 purchase a gift card online?
13 **A. What I believe is not represented here would be**
14 **the payment instrument.**
15 Q. I see. How the user is going to pay for the
16 gift card?
17 **A. Right.**
18 Q. Very good. Any other information that is
19 required for someone to purchase an Intrust gift
20 card online?
21 **A. I don't recall exactly. This -- this would be**
22 **pretty comprehensive, the recipient and then the**
23 **payment instrument.**
24 Q. Okay. Let's look at Exhibit Number 68. If an
25 employer has contracted with Intrust to provide

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1 a payroll card to its employees, are all
2 employees of that employer required to use that
3 service?
4 **A. No, the employee makes a choice.**
5 Q. And in your experience in advertising or
6 promoting the payroll service, does Intrust
7 interact directly with the employees?
8 **A. It may.**
9 Q. In your experience, has it?
10 **A. Yes.**
11 Q. And if we -- well, with regard to the payroll
12 cards, does Intrust issue a new card to each
13 employee every month or every pay period?
14 **A. No, those cards are -- once issued to the**
15 **employee, he will keep the same card, and the**
16 **funds are simply loaded --**
17 Q. Okay.
18 **A. -- each pay period.**
19 Q. And the funds are reloaded onto that card each
20 pay period?
21 **A. Yes.**
22 **MR. NORTON:** Thank you, ma'am.
23 Those are all the questions I have.
24 //
25 //

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1 RECROSS EXAMINATION
2 **BY MR. NGUYEN:**
3 Q. I had a follow-up question. Referring back to
4 Exhibit 70, which is the last page which you
5 just looked at, the online order form for Visa
6 gift cards, as a purchaser, I have to enter the
7 information requested on this form first; is
8 that correct?
9 **A. Yes.**
10 Q. And then when I click the continue button, that
11 takes me to another online form to enter payment
12 information?
13 **A. I would assume that that's what would happen.**
14 Q. And because I have to pay for a card at some
15 point. And so on that form, you would expect
16 that I would have to enter in the payment card
17 type?
18 **A. Yes.**
19 Q. Payment card number?
20 **A. Yes.**
21 Q. Expiration date?
22 **A. Yes.**
23 Q. Security ID code for the card, like a CSV code?
24 **A. That may be there.**
25 Q. Billing address?

A. You know, I don't recall, it's possible.
Q. Probably my name that's on the card?
A. Yes.
Q. So I have to do all that before I can complete the purchase of the card?
A. It would -- yes.
Q. Okay. And then my last question is you mentioned earlier that you -- part of your duties are compliance related. Is that for just with respect to the bank's compliance for card products or other products and services?
A. That would be limited to just card products.
MR. NGUYEN: Thank you.
MR. NORTON: Thank you, we are done. You will receive a copy of the transcript in the next couple of weeks and have an opportunity to read it.
THE WITNESS: Okay.
(Whereupon, the deposition was concluded at 12:17 p.m.)

I, LINDA CULLINAN, the witness herein, have read the transcript of my testimony, and the same is true and correct to the best of my knowledge, with the exception of the changes noted on a separate page, together with notation of the reasons for making such corrections.

_____
LINDA CULLINAN

STATE OF KANSAS)
SEDGWICK COUNTY) ss:

Subscribed and sworn to before me, the undersigned authority, this the _____ day of _____, 2014.

_____
Notary Public, _____ County
State of Kansas

My appointment expires:
_____

Nancy L. Rambo, R.P.R., C.S.R.

(CASE: Intrust Financial Corporation -vs- nTrust Corp., TAKEN 3/26/14)

C E R T I F I C A T E

STATE OF KANSAS)
SEDGWICK COUNTY) ss:

I, Nancy L. Rambo, do hereby certify the foregoing deposition was stenographically recorded by me as stated in the caption. The deponent was duly sworn to tell the truth, the whole truth, and nothing but the truth. Colloquies, statements, questions and answers thereto were reduced to typewriting under my direction and supervision, and the deposition is a true and correct record of the testimony/evidence given by the deponent.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in the action.

WITNESS my hand and official seal at Wichita, Sedgwick County, Kansas, this 7th day of April, 2014.

_____
NANCY L. RAMBO, R.P.R., C.S.R.
Registered Professional Reporter
Certified Shorthand Reporter

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In The Matter Of:

Intrust Financial Corporation v
nTrust Corp.

LISA ELLIOTT
March 25, 2014

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Intrust Financial Corporation,
Opposer,
vs.
nTrust Corp.,
Applicant.

Opposition No. 91204456
Application Serial No. 85/250992
Mark: NTRUST

Deposition of LISA ELLIOTT, taken by the Opposer, before me, Nancy L. Rambo, a Certified Shorthand Reporter, within and for the State of Kansas, at 1551 North Waterfront Parkway, Suite 100, Wichita, Sedgwick County, Kansas, commencing at 9:02 a.m. on the 25th day of March, 2014.

A P P E A R A N C E S

Opposer, Intrust Financial Corporation, appears by its attorneys, Michael J. Norton and Sharon Rye, Foulston Siefkin LLP, 1551 North Waterfront Parkway, Suite 100, Wichita, Kansas 67206-4466. Also present was Michael Mayans.

Applicant, nTrust Corp., appears by its attorney, Jimmy Nguyen, Davis Wright Tremaine LLP, 865 South Figueroa Street, Suite 2400,

A P P E A R A N C E S (Cont.)

Los Angeles, California 90017-2566. Also present was Rob MacGregor.

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LISA ELLIOTT,
having been first duly sworn, was
examined and testified as follows:

DIRECT EXAMINATION
BY MR. NORTON:

Q. Could you please state your name.
A. Lisa Elliott.
Q. Ms. Elliott, are you employed?
A. Yes.
Q. And where are you employed?
A. Intrust Bank.
Q. And what is Intrust Bank?
A. A financial services company.
Q. And where is it located?
A. Located in Wichita.
Q. Or where is its main office?
A. Wichita, Kansas.
Q. Okay. And what other locations does Intrust Bank have offices?
A. We have offices in Kansas, Arkansas, and Oklahoma.
Q. What is Intrust Financial Corporation?
A. It's the holding company for Intrust Bank.
Q. How long have you been employed at Intrust Bank?

A. Since October 1997.
Q. What's your current position?
A. Senior manager, marketing.
Q. And how long have you held that position?
A. That particular title since March 3rd, 2014.
Q. And what was your title before March 3rd, 2014?
A. Advertising and marketing manager.
Q. Is there a difference in your duties and obligations related to that change in title?
A. Actually slightly, yes, I --
Q. Why don't we do it this way.
A. Okay.
Q. What are your current duties and obligations?
A. I manage the marketing function for Intrust Bank.
Q. On a day-to-day basis, what does that mean?
A. Strategy, planning, budgeting, managing people, projects, internal communications.
Q. Do you have any oversight responsibilities related to advertising?
A. Yes.
Q. Okay. Would you give us an example?
A. I manage the decisions that we make in terms of placing advertising, what the messaging is, who we're communicating to, et cetera.

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Q. And do you have any employees that report directly to you?
A. Yes, I do.
Q. Approximately how many?
A. I have 11 people who report up through me.
Q. Okay. And prior to March 3rd, 2014, what were your duties and obligations?
A. They were the same responsibilities, just did not include the bank card --
Q. Okay.
A. -- products and services.
Q. Okay. When you say bank card products and services, what are you referring to?
A. Referring to credit cards, both for individuals and businesses, debit cards, gift cards, merchant services.
Q. And who was responsible for those card services prior to March 3rd, 2014?
A. Linda Cullinan.
Q. All right. And what was your title prior to marketing and advertising manager?
A. Vice-president of marketing.
Q. How long did you hold the title of vice-president of marketing?
A. I cannot say for sure, but I believe it was

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1 **around 2007 when I acquired that title.**
2 Q. Okay. Now, when did your title as
3 vice-president of marketing director change?
4 **A. Gees, that would have been 2011 maybe.**
5 Q. When your title changed from vice-president of
6 marketing director to marketing and advertising
7 manager, did your duties and responsibilities
8 change?
9 **A. No.**
10 Q. Why was the change made from vice-president of
11 marketing director as your title?
12 **A. The company changed our titling strategy, so we**
13 **no longer had vice-presidents, assistant**
14 **vice-presidents, executive vice-presidents; we**
15 **went to function-oriented titles.**
16 Q. Prior to 2011 when you were still titled as
17 vice-president of marketing director, what were
18 your duties and responsibilities?
19 **A. The same as they are today.**
20 Q. What -- when you began at Intrust in, was it
21 1997?
22 **A. Right.**
23 Q. What was your title when you first began?
24 **A. I was a teller when I first began at Intrust in**
25 **1997.**

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1 Q. Okay. And when did you -- when did your title
2 change from teller to something else?
3 **A. In April -- April 1998.**
4 Q. And what did your title change to in April 1998?
5 **A. I was a marketing research intern.**
6 Q. And were you going to college about that time
7 period?
8 **A. I was.**
9 Q. And we'll talk about that more in just a bit.
10 When did you take on responsibility for other
11 employees?
12 **A. That was in 2005.**
13 Q. Between 1998 and 2005, what were your job
14 responsibilities?
15 **A. Those changed, I -- over the years. I increased**
16 **responsibility within the function of marketing,**
17 **so from research to managing collateral,**
18 **advertising campaigns, promotion, direct**
19 **marketing, point-of-sale materials, et cetera.**
20 Q. So from approximately 1998 until today, has
21 your -- have your responsibilities been related
22 to marketing?
23 **A. Yes.**
24 Q. Could you briefly describe your educational
25 background?

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1 **A. Yes, I received a bachelor's degree in business**
2 **marketing, with a minor in management.**
3 Q. Okay. When did you receive that degree?
4 **A. 1998.**
5 Q. In your current position, do you have
6 interaction with marketing agencies?
7 **A. Yes, I do.**
8 Q. Does Intrust -- has Intrust retained a marketing
9 agency?
10 **A. Yes.**
11 Q. And who is that?
12 **A. Sullivan Higdon & Sink.**
13 Q. For how long has Sullivan been Intrust's
14 marketing agency?
15 **A. I believe it's been six years.**
16 Q. And what does Sullivan, generally speaking, what
17 does Sullivan do for Intrust?
18 **A. They purchase media for us, they also design**
19 **advertising and help us plan our strategy.**
20 Q. Okay. And from 2005 -- or from the time
21 Sullivan was retained until today, have you had
22 oversight of their work?
23 **A. Yes.**
24 Q. As part of your -- as part of your job in
25 marketing for Intrust, do you engage in any sort

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1 of research or analysis of other banks or other
2 financial institutions and what they're doing?
3 **A. Yes.**
4 Q. As part of your job, are you required to be
5 familiar with the types of services that are
6 offered by Intrust?
7 **A. Yes.**
8 Q. Could you just give us a brief overview of the
9 types of services that Intrust offers?
10 **A. Sure, we offer banking services for individuals**
11 **and businesses, including checking accounts,**
12 **other deposit type accounts, loans, credit,**
13 **debit cards, online banking access.**
14 Q. Okay. And as part of the litigation or process
15 that we're going through right now, did you sit
16 down and prepare a list of the various services
17 that Intrust provides and offers?
18 **A. Yes, I did.**
19 Q. If you could look at Exhibit 1 in your notebook.
20 And you'll see the first page there is Exhibit
21 1A?
22 **A. Yes.**
23 Q. And then if you flip back about, oh, 20 pages or
24 so, maybe not quite that far, you'll see one
25 that's designated as Exhibit 1B?

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1 **A. Yes.**
2 Q. Let's talk about 1B first.
3 **A. Okay.**
4 Q. Can you tell us what that document is?
5 **A. This is a document that lists all of the**
6 **products and services Intrust Bank has offered**
7 **or is offering currently.**
8 Q. And who prepared this list?
9 **A. I prepared this list.**
10 Q. And do you believe that -- or is what you have
11 prepared and stated in this Exhibit 1B an
12 accurate statement of the services that Intrust
13 either currently offers or has offered?
14 **A. Yes.**
15 Q. And the services that -- with the services that
16 are stated in your list, do you believe those to
17 be banking services?
18 **MR. NGUYEN:** Objection, lacks
19 foundation.
20 **BY MR. NORTON:**
21 Q. If he objects, you can still answer.
22 **A. I can still answer?**
23 Q. Uh-huh.
24 **A. Yes.**
25 Q. Okay. Now, you've worked at -- you've worked in

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1 a bank, Intrust Bank for, gosh, more than 15
2 years now; is that right?
3 **A. Yes.**
4 Q. And you have been involved in marketing of the
5 bank services; is that right?
6 **A. Yes.**
7 Q. And one of your job duties and responsibilities
8 is to research and analyze other banking
9 institutions; is that right?
10 **A. Yes.**
11 Q. So based on your experience, do you believe that
12 the services identified in Exhibit 1B are
13 banking services?
14 **MR. NGUYEN:** Same objection.
15 **A. Yes.**
16 **BY MR. NORTON:**
17 Q. Okay. Now, let's look at Exhibit 1A. Can you
18 tell us what Exhibit 1A is?
19 **A. It's a list of products or services that we've**
20 **provided, either currently providing or have**
21 **provided.**
22 Q. Now, if you recall, we had, as part of -- you
23 may not be directly aware of this, but counsel
24 had agreed on certain types of services and
25 products for Intrust to provide additional

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1 information on, okay, and during the discovery
2 process, we -- you were asked to identify which
3 Intrust products and services included certain
4 other types or specific types of services, you
5 recall that?
6 **A. I do.**
7 Q. So let's talk about the very first one,
8 Relationship checking, what is that?
9 **A. It's a checking account that's offered to**
10 **individuals.**
11 Q. Okay. And then the items below that, starting
12 with online bill pay and external transfers, do
13 you recall now preparing this document?
14 **A. Yes.**
15 Q. And do you recall what -- what were you trying
16 to convey when you prepared this document?
17 **A. Tried to convey that this -- customers in this**
18 **account have access to or can utilize these**
19 **services listed below.**
20 Q. Okay. Let's talk briefly about those services,
21 then, what is online bill pay?
22 **A. It is a service through which customers can pay**
23 **their bills online.**
24 Q. Okay. And then what is external transfers?
25 **A. It's a service for -- customers can use to**

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1 **transfer money from their account at Intrust**
2 **Bank to another account that they have ownership**
3 **in at another institution.**
4 Q. Okay. The second bullet point there is bill pay
5 services, is that different than online bill
6 pay?
7 **A. No.**
8 Q. Okay. And then the third bullet point is direct
9 deposit services, what is that?
10 **A. That's a service where customers can have funds**
11 **directly deposited into their Relationship**
12 **checking account from another entity.**
13 Q. Okay. And then the next bullet point is
14 conducted by -- via electronic communications
15 networks, open paren, online banking, closed
16 paren. What are you referring to there?
17 **A. They can access their account online or transfer**
18 **funds electronically.**
19 Q. And those being Intrust customers?
20 **A. Yes.**
21 Q. And the next bullet point is gift cards
22 available for purchase, what is that?
23 **A. Customers can use the funds in their**
24 **Relationship checking account to purchase gift**
25 **cards.**

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1 Q. And then stored-value cards, open paren, gift
2 cards, closed paren, what are stored-value
3 cards?
4 **A. In our opinion, they're the same as gift cards.**
5 Q. Okay. And then finally the last bullet point,
6 electronic money issuance and transfer service,
7 what is that?
8 **A. I guess, from my opinion, it's money moving**
9 **electronically in and out of the account.**
10 Q. And the services that we've just identified
11 there under Relationship checking, does Intrust
12 offer all of those services as far as its
13 Relationship checking product or service?
14 **A. Yes.**
15 Q. And then if we were to go through this entire
16 document, if a bullet pointed item is underneath
17 a specific service, are those bullet pointed
18 services offered with --
19 **A. Yes.**
20 Q. -- the parent service there?
21 **A. Yes, they are.**
22 Q. As someone who's worked at Intrust since 1997,
23 are you generally familiar with Intrust history?
24 **A. Yes.**
25 Q. If you would look at Exhibit Number 2. And do

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1 you recognize Exhibit Number 2?
2 **A. Yes.**
3 Q. And what is that document?
4 **A. It's a page from our website that talks about**
5 **the reasons you should trust Intrust.**
6 Q. And if you look through, there are three more
7 pages that are part of that exhibit?
8 **A. Right.**
9 Q. And do they correspond with the three tabs that
10 are shown on the front page of Exhibit 2?
11 **A. Yes, they do.**
12 Q. Did you have any involvement in preparing these
13 three web pages?
14 **A. Yes, I did.**
15 Q. And what was your involvement?
16 **A. Writing the content, reviewing, editing, and**
17 **approving.**
18 Q. And the third page of Exhibit Number 2 is under
19 the tab history. Do you see that?
20 **A. Yes.**
21 Q. And you also were involved in preparing this
22 page, correct?
23 **A. Yes.**
24 Q. And do you believe that the history that's
25 accounted on the third page of Exhibit 2 is an

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1 accurate statement of Intrust Bank's history?
2 **MR. NGUYEN:** Objection, lacks
3 foundation.
4 **A. Yes.**
5 **BY MR. NORTON:**
6 Q. And if you look towards the middle of the page,
7 you'll see there's an underlined sentence that
8 says, learn more about our history. Do you see
9 that?
10 **A. Yes.**
11 Q. And is that a link to another web page?
12 **A. Yes, it is.**
13 Q. If you could look at Exhibit Number 4.
14 **A. Is it 4 or 3?**
15 Q. I'm sorry, 3, I jumped ahead. Could you tell us
16 what Exhibit Number 3 is?
17 **A. It's a page from our website that provides more**
18 **detail regarding the history of Intrust Bank.**
19 Q. Okay. Did you have any involvement in preparing
20 Exhibit Number 3?
21 **A. Yes.**
22 Q. What was your involvement?
23 **A. Approving, editing, and publishing.**
24 Q. And how was it that you went about obtaining the
25 information that is shown in Exhibit 3?

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1 **A. I did not personally obtain the information; it**
2 **was obtained by a colleague, and our -- our**
3 **internal resources or other published documents**
4 **provided the content.**
5 Q. And how long has Intrust Bank been around, even
6 if it may have been named something different?
7 **A. Since 1876.**
8 Q. And as the corporate representative of Intrust,
9 do you believe that the statements made in
10 Exhibit Number 3 accurately reflect Intrust's
11 history?
12 **MR. NGUYEN:** Before the witness
13 answers that question, are you offering her
14 as a corporate representative on particular
15 topics or just on everything related to the
16 case?
17 **MR. NORTON:** Pretty much everything
18 related to the case.
19 **MR. NGUYEN:** Okay.
20 **MR. NORTON:** Well, I should say as
21 shown in our pretrial disclosures, she's
22 shown as that.
23 **MR. NGUYEN:** Right, it was just a
24 little unclear in your pretrial
25 disclosures, it just stated that she was

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1 being offered potentially as a corporate
2 representative, and I'm just trying to get
3 clear as a corporate representative as to
4 what topics?
5 **MR. NORTON:** Sure, and obviously we
6 don't have anyone who's been alive since
7 1876 so -- that is in a corporate
8 representative capacity, which is why I
9 asked the question that way. So I suppose
10 maybe to help things flow along that if she
11 can answer on personal knowledge, she will;
12 if it's a corporate representative -- in
13 the corporate representative capacity, I'll
14 specify as a corporate representative of
15 Intrust.
16 **MR. NGUYEN:** Okay. So for the
17 purpose of Intrust history, you're having
18 her testify as a corporate representative?
19 **MR. NORTON:** Correct.
20 **MR. NGUYEN:** Okay. Do you know what
21 other sort of topic areas you're intending
22 to have her testify as a corporate
23 representative?
24 **MR. NORTON:** I will know when we get
25 there.

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1 **MR. NGUYEN:** All right, thank you.
2 **MR. NORTON:** I should say at -- her
3 testimony will be related to what is shown
4 in the pretrial disclosure, but she can
5 testify sometimes based on personal
6 knowledge and sometimes it will be based on
7 corporate knowledge; and if it's based on
8 corporate knowledge, I'll preface the
9 question.
10 **MR. NGUYEN:** Okay, yeah, no, it's
11 not clear from your pretrial disclosures
12 what the topic areas are for corporate
13 testimony; I just want to make clear while
14 we're on the record as to when she's
15 answering, when she's testifying in her
16 corporate capacity or as a -- based on her
17 personal knowledge.
18 **MR. NORTON:** Right.
19 **BY MR. NORTON:**
20 Q. Okay. And, Ms. Elliott, if you would --
21 **A. I didn't answer your question.**
22 Q. Oh, I'm sorry.
23 **A. So could you repeat it, please.**
24 **MR. NORTON:** Can you find it, Nancy?
25 (At this time, the reporter read

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1 the designated portion.)
2 **A. Yes.**
3 **BY MR. NORTON:**
4 Q. Let's look at Exhibit Number 4, and can you tell
5 us what this page is?
6 **A. This is a page from our website that discusses**
7 **our corporate values.**
8 Q. Okay. And you'll see there are three pages that
9 are part of Exhibit 4, and do those correspond
10 with the tabs that are shown at the top of those
11 pages?
12 **A. Yes.**
13 Q. Were you involved in preparing or drafting these
14 three web pages?
15 **A. I was involved in approving and publishing them.**
16 Q. And if we look on Exhibit 4, the very first page
17 under the corporate values tab, there is a
18 definition there. Do you see that?
19 **A. Yes.**
20 Q. Okay. Can you tell us what that definition is?
21 **A. The definition is for the word intrust, to**
22 **commit to another in confidence.**
23 Q. And is part of the corporate values of Intrust
24 Bank to commit to others in confidence?
25 **A. Yes.**

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1 Q. And then the tab that's open there is mission
2 and purpose. Do you see that?
3 **A. Yes.**
4 Q. Okay. And what is the mission of Intrust Bank?
5 **A. To be the best community bankers in the markets**
6 **we serve and to be a company of character in all**
7 **that we do.**
8 Q. And what is the purpose of Intrust Bank?
9 **A. To consistently contribute to the well-being of**
10 **our customers, employees, shareholders,**
11 **strategic partners, and the communities we**
12 **serve.**
13 Q. And as the corporate representative of Intrust,
14 do you believe that those statements of mission
15 and purpose accurately depict Intrust Bank?
16 **A. Yes.**
17 Q. The second page of Exhibit 4 is under the
18 commitments tab. Do you see that?
19 **A. Yes.**
20 Q. And were you -- you were involved in, I guess,
21 the oversight and publication of this; is that
22 correct?
23 **A. Yes.**
24 Q. And as the corporate representative of Intrust,
25 do you believe that the commitments stated there

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1 accurately depict Intrust?
2 **A. Yes.**
3 Q. And the third page is under the tab character
4 qualities. Do you see that?
5 **A. Yes.**
6 Q. And you were involved in the oversight and
7 publication of this page; is that correct?
8 **A. Yes.**
9 Q. And do you believe that the statement contained
10 on this third page of Exhibit 4 accurately
11 depicts the character qualities of Intrust?
12 **MR. NGUYEN:** Objection, document
13 speaks for itself.
14 **A. Yes.**
15 **BY MR. NORTON:**
16 Q. And these statements that are made in Exhibit
17 Number 4, those are published on the Internet;
18 is that correct?
19 **A. Yes.**
20 Q. And those are public website pages; is that
21 correct?
22 **A. Yes.**
23 Q. And are the statements made on the pages shown
24 in Exhibit 4 how Intrust Bank wishes to present
25 itself to the public?

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1 **A. Yes.**
2 Q. Okay. Let's look at Exhibit Number 5. And
3 could you tell us what Exhibit Number 5 is?
4 **A. This is a corporate identification standards**
5 **manual.**
6 Q. And do you know approximately when this manual
7 was published?
8 **A. It was published in 1993.**
9 Q. Let's talk about 1993 for just a moment. What
10 happened in 1993 related to the bank?
11 **A. In 1993, the bank changed its name from First**
12 **National Bank to Intrust Bank.**
13 Q. And you began working at the bank in 1997; is
14 that correct?
15 **A. Yes.**
16 Q. Between 1997 and today, has the bank ever
17 stopped using Intrust as its name?
18 **A. No.**
19 Q. During the time that you have worked at
20 Intrust -- well, let's back up for just a
21 second. Could you give us a brief description
22 of the standards that are shown in Exhibit 5?
23 Why they exist and what their purpose is?
24 **A. Sure. These standards were created to provide**
25 **rules and consistency for use of the new mark in**

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1 **all types of application.**
2 Q. Okay. And when you say the new mark, what are
3 you referring to?
4 **A. Intrust Bank.**
5 Q. How about the mark of Intrust standing alone?
6 **A. I don't know that it was -- yeah, it's discussed**
7 **in here.**
8 Q. And did these standards change at some point?
9 **A. Yes, they did.**
10 Q. And approximately when did the standards change?
11 **A. We revised the standards in 2012, we published**
12 **them in 2013.**
13 Q. Okay. And if you will look at Exhibit Number 6,
14 can you tell us what that is?
15 **A. Those are the current brand standards for**
16 **Intrust Bank.**
17 Q. And you say these, the current brand standards
18 were published in 2013?
19 **A. Correct.**
20 Q. Between the date you started at Intrust in 1997
21 up until the date that the new standards went
22 into place, were the standards shown in Exhibit
23 5 used by Intrust?
24 **A. Yes.**
25 **MR. NGUYEN:** Objection, lacks

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1 foundation.
2 **BY MR. NORTON:**
3 Q. Now, during that time between 1997 and 2013, you
4 were part of the Intrust marketing team,
5 correct?
6 **A. Yes.**
7 Q. And in your role as part of the Intrust
8 marketing team, did you use the standards that
9 are shown in Exhibit 5 throughout that time
10 period?
11 **A. Yes.**
12 Q. Let's look at the third page of Exhibit 5, and
13 the Bates number at the bottom, you'll see, is
14 O-02810. Do you see that?
15 **A. Yes.**
16 Q. And you obviously were not working at the bank
17 at the time that this was prepared; is that
18 correct?
19 **A. Yes.**
20 Q. Okay. Are you -- well, strike that. If you
21 look at the first sentence, it states, in May of
22 1993, our corporate identity was introduced, end
23 quote. Do you see that?
24 **A. Yes.**
25 Q. As corporate representative, is it your

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1 understanding that May of 1993 is when Intrust
2 began using Intrust as its brand?
3 **A. Yes.**
4 Q. The second sentence there is, quote, the name
5 Intrust enables us to unite all companies in our
6 system under a single and easily recognizable
7 identity, end quote. Do you see that?
8 **A. Yes.**
9 Q. Do you agree with that statement as the
10 marketing -- senior marketing person for
11 Intrust?
12 **A. Yes.**
13 Q. The first paragraph there, we again have the
14 definition of Intrust. Do you see that?
15 **A. Yes.**
16 Q. The next sentence --
17 **MR. NGUYEN:** You mean the second
18 paragraph?
19 **MR. NORTON:** I'm sorry, the second
20 paragraph.
21 **BY MR. NORTON:**
22 Q. The second paragraph begins with the definition
23 of Intrust; is that right?
24 **A. Yes.**
25 Q. The second sentence of the second paragraph

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1 states, quote, it describes how we do business
2 by uniquely portraying our character and the
3 tradition of Intrust that has been our legacy to
4 our customers for over 100 years, end quote. Do
5 you see that?
6 **A. Yes.**
7 Q. As the corporate representative of Intrust, do
8 you believe that that accurately describes how
9 Intrust does business?
10 **A. Yes.**
11 Q. And then the first sentence of the third
12 paragraph states, quote, our new corporate
13 identity is a valuable asset, end quote. Do you
14 see that?
15 **A. Yes.**
16 Q. And as the corporate representative of Intrust,
17 do you believe that Intrust's corporate identity
18 is a valuable asset?
19 **A. Yes.**
20 Q. Now, these standards between 1997 until 2013,
21 were these -- did you personally regularly --
22 regularly use these in your marketing duties and
23 responsibilities?
24 **A. Yes.**
25 Q. Okay. Let's back up just a bit and get a little

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1 more information about Intrust and its
2 background. Do you know approximately how many
3 customers Intrust has?
4 **MR. NGUYEN:** Objection, lacks
5 foundation.
6 **A. I cannot say for sure without seeing that on a**
7 **report.**
8 **BY MR. NORTON:**
9 Q. Okay. Are you generally -- as a marketing
10 director at Intrust, are you generally familiar
11 with Intrust's customer base?
12 **A. Yes.**
13 Q. And how would you describe Intrust's customer
14 base?
15 **A. Our customers are individuals and businesses,**
16 **and they are a rep -- representation of the**
17 **markets that we're in, the communities that we**
18 **serve.**
19 Q. Okay. And are there any limitations on the
20 types of persons that can be Intrust customers?
21 **A. No.**
22 Q. Is there an education requirement for Intrust
23 customers?
24 **A. No.**
25 Q. Can a high school student be an Intrust

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1 customer?
2 **A. Yes.**
3 Q. Can a person who is a blue collar worker, such
4 as a machinist, be an Intrust customer?
5 **A. Yes.**
6 Q. Can persons who did not graduate from high
7 school be Intrust customers?
8 **A. Yes.**
9 Q. And on the other side, can Intrust have --
10 strike that. Can professionals be customers of
11 Intrust?
12 **A. Yes.**
13 Q. And can CEOs of businesses be customers of
14 Intrust?
15 **A. Yes.**
16 Q. So when you say that your customer base reflects
17 the community, are you saying that anyone --
18 well, strike that. What is the community as far
19 as Intrust is concerned?
20 **A. The community is the area surrounding the**
21 **physical locations that we have.**
22 Q. So would, for example, the City of Wichita be
23 included within Intrust's community?
24 **A. Yes.**
25 Q. How about the State of Kansas?

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1 **A. Yes.**
2 Q. So could anyone within the State of Kansas be a
3 customer of Intrust?
4 **A. Yes.**
5 Q. Are customers of Intrust required to be
6 residents of Kansas or any other state?
7 **A. No.**
8 Q. In your capacity as marketing director, do you
9 take into account the intended audience when
10 you're preparing or releasing marketing
11 materials?
12 **A. Yes.**
13 Q. How so?
14 **A. We take into consideration the imagery that we**
15 **use and make sure that it's relevant to the**
16 **audience; the message that's written needs to be**
17 **understandable and clear and resonate with the**
18 **audience, and whatever products or services**
19 **we're presenting to them need to be appropriate**
20 **for that audience.**
21 Q. Okay. Now, when you say that the message needs
22 to be understandable, what do you mean by that?
23 **A. Clear, not confusing.**
24 Q. Do you attempt to write your messages to a
25 certain reading level?

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1 **A. Not intentionally, we just write to be sure that**
2 **it's understood --**
3 Q. Okay.
4 **A. -- in general.**
5 Q. And do you attempt to write to, for example, an
6 8th grade or 7th or 9th or any sort of grade
7 level like that?
8 **A. We do not.**
9 Q. Can you tell us briefly what the difference is
10 between a consumer customer and a commercial
11 customer or business customer?
12 **A. Business customer -- a consumer customer is an**
13 **individual who is personally opening an account**
14 **or owns an account at the bank, or a service. A**
15 **business is an entity who would own an account**
16 **or a product at the bank.**
17 Q. Are you, as part of your job duties, required to
18 be familiar with the trademarks that are used by
19 Intrust?
20 **A. Yes.**
21 Q. And are you familiar with those trademarks?
22 **A. Yes.**
23 Q. Could you just tell us a few of the registered
24 trademarks that Intrust has?
25 **A. Intrust Financial Corporation, Intrust Bank, I**

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1 **Trust Intrust, Intrust Wealth Management.**
2 Q. And how about Intrust standing alone?
3 **A. Yes.**
4 Q. Okay. Let's talk for just a bit about Exhibit
5 Number 5 again. As a -- someone who's been in
6 marketing for more than a decade now and in your
7 position as director, do you believe that colors
8 are important when you're communicating with
9 customers and potential customers?
10 **A. Yes.**
11 Q. If you look at the third page of Exhibit -- be
12 the fourth page of Exhibit Number 5, that's the
13 old standards.
14 **A. Yes.**
15 Q. On the -- at the top where there's several
16 narrative paragraphs, the last one on the right
17 begins with color is also. Do you see that?
18 **A. Uh-huh.**
19 Q. Is that a yes?
20 **A. Yes, I'm sorry.**
21 Q. No, you're fine, you're doing great.
22 **MR. NGUYEN:** You're on Bate page
23 2811; is that right?
24 **MR. NORTON:** Correct.
25 **BY MR. NORTON:**

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1 Q. And that paragraph begins with the statement,
2 quote, color is also very important and
3 impactful element of the Intrust identity, end
4 quote. Do you believe that to be true?
5 **A. Yes.**
6 Q. And it follows, quote, the Intrust corporate
7 colors, Intrust dark blue, green, and bright
8 blue, are used in the full-color example below,
9 end quote. The colors that are shown on Exhibit
10 5, page 4, does that depict the colors that
11 Intrust uses with its marks?
12 **A. Yes.**
13 Q. Now, you've reviewed this Exhibit Number 5 prior
14 to today, correct?
15 **A. Yes.**
16 Q. And, in fact, you testified earlier that you
17 used it routinely?
18 **A. Yes.**
19 Q. There are a variety of examples of how the
20 Intrust marks are to be used within this Exhibit
21 5; is that correct?
22 **A. Yes.**
23 Q. And as someone on the marketing team and as --
24 eventually the marketing director, are the
25 examples shown in Exhibit Number 5 accurate as

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1 to the way that Intrust used its marks during
2 that time period?
3 **A. Yes.**
4 Q. And between 1997 when you started and 2013 when
5 the new standards went into effect, can you tell
6 us what type of media Intrust advertised in?
7 **A. Yes, we advertised on TV, radio, print,**
8 **magazine, online, e-mail.**
9 Q. And when advertising in those media, did you use
10 the Intrust marks as they are to be used
11 according to the standards in Exhibit 5?
12 **A. Yes.**
13 Q. Let's look at, then, Exhibit Number 6 which is
14 the new standards that you've previously
15 identified. With regard to Exhibit Number 6,
16 you had directed involvement in preparing that;
17 is that correct?
18 **A. Yes.**
19 Q. And why is it that Intrust changed its standards
20 to -- well, let me back up a little bit. Why is
21 it that Intrust adopted the new standards that
22 are shown on Exhibit Number 6?
23 **A. To reflect modifications that we had made in the**
24 **way in which we utilized the mark, to include**
25 **new marks that had been created during that time**

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1 **period, and to address the new forums in which**
2 **we were using the mark.**
3 Q. And when you say new forums, what are you --
4 **A. Online, social media, that sort of thing.**
5 Q. Since these new standards have been adopted in
6 2013, as the marketing director of Intrust, has
7 Intrust been using its marks pursuant to these
8 new standards?
9 **A. Yes.**
10 Q. And within the new standards that is Exhibit 6,
11 there are several samples of how Intrust is to
12 use its mark; is that correct?
13 **A. Yes.**
14 Q. And between 2013 and today, has Intrust used its
15 marks as required by Exhibit Number 6?
16 **A. Yes.**
17 Q. And in what types of media has Intrust used its
18 marks as described in Exhibit Number 6?
19 **A. Online, TV, print, outdoor, collateral, direct**
20 **mail.**
21 Q. Has Intrust used its mark within social media?
22 **A. Yes.**
23 Q. And since 2000 -- since these new standards were
24 put in place, which types of social media has
25 Intrust used its marks?

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1 **A. Facebook, Twitter, LinkedIn.**
2 Q. Had Intrust been using its mark in those social
3 media channels prior to Exhibit Number 6?
4 **A. Yes.**
5 Q. And prior to 2013 when Exhibit Number 6 was
6 adopted, did Intrust use its marks on social
7 media consistent with the examples given in the
8 old standards?
9 **A. Yes.**
10 Q. And would the same be true with how Intrust used
11 its mark on websites or online locations --
12 **A. Yes.**
13 Q. -- in addition to the social media?
14 **A. Yes.**
15 Q. Why is it that -- well, let me back up for a
16 second. Do you believe it was important for
17 Intrust to update its standards as shown in
18 Exhibit Number 6?
19 **A. Yes.**
20 Q. And why do you think it was important?
21 **A. Because we needed a current guide to follow and**
22 **we also had strategic partners outside of our**
23 **marketing department that needed to understand**
24 **the rules of utilizing our mark.**
25 Q. In the time that you've been at Intrust, has

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1 there been a shift in the focus of Intrust's
2 marketing? The types of media?
3 **A. Yes, there's been a shift in the types of media.**
4 Q. Could you describe that for us?
5 **A. We have expanded. We haven't eliminated any**
6 **channels of communication, but we've expanded**
7 **online, through social media, and we're use --**
8 **we're advertising less in print publications.**
9 Q. How about mobile applications?
10 **A. Yes, we have advertised through mobile**
11 **applications.**
12 Q. As the -- as marketing director at Intrust, can
13 you tell us why the bank continues to use
14 Intrust as part of its brand?
15 **A. We continue to use Intrust as our brand because**
16 **it accurately represents the way in which we do**
17 **business. It's all based on relationships, and**
18 **trust is the foundation of those relationships.**
19 **We also have a lot of equity built up in that --**
20 **in that brand that's been established over the**
21 **last 20 plus years.**
22 Q. And does Intrust have a web domain?
23 **A. Yes, we do.**
24 Q. And what is that domain?
25 **A. Intrustbank.com.**

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1 Q. Do you remember approximately when Intrust
2 launched the intrustbank.com website?
3 **A. I believe it was in 1997.**
4 Q. About the time that you began?
5 **A. It was prior to -- to me arriving at the bank.**
6 Q. Okay. So by the time -- when you started in
7 1997, Intrust was already using the
8 intrustbank.com web domain?
9 **A. Yes.**
10 Q. Now, does Intrust use face -- the social media
11 application Facebook in its marketing?
12 **A. Yes.**
13 Q. How so? Just a brief description.
14 **A. It's just another channel that we communicate**
15 **our product offering through, use to talk to**
16 **customers, stay in touch with them, be where**
17 **they're at.**
18 Q. And does Intrust use -- Intrust uses Twitter,
19 correct?
20 **A. Yes.**
21 Q. Why?
22 **A. To provide thought leadership and connect with**
23 **our customers and prospects.**
24 Q. Does -- as a corporate representative of
25 Intrust, approximately when did Intrust begin

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1 using its Intrust Bank trademark?
2 **A. 1993.**
3 Q. So it was in use when you came on board in 1997?
4 **A. Yes.**
5 Q. And between when you came on board in 1997 and
6 today, has Intrust continued to use Intrust Bank
7 as a trademark?
8 **A. Yes.**
9 Q. Are you aware of any time period between 1997
10 and today that Intrust stopped using Intrust
11 Bank as a mark?
12 **A. No.**
13 Q. And when was it that Intrust began using just
14 Intrust as a stand-alone mark?
15 **A. I believe that was in 1993.**
16 Q. And so was Intrust being used as a stand-alone
17 mark in 1997 when you came on board?
18 **A. Yes.**
19 Q. And between 1997 and today has Intrust stopped
20 using Intrust as a stand-alone mark?
21 **A. No.**
22 Q. And it continues to do so today?
23 **A. Yes.**
24 Q. The I Trust Intrust mark that you mentioned
25 earlier, approximately when did Intrust begin

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1 using that mark?
2 **A. Approximately 2009.**
3 Q. Okay. And between 2009 and today, has there
4 been a time period when Intrust stopped using
5 the I Trust Intrust mark?
6 **A. No.**
7 Q. How about the Intrust Financial Corporation
8 mark, when did Intrust begin using that mark?
9 **A. In 1993, I believe.**
10 Q. And so it was in use when you began --
11 **A. Yes.**
12 Q. -- in 1997? Between 1997 and today, has there
13 ever been a time period that Intrust stopped
14 using the Intrust Financial Corporation mark?
15 **A. No.**
16 Q. How about the Intrust Bank, N.A. mark, do you
17 know approximately when Intrust began using that
18 mark?
19 **A. 1993.**
20 Q. And was it in use when you began in 1997?
21 **A. Yes.**
22 Q. Between 1997 and today, are you aware of any
23 time period that Intrust stopped using the
24 Intrust Bank, N.A. mark?
25 **A. No.**

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1 Q. The Intrust Check Card mark, do you know
2 approximately when that -- when Intrust began
3 use of that mark?
4 **A. I do not.**
5 Q. Was it in use when you began in 1997?
6 **A. Yes.**
7 Q. Between 1997 and today, has there been a time
8 period when Intrust stopped using the Intrust
9 Check Card mark?
10 **A. No.**
11 Q. Okay. The Intrust Wealth Management mark, do
12 you remember approximately when Intrust began
13 using that mark?
14 **A. I also cannot recall.**
15 Q. How about the Intrust Merchant Services mark?
16 **A. I cannot recall.**
17 Q. How about the Intrust Card Center?
18 **A. I'm also not sure about that; I believe that was**
19 **in 1993, though.**
20 Q. Okay. Was the Intrust Card Center mark in use
21 when you started in 1997?
22 **A. Yes.**
23 Q. Between 1997 and today, was there a time period
24 when Intrust stopped using the Intrust Card
25 Center mark?

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1 **A. No.**
2 Q. When you took over -- or when you began as, you
3 know, a manager in the marketing department at
4 Intrust, was the Intrust Wealth Management mark
5 in use at that time?
6 **A. Yes.**
7 Q. And that was 2005?
8 **A. Yes.**
9 Q. Between 2005 and today, has there been a time
10 period when Intrust stopped using the Intrust
11 Wealth Management mark?
12 **A. No.**
13 Q. The Intrust Merchant Services mark, was that in
14 place when you became -- when you took a
15 management position in 2005?
16 **A. Yes.**
17 Q. And between 2005 and to date, has there been a
18 time period when Intrust stopped using the
19 Intrust Merchant Services mark?
20 **A. No.**
21 Q. The various Intrust marks that we've just
22 discussed, what sort of media does Intrust use
23 along with those marks?
24 **A. I provide that on a report I believe you have as**
25 **an exhibit, and I can accurately explain that if**

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1 **I can see the report.**
2 Q. Sure. I'm going to hand you what has been
3 marked as Exhibit 13.
4 **A. Okay.**
5 Q. Is that the report that you're referring to?
6 **A. Yes.**
7 Q. Okay. Did you have any involvement in preparing
8 this report?
9 **A. Yes, I did.**
10 Q. Now, you didn't prepare all portions of this,
11 did you?
12 **A. No, I did not.**
13 Q. Okay. Could you tell us which portions of this
14 report, Exhibit 13, you prepared?
15 **A. I was involved in the year first offered,**
16 **trademarks used with the product, how they --**
17 **how it's advertised or offered to customers over**
18 **the last ten years.**
19 Q. Okay. So the first three rows there?
20 **A. Yes.**
21 Q. Okay. And the year first offered, you'll see
22 that the first entry is 2002. Do you see that?
23 **A. Yes.**
24 Q. And the column there is payroll cards. Do you
25 see that?

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1 **A. Yes.**
2 Q. Okay. What are the columns that are shown on
3 this Exhibit 13?
4 **A. Those are the products or services that Intrust**
5 **Bank offers.**
6 Q. And the year first offered, is that referring to
7 the product services that is shown along the top
8 row?
9 **A. Yes.**
10 Q. And the Intrust trademarks used with product,
11 again, is that in reference to the marks used
12 with the products shown in the top row?
13 **A. Yes.**
14 Q. The how advertised or offered to
15 customers/prospective customers over the last
16 ten years, what is that in reference to?
17 **A. The product at the top of that column.**
18 Q. Okay.
19 **MR. NORTON:** Jimmy, for the interest
20 of time, can we stipulate to those three --
21 that those three entries that she had
22 personal involvement in preparing, or do I
23 need to go through every one of them?
24 **MR. NGUYEN:** So you're talking about
25 year first offered, Intrust marks used with

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1 products, and how advertised --
2 **MR. NORTON:** Yes.
3 **MR. NGUYEN:** -- or offered? So were
4 you wanting us to stipulate to, what,
5 admissibility of the information?
6 **MR. NORTON:** Admissibility and --
7 well, I guess foundation would be included
8 in admissibility, so yeah.
9 **MR. NGUYEN:** Yeah, that's fine.
10 **MR. NORTON:** Okay. So based on
11 that, I will not go through every one of
12 these --
13 **MR. NGUYEN:** Okay.
14 **MR. NORTON:** -- because I don't
15 think everyone wants to sit here and go
16 through those.
17 **MR. NGUYEN:** That's fine.
18 **MR. NORTON:** Okay.
19 **BY MR. NORTON:**
20 Q. We -- and, Ms. Elliott, for your benefit, the
21 attorneys have stipulated that this information
22 shown here is admissible, so we're not going to
23 go through every one of them. So lucky -- lucky
24 you.
25 **MR. NORTON:** It is her birthday, by

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1 the way.
2 **MR. NGUYEN:** That's the best way to
3 spend your birthday, at a deposition.
4 **A. Thank you for that gift.**
5 **MR. NGUYEN:** It's the gift that
6 keeps on giving.
7 **BY MR. NORTON:**
8 Q. Have you been involved in submitting trademark
9 applications on behalf of Intrust?
10 **A. Yes.**
11 Q. And what has been your involvement generally?
12 **A. Making the request to submit for a new trademark**
13 **and then supplying specimen.**
14 Q. Okay. Let's take just a few minutes to talk
15 about some of the specimens. Okay. And we're
16 going to jump towards the middle of our book to
17 Exhibit Number 44.
18 **MR. NORTON:** Sorry, I probably
19 should have had smaller books and more.
20 **MR. NGUYEN:** It's not too bad.
21 **MR. NORTON:** No.
22 **MR. NGUYEN:** I've seen worse.
23 **MR. NORTON:** Well, it's better than
24 having paper everywhere.
25 **MR. NGUYEN:** Yeah.

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1 **BY MR. NORTON:**
2 Q. Okay. Now, Ms. Elliott, I will represent to you
3 that this specimen or this document is included
4 within the Intrust file maintained by the Patent
5 and Trademark Office. And do you see that
6 there's a stamp on it?
7 **A. Yes.**
8 Q. Well, first, can you tell us what this document
9 is that's shown on Exhibit Number 44?
10 **A. This is a brochure.**
11 Q. And is this a brochure that Intrust has used in
12 the past?
13 **A. Yes.**
14 Q. And there's a stamp on the document. Do you see
15 that?
16 **A. Yes.**
17 Q. It says, mail room Patent and Trademark Office,
18 November 2nd, 1993. Do you see that?
19 **A. Yes.**
20 Q. Now, we know that you were not working at
21 Intrust in 1993, but do you see the way that
22 Intrust and Intrust Bank are shown on this
23 document?
24 **A. Yes.**
25 Q. When you started in 1997, was Intrust using the

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1 mark on promotional materials and advertising as
2 shown on this specimen, Exhibit Number 44?
3 **A. Yes.**
4 Q. And from 1997 until today, has Intrust continued
5 to use its mark as shown on Exhibit Number 44?
6 **A. Yes.**
7 Q. Okay. Let's look at Exhibit Number 45. And
8 I'll represent to you that this is another
9 document that is located within the Patent and
10 Trademark Office's file for Intrust, the mark
11 Intrust. Can you tell us what this document is?
12 **A. This is a printout from our website.**
13 Q. Okay. And do you see how the Intrust mark is
14 being used on the page that's shown on Exhibit
15 Number 45?
16 **A. Yes.**
17 Q. And when you took over -- or when you took on a
18 manager role in 2005, was Intrust using its mark
19 as shown on Exhibit Number 45?
20 **A. Yes.**
21 Q. And between 2005 and today, did Intrust continue
22 to use its mark as shown on this Exhibit 45?
23 **A. Yes.**
24 Q. Let's look at -- well, would you have had
25 involvement in -- or did you have involvement

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1 in preparing the content of Exhibit Number 45?
2 Or do you recall?
3 **A. I do not recall.**
4 Q. Let's look at Exhibit Number 46. And, again,
5 I'll represent to you that this is a document
6 that is -- that was found within the Patent and
7 Trademark Office file for the I Intrust Bank
8 mark. Can you tell us what Exhibit Number 46
9 is?
10 **A. That's a page from our website.**
11 Q. When you took on a managing role or management
12 role in 2005, was the mark being used, the
13 Intrust mark being used as it is shown?
14 **A. Yes.**
15 Q. And does it continue to be used until today in
16 the manner that is shown here?
17 **A. Yes.**
18 **MR. NGUYEN:** I just have a
19 clarification question.
20 **MR. NORTON:** Sure.
21 **MR. NGUYEN:** Which registration is
22 this specimen for?
23 **MR. NORTON:** The I Intrust.
24 **MR. NGUYEN:** So the stylized logo
25 design of the --

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1 **MR. NORTON:** Right, and the --
2 **MR. NGUYEN:** -- I Intrust? Is it I
3 Intrust Bank.
4 **MR. NORTON:** No, I don't believe so,
5 I think it's just I Intrust. Oh, no, you
6 know what, actually you're right, Jimmy, I
7 apologize.
8 **MR. NGUYEN:** I Intrust Bank?
9 **MR. NORTON:** Yeah. And for clarity,
10 46 is I Intrust Bank.
11 **MR. NGUYEN:** The reason I'm asking
12 is the specimen doesn't have the word bank
13 anywhere, so I'm just trying to --
14 **MR. NORTON:** Actually, let's just
15 back up, that's a good point. 44, the very
16 first is Intrust Bank.
17 **MR. NGUYEN:** Right.
18 **MR. NORTON:** 45, okay, is Intrust
19 Bank -- no. Yes, 45 is Intrust Bank.
20 **MR. NGUYEN:** So different than 44 or
21 the specimen for the same registration?
22 **MR. NORTON:** 44 is -- let me just
23 double-check that. I believe 44 -- yes, 44
24 is Intrust Bank, 45 is Intrust Bank.
25 **MR. NGUYEN:** So 44 and 45 are

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1 specimens for the same registration?
2 **MR. NORTON:** Correct.
3 **MR. NGUYEN:** Okay. And then 46?
4 **MR. NORTON:** And then 46 is just
5 Intrust.
6 **MR. NGUYEN:** Okay.
7 **MR. NORTON:** 47 is I Intrust Bank.
8 **MR. NGUYEN:** Exhibit 47 is a
9 specimen for I Intrust bank?
10 **MR. NORTON:** Correct, as is 48.
11 **MR. NGUYEN:** Okay, that's what, I
12 guess, I'm not getting about Exhibit 47
13 because the logo there doesn't use the word
14 bank. Exhibit 48, it does.
15 **MR. MAYANS:** It's on, just on the
16 check on 47.
17 **MR. NGUYEN:** Yeah, I'm just trying
18 to --
19 **MR. NORTON:** Oh, yeah, it's on the
20 check. Yeah, and if you'll look, it says
21 Internet Banking Demo so you'll see that
22 it's there.
23 **MR. NGUYEN:** So Exhibits 47 and 48
24 are specimens from the file for the I
25 Intrust Bank stylized logo mark?

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1 **MR. NORTON:** Correct. And I'll go
2 back and touch on these with her, but if
3 you want to go ahead and make a note -- you
4 want me to tell you what the others are?
5 **MR. NGUYEN:** No, you can just
6 keep ...
7 **MR. NORTON:** Okay. Which was the
8 last exhibit we actually discussed? They
9 all start to run together after awhile.
10 **MS. RYE:** It was 46.
11 **MR. NORTON:** 46, okay. And are you
12 ready?
13 **BY MR. NORTON:**
14 Q. Looking, Ms. Elliott, at Exhibit Number 46, and
15 just to clarify, the document shown in Exhibit
16 46, I'll represent to you, is included within
17 the Patent and Trademark Office's file on the
18 stand-alone Intrust mark. Do you see that
19 document?
20 **A. Yes.**
21 Q. Can you tell us what that document is?
22 **A. It's a page from our website.**
23 Q. And when you went into a management position in
24 2005, was the Intrust being -- mark being used
25 as is shown on Exhibit Number 46?

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1 **A. Yes.**
2 Q. And does Intrust continue to use that mark --
3 **A. Yes.**
4 Q. -- until today?
5 **A. Yes.**
6 Q. Let's look at Exhibit Number 47, and I'll
7 represent to you that Exhibit Number 47 is a
8 document contained within the Patent and
9 Trademark Office's file on the I Intrust mark,
10 and the I, it's referring to the stylized
11 mark -- or stylized character that begins just
12 before the word Intrust. Do you see that?
13 **A. Yes.**
14 Q. Can you tell us what Exhibit Number 47 is, what
15 that document is?
16 **A. It's a page from our website.**
17 Q. And when you went into a management role in
18 2005, was the Intrust -- Intrust mark being --
19 I Intrust mark being used on the Internet as is
20 shown on Exhibit 47?
21 **A. Yes.**
22 Q. And has it continued to be used by Intrust until
23 today?
24 **A. Yes.**
25 Q. Exhibit 49, I'll represent to you, is another

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1 document that is included within the Patent and
2 Trademark Office -- I'm sorry --
3 **MR. NGUYEN:** You mean 48?
4 **MR. NORTON:** Yes, 48. We've got it
5 in two places, you think I'd see it one of
6 those.
7 **BY MR. NORTON:**
8 Q. Exhibit Number 48, I'll represent to you, is a
9 document included within the Patent and
10 Trademark Office's file for the I Intrust mark.
11 Do you see that document?
12 **A. Yes.**
13 Q. Can you tell us what that is?
14 **A. That's a page from our website.**
15 Q. And if you look down towards the bottom of that
16 page, you see the date is 1/15/2008?
17 **A. Yes.**
18 Q. Did you have any involvement in preparing
19 this --
20 **A. Yes.**
21 Q. -- document? And what was your involvement?
22 **A. Layout, design, content, and approval.**
23 Q. And in 2008, did Intrust use its I Intrust mark
24 as shown on Exhibit 48?
25 **A. Yes.**

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1 Q. Has it continued to use that mark until today?
2 **A. Yes.**
3 Q. Number 49 is the -- is another document that
4 I'll represent to you is included in the Patent
5 and Trademark Office's file for the mark I Trust
6 Intrust. Do you see that document?
7 **A. Yes.**
8 Q. Can you tell us what that is?
9 **A. That is a brochure created in 2008.**
10 Q. And did you have any involvement in creating
11 this brochure?
12 **A. Yes.**
13 Q. And if you look down towards the bottom of the
14 lengthy paragraph, in a bold white font on the
15 back, at least in this black-and-white copy,
16 background is the phrase I Trust Intrust. Do
17 you see that?
18 **A. Yes.**
19 Q. And when did Intrust begin using that phrase as
20 part of its marketing effort?
21 **A. In 2008.**
22 Q. And did it use that phrase, I Trust Intrust, as
23 shown here on Exhibit 49?
24 **A. Yes.**
25 Q. And has Intrust continued to use that phrase in

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1 its branding from 2008 until today?
2 **A. Yes.**
3 Q. All right. Exhibit 50, I'll represent to you,
4 is a document contained within the Patent and
5 Trademark Office's file for the Intrust Card
6 Center mark. Do you see that document?
7 **A. Yes.**
8 Q. And do you see that there's a stamp on that
9 document that says mail room Patent and
10 Trademark Office, November 2nd, 1993? Do you
11 see that?
12 **A. Yes.**
13 Q. And in the bottom right-hand corner is the I
14 trust -- I'm sorry, is the Intrust Card Center
15 mark. Do you see that?
16 **A. Yes.**
17 Q. Now, when you started in 2007, was Intrust using
18 the Intrust Card Center mark as is shown on
19 Exhibit 50?
20 **A. Yes.**
21 Q. Between 1997 and today, has Intrust continued to
22 use the Intrust Card Center mark as shown on
23 Exhibit 50?
24 **A. Yes.**
25 Q. Let's look at Exhibit 51. And I'll represent to

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1 you that the document that is Exhibit 51 was
2 another document contained within the Patent and
3 Trademark Office for the Intrust Financial
4 Corporation mark's file. Do you see that
5 document?
6 **A. Yes.**
7 Q. When you began work at Intrust in 1997, was
8 Intrust using the I trust -- or, I'm sorry, the
9 Intrust Financial Corporation mark as is shown
10 on Exhibit 51?
11 **A. Yes.**
12 Q. And between 1997 and today, has Intrust
13 continued to use the Intrust Financial
14 Corporation mark as shown on Exhibit 51?
15 **A. Yes.**
16 Q. Okay. One more. Exhibit 52, I'll represent to
17 you, is another document that is contained
18 within the Patent and Trademark Office, and this
19 is -- would be also under the Intrust Financial
20 Corporation mark's file. Could you tell us what
21 this document is?
22 **A. This is a page from our website.**
23 Q. And on the bottom right-hand corner, you'll see
24 that there is a date 9/1/2004. Do you see that?
25 **A. Yes.**

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1 Q. Did you have any involvement in preparing this
2 document?
3 **A. I don't believe so.**
4 Q. Okay. If you look towards the top half of that
5 document, you'll see that someone has circled
6 the phrase Intrust Financial Corporation. Do
7 you see that?
8 **A. Yes.**
9 Q. In 2004, was -- let me just back up for a
10 second. When you took over management duties in
11 2005, was Intrust using the Intrust Financial
12 Corporation mark as is shown on Exhibit 52?
13 **A. Yes.**
14 Q. And between 2005 and today, has Intrust
15 continued to use the Intrust Financial
16 Corporation mark as shown on Exhibit 52?
17 **A. Yes.**
18 **MR. NORTON:** We've been going for a
19 little over an hour, do you guys want to
20 take just a real short break or ...
21 **MR. NGUYEN:** Sure.
22 (Thereupon, a recess was taken;
23 whereupon, the following was had.)
24 **BY MR. NORTON:**
25 Q. Now, as a -- as the marketing director at

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1 Intrust, are you responsible for any activities
2 related to brand awareness?
3 **A. Yes.**
4 Q. What is brand awareness?
5 **A. Making sure that the market area knows what our**
6 **brand is and who we are, what we're about.**
7 Q. And by the way, we talked about, you know,
8 Wichita and Kansas being a community for Intrust
9 Bank. The community is not limited to the State
10 of Kansas, is it?
11 **A. No.**
12 Q. And, I'm sorry, you have -- you have physical
13 branches in which other states?
14 **A. Arkansas and Oklahoma.**
15 Q. Are there other states in addition to Kansas,
16 Arkansas, and Oklahoma where Intrust has
17 customers?
18 **A. Yes.**
19 Q. Okay. And how many of the states does Intrust
20 have customers in?
21 **A. All 50 states.**
22 Q. And, of course, Intrust, the website, isn't
23 limited by any geographic region, is it?
24 **A. No.**
25 Q. Okay. Back to brand awareness, could you

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1 describe for us the -- some of the efforts that
2 Intrust has made to create brand awareness for
3 the Intrust brand?
4 **A. Advertising, signage on all of our facilities,**
5 **logos on shirts that our employees wear, and**
6 **we've also recently named the arena in Wichita**
7 **the Intrust Bank Arena.**
8 Q. Okay. Let's look at Exhibit Number 7. Go back
9 a few pages. And can you tell us what that
10 document is?
11 **A. This is a presentation of 2012 marketing, slash,**
12 **advertising expenses for -- for the year and how**
13 **they were allocated.**
14 Q. Okay. Does this -- and it states it's 2.6
15 million dollars. Do you see that?
16 **A. Yes.**
17 Q. Were you involved in preparing this report?
18 **A. Yes.**
19 Q. Are you responsible for the budget related to
20 marketing?
21 **A. Yes.**
22 Q. Now, the 2.6 million dollars, does that include
23 every aspect of marketing or promotion that
24 Intrust does?
25 **A. No, it does not.**

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1 Q. What generally does it not include?
2 **A. It does not include card marketing expenses, so**
3 **the credit card and debit card division; it does**
4 **not include entertainment sponsorship, corporate**
5 **giving; it does not include overhead, salaries**
6 **of the marketing staff, et cetera.**
7 Q. Okay. Well, then, let's take a look at the
8 budget that -- for marketing here that's Exhibit
9 Number 7. The first item is $800,000, outside
10 media, what is that?
11 **A. That's for the purchase of TV, billboards,**
12 **print, radio --**
13 Q. The next --
14 **A. -- online advertising.**
15 Q. The next entry is $504,000, agency retainer,
16 what is that?
17 **A. That is the fee that we pay to Sullivan Higdon &**
18 **Sink for their services, creative development,**
19 **media buying, strategy development.**
20 Q. The next entry is $250,000, outside production
21 costs, what is that?
22 **A. That's the expense for the production of**
23 **creative, so TV production, so whatever we pay**
24 **other vendors to produce the advertising assets**
25 **that we need.**

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1 Q. And the $300,000 for direct marketing, what is
2 that?
3 **A. Those are expenses associated with delivering**
4 **marketing through mail or e-mail.**
5 Q. Okay. The 350,000 Intrust Bank Arena entry,
6 what is that?
7 **A. That's the annual fee for the naming rights of**
8 **the arena.**
9 Q. Okay. The $196,000 for other promotions and
10 contingency, what is that?
11 **A. Those expenses are for collateral production,**
12 **promotion elements, anything that we might brand**
13 **and give away, and then just contingency for**
14 **other expenses.**
15 Q. And then the $70,000, marketing research, what
16 is that?
17 **A. Those are expenses for conducting research,**
18 **surveys, studies, that sort of thing.**
19 Q. And the items that we've just discussed in
20 Exhibit Number 7, are all of those items and
21 those amounts related to the Intrust brand?
22 **A. Yes.**
23 Q. And that would include the Intrust mark standing
24 alone, the Intrust Bank mark, and the other
25 marks that we've discussed here today?

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1 **A. Yes.**
2 **MR. NGUYEN:** Objection, vague and
3 ambiguous.
4 **BY MR. NORTON:**
5 Q. Generally speaking, are there -- are there any
6 advertising material that Intrust uses that does
7 not include the word Intrust on that
8 advertising?
9 **A. No.**
10 Q. Let's look at Deposition Exhibit Number 8. Can
11 you tell us what that document is?
12 **A. This is a report from our general ledger that**
13 **explains the total advertising expenses for the**
14 **bank in 2012 and the total business promotion**
15 **expense.**
16 Q. And the total business promotion expense, are
17 those the items that you discussed earlier that
18 are excluded from Exhibit 7?
19 **A. Could you ask that again, please.**
20 Q. Sure. Well, why don't we do it this way: Is
21 this -- are you generally familiar with the
22 total advertising expenses and total business
23 promotion expenses for Intrust?
24 **A. Yes.**
25 Q. And is that included within your

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1 responsibilities as marketing director?
2 **A. Yes.**
3 Q. On the first page of Exhibit 8, the total
4 advertising expenses, just tell us generally
5 what's included within that description.
6 **A. The things that I outlined in Exhibit 7 are**
7 **included in that dollar amount, so it's media**
8 **placements for the bank, agency retainer, direct**
9 **marketing expenses, promotional expenses,**
10 **research.**
11 Q. The second entry, the total business promotion
12 entry, what's included within that description?
13 **A. Entertainment promotions -- or, I mean,**
14 **entertainment sponsorship, corporate giving,**
15 **salaries, that sort of thing.**
16 Q. Okay. Where -- are the -- is the card side of
17 the business included in one of these items or
18 descriptions?
19 **A. Yes.**
20 Q. Okay. And under which item are cards included?
21 **A. I believe it's included in business promotion.**
22 Q. Okay. And do you believe that the -- well, if
23 you scroll over, at the top of the page there's
24 an entry for actual, under a monthly headline,
25 actual, variance, budget, budget variance, so

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1 on. Do you see those entries?
2 **A. Yes.**
3 Q. And the next entry is under year to date.
4 **A. Yes.**
5 Q. Do you see that?
6 **A. Yes.**
7 Q. And this specific entry that is shown on the
8 first page of Exhibit 8, does it reflect the --
9 you'll see at the top it's December 2012, so do
10 these entries reflect the total amount for the
11 year 2012?
12 **A. Yes.**
13 Q. And if you look under actual, there's an entry
14 of approximately 2.6 million for total
15 advertising expense; is that correct?
16 **A. Yes.**
17 Q. And then for -- under the same column for total
18 business promotion is 2.293 million. Do you see
19 that?
20 **A. Yes.**
21 Q. And do these figures as shown on this exhibit
22 accurately reflect the total advertising and
23 total business promotion expenses that Intrust
24 incurred in 2012?
25 **A. Yes.**

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1 Q. And if you flip through this document, you'll
2 see that each entry -- or each document at the
3 top shows a December for a certain year. Do you
4 see that?
5 **A. Yes.**
6 Q. And you would have been responsible for the
7 marketing and advertising for all the years that
8 are shown here; is that correct?
9 **A. Yes.**
10 Q. And it's 2011, 2010, 2009, 2008, and 2013; is
11 that correct?
12 **A. Yes.**
13 Q. And do the figures shown under the year-to-date
14 actual column accurately reflect the total
15 advertising expense and total business promotion
16 expenses incurred by Intrust during those years?
17 **A. Yes.**
18 Q. All right. Exhibit Number 9, can you tell us
19 what that document is?
20 **A. This document shows from 2008 to 2012 Intrust's**
21 **gross revenue, as well as our total advertising**
22 **and promotional costs.**
23 Q. Okay. And does the -- do the amounts under the
24 advertising and promotional costs, do those
25 statements at the bottom accurately reflect the

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1 costs incurred by Intrust in advertising and
2 promotions?
3 **A. Yes.**
4 Q. The top -- well, do you have any knowledge with
5 regard to the gross revenue earned by Intrust?
6 **A. No.**
7 Q. Okay. And let's look at Exhibit Number 10. And
8 can you tell us what Exhibit Number 10 is?
9 **A. This is an explanation of campaign expenses,**
10 **what products were promoted during those**
11 **campaigns, the year, and then the total expense**
12 **coming from the advertising budget.**
13 Q. Okay. And are you familiar with the campaigns
14 and the expenses that are shown on Exhibit
15 Number 10?
16 **A. Yes.**
17 Q. Did you have -- you've reviewed this document
18 prior to today?
19 **A. Yes.**
20 Q. Did you have involvement with the campaigns that
21 are identified here?
22 **A. Yes.**
23 Q. And did you have oversight concerning the cost
24 of those campaigns?
25 **A. Yes.**

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1 Q. Do you know who prepared this document?
2 **A. My staff.**
3 Q. Okay. At your direction?
4 **A. Yes.**
5 Q. And approximately when was it prepared?
6 **A. I believe it was prepared at the end of 2013.**
7 Q. Okay. I guess in the year column, do the
8 campaigns go by years sequentially from 2008 to
9 2013?
10 **A. Yes.**
11 Q. All right. Could you tell us -- what I'd like
12 to do is discuss some of these campaigns with a
13 brief overview, okay?
14 **A. Okay.**
15 Q. What is the $354,114 cost related to the Image
16 Campaign in 2008?
17 **A. Image refers to a message of I Trust Intrust; it**
18 **was our first time using that statement, and we**
19 **were talking about the safety, soundness, and**
20 **stability of Intrust.**
21 Q. Okay. And I notice the first entry is Image
22 Campaign and the second is Image Campaign, dash,
23 I Trust Intrust. Are those different campaigns?
24 **A. They are.**
25 Q. Okay. And there's also a product column, what

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1 is the product column?
2 **A. That's what we were promoting --**
3 Q. Okay.
4 **A. -- in that campaign.**
5 Q. So with regard to the first item, the Image
6 Campaign, the product is identified as Intrust
7 marks; is that right?
8 **A. Yes.**
9 Q. After having looked at that row, does it help
10 refresh your memory as to what the Image
11 Campaign was outside of the I Trust Intrust
12 campaign?
13 **A. Yes, we were promoting Intrust Bank.**
14 Q. Okay. And the product is identified as the
15 Intrust marks; is that correct?
16 **A. Yes.**
17 Q. So were you promoting just Intrust Bank, or were
18 you promoting the Intrust brand?
19 **A. The Intrust brand.**
20 Q. And can you tell us a little bit about that
21 Image Campaign outside of the I Trust Intrust
22 Campaign in 2008?
23 **A. Yes, it was focused on -- in fact, we looked at**
24 **one of the exhibits, or a sample or specimen**
25 **from that earlier; it was focused on the**

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1 **stability of Intrust. It was at the time when**
2 **the economic downturn was occurring and people**
3 **were concerned about the safety of their bank**
4 **and their money, and so we were in the**
5 **marketplace reminding the community that we are**
6 **here to stay and we'd weathered other storms and**
7 **their money is safe at Intrust and they can**
8 **trust us.**
9 Q. And what media was utilized for the Image
10 Campaign?
11 **A. Outdoor, online, our website, print, I believe**
12 **that's it. There may have been some other**
13 **elements.**
14 Q. The -- and then the Image Campaign, dash, I
15 Trust Intrust, if you could briefly tell us what
16 that campaign was.
17 **A. That was geared more towards the slogan launch**
18 **of I Trust Intrust, and that was primarily**
19 **focused on why people should trust Intrust and**
20 **what our culture is about and how we do**
21 **business.**
22 Q. And is it -- that campaign was launched in 2008;
23 is that correct?
24 **A. Yes.**
25 Q. I think earlier when we were looking at a

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1 specimen for I Trust Intrust, you said you
2 thought the bank began using that in 2009?
3 **A. Oh, yeah, I did.**
4 Q. After having looked at this report on the
5 campaign expenses, does that help refresh your
6 memory as to when Intrust began using I Trust
7 Intrust as a mark?
8 **A. Yes, it does.**
9 Q. And when was that?
10 **A. That would have been in 2008.**
11 Q. Okay. All right. Let's look at just a few more
12 of these entries. The fourth entry down is
13 deposit -- I'm sorry, is Deposit Online Mailing,
14 what is deposit online?
15 **A. Deposit online is a service we offer our**
16 **business customers where they can make deposits**
17 **at their desks by scanning checks in through a**
18 **device and depositing them online into their**
19 **bank account.**
20 Q. Is that service now offered also to consumers?
21 **A. No, it is not.**
22 Q. I will represent to you that I am a customer of
23 Intrust, and I do that all the time.
24 **A. You scan your checks using a device?**
25 Q. Well, take a photograph with a cell phone.

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1 **A. Oh, that's a different service.**
2 **MR. NGUYEN:** Objection, lacks
3 foundation, counsel shouldn't be testifying
4 for the witness.
5 **MR. NORTON:** Off the record.
6 (Discussion held off the record.)
7 **A. That's a different service.**
8 **BY MR. NORTON:**
9 Q. Oh, okay. Well, then just for my edification,
10 what is the service that consumers have for
11 making electronic deposits?
12 **A. Mobile check deposit.**
13 Q. And how is that different from the deposit
14 online?
15 **A. That service is where you take a picture of the**
16 **check with your mobile device and upload it into**
17 **your account.**
18 Q. And that's a consumer that you're discussing?
19 **A. That's a consumer.**
20 Q. And then what's the commercial?
21 **A. The commercial is they have a scanner on their**
22 **desk that's hooked to their PC, and they run the**
23 **check through the scanner; and it's presented to**
24 **them within online banking, they approve it for**
25 **deposit, and then it's placed into their**

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1 **account.**
2 Q. Thank you for that clarification.
3 **A. Sorry.**
4 Q. If we look at, there's an entry for fall
5 campaign, oh, about 10 or 12 items down. Do you
6 see that? Just --
7 **A. Fall Image Campaign?**
8 Q. Yes.
9 **A. Yes.**
10 Q. And this is for 2010; is that correct?
11 **A. Yes.**
12 Q. And it looks like Intrust incurred about
13 $297,000 in expense in 2010 related to this fall
14 campaign; is that right?
15 **A. Yes.**
16 Q. And what products were used or advertised
17 related to the fall of 2010 campaign?
18 **A. We were promoting two new checking accounts that**
19 **we had just launched, our bill pay service as a**
20 **feature of one of those checking accounts, and**
21 **also just convenience, accessibility in general**
22 **of Intrust Bank, and we were also utilizing the**
23 **I Trust Intrust slogan.**
24 Q. Okay. And then there is a Spring Image Campaign
25 a couple of lines down --

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1 **A. Uh-huh.**
2 Q. -- for 2010, 177,000, would you tell us just a
3 little bit about that campaign?
4 **A. That is the same campaign, it's just a new media**
5 **buy for the -- for a different time period.**
6 Q. When you say media buy, what do you mean by
7 that?
8 **A. Purchase TV, advertising online, outdoor to**
9 **promote the same message that I had mentioned**
10 **previously.**
11 Q. Okay. If we scroll down to, oh, probably six or
12 eight from the bottom, there's an entry for
13 mobile check deposit --
14 **A. Yes.**
15 Q. -- in 2012. Do you see that?
16 **A. Yes.**
17 Q. And the amount is $301,285 for 2012; is that
18 correct?
19 **A. Yes.**
20 Q. What was the Mobile Check Deposit Campaign?
21 **A. That was an advertising campaign geared toward**
22 **launching mobile -- our mobile banking check**
23 **deposit product, and we placed that message on**
24 **TV, outdoor billboards, radio, print, online, we**
25 **used Pandora advertising.**

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1 Q. What is Pandora?
2 **A. Internet radio.**
3 Q. Then let's go down just a little further to
4 Image Campaign, Intrust marks 2013, $451,134.
5 Do you see that entry?
6 **A. Yes.**
7 Q. Could you tell us briefly what the Image
8 Campaign of 2013 was?
9 **A. That was called our Moments of Trust Campaign,**
10 **and we featured customers and their stories of**
11 **why they trust Intrust. And we communicated**
12 **their stories through TV, online advertising,**
13 **billboards, print, inside of our banking**
14 **centers, and it was all represented under the**
15 **Intrust Bank mark and the I Trust Intrust**
16 **slogan.**
17 Q. Okay. The campaigns that are identified on
18 Exhibit Number 10, did all of those include and
19 involve the Intrust stand-alone mark?
20 **A. Yes.**
21 Q. Did those campaigns involve other Intrust marks
22 that we've discussed here today?
23 **A. Intrust Bank.**
24 Q. Of the campaigns that are shown in Exhibit 10,
25 did any of those campaigns not include the word

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1 Intrust?
2 **A. No.**
3 Q. Are you familiar with the entertainment venue in
4 Wichita that's known as the Intrust Bank Arena?
5 **A. Yes.**
6 Q. Can you tell us what that venue is generally?
7 **A. It's a 15,000-seat facility that hosts**
8 **entertainment for the community, concerts,**
9 **sporting events, family shows, community events,**
10 **that sort of thing.**
11 Q. And is there a relationship between Intrust and
12 the facility?
13 **A. Yes.**
14 Q. Could you briefly describe that relationship?
15 **A. We're the owner of the primary naming rights of**
16 **the facility.**
17 Q. And what is the name of the facility?
18 **A. Intrust Bank Arena.**
19 Q. And were you involved in the discussions or
20 negotiations to purchase that and those naming
21 rights?
22 **A. Yes.**
23 Q. And what was your involvement just generally?
24 **A. Just discussions, review of proposals, review**
25 **and input into the contract, and participation**

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1 **in the implementation of that contract.**
2 Q. Approximately when did the Intrust Bank Arena
3 open?
4 **A. I have to look at this. When was my daughter**
5 **born? 2010.**
6 Q. Okay. And --
7 **A. 2011.**
8 Q. 2011.
9 **A. New Year's Eve 2009. 2010.**
10 Q. So 2010 -- between 2010 and today, has the --
11 has that arena always been named Intrust Bank
12 Arena?
13 **A. Yes.**
14 Q. And when the arena opened in 2010, did it open
15 under the name Intrust Bank Arena?
16 **A. Yes.**
17 Q. And are -- is there signage on the facility that
18 says Intrust Bank?
19 **A. Yes.**
20 Q. And Intrust Bank Arena?
21 **A. Yes.**
22 Q. If you would look at Exhibit Number 11, which I
23 think you have in front of you there.
24 **A. Oh, I'm open to it.**
25 Q. Could you tell us what that document is?

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1 **A. This is the contract for the naming rights.**
2 Q. And is it -- were you involved in negotiating
3 this contract?
4 **A. Yes.**
5 Q. And if you -- you said you had input into the
6 language of the contract --
7 **A. Yes.**
8 Q. -- back when it was being negotiated; is that
9 correct?
10 **A. Yes.**
11 Q. And let's take a look at the second page of
12 Exhibit 11. If you look at the second whereas
13 statement, it states that the arena will be open
14 for general pub -- to the general public on
15 January 3rd, 2010. Do you see that?
16 **A. Yes.**
17 Q. Does that help you refresh your recollection as
18 to when it was the facility was opened?
19 **A. Yes.**
20 Q. And would it have been January 2010?
21 **A. Yes.**
22 Q. If we jump down to paragraph 2, about midway, a
23 little over midway through the page. Do you see
24 that?
25 **A. Yes.**

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1 Q. Beginning with exclusive title sponsorship, do
2 you see that paragraph?
3 **A. Yes.**
4 Q. And the contract -- or the document states,
5 quote, exclusive title sponsorship. From and
6 after the effective date, Intrust shall be the
7 exclusive title sponsor of the arena subject to
8 the terms and conditions set forth herein, end
9 quote. Did I read that correctly?
10 **A. Yes.**
11 Q. And is Intrust the exclusive title sponsor for
12 the arena?
13 **A. Yes.**
14 Q. And then the next section under 3(a), do you see
15 the section that begins total fee?
16 **A. Yes.**
17 Q. And the second sentence there states, quote, the
18 total fee shall include a naming rights fee of
19 $7,500,000 and an exclusive suite of $1.25
20 million and shall be paid in 49 installments as
21 set forth herein, end quote. Do you see that?
22 **A. Yes.**
23 Q. Did -- has Intrust obligated itself to pay 7.5
24 million dollars for the exclusive naming rights
25 on the arena?

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1 **A. Yes.**
2 Q. And your -- there's a yearly fee of about
3 $350,000?
4 **A. Yes.**
5 Q. And you mentioned that earlier in the budget --
6 **A. Yes.**
7 Q. -- for 2012, correct?
8 **A. Yes.**
9 Q. So the $350,000 a year in payments, that is
10 included as part of the marketing budget for
11 Intrust; is that correct?
12 **A. Yes.**
13 Q. But for a specific year, it's just the $350,000?
14 **A. Yes.**
15 Q. You know, I want to clarify, look -- if you look
16 at the agreement there on (c), it references
17 subsequent payments, and it appears that it
18 begins at 25,000 and then it adjusts to 75 --
19 175,000 up until 2034. Do you see that?
20 **A. Yes.**
21 Q. Okay. So when we looked earlier and there was a
22 $300,000 entry, was that for the first
23 installment payment that's shown on subparagraph
24 (b)?
25 **A. Yes.**

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1 Q. Okay. So the monthly -- or the yearly payments,
2 then, going forward, including this year, would
3 just be 175,000; is that correct?
4 **A. No, we pay -- it's -- we pay twice a year**
5 **175,000.**
6 Q. Ah, okay. Ah, I see that. So it is the --
7 **A. It's 350 every year, and that includes -- that's**
8 **the whole package --**
9 Q. Very good.
10 **A. -- payment.**
11 Q. Very good. What type of -- could you give us an
12 example of some of the events that are held at
13 the Intrust Bank Arena?
14 **A. Specific examples?**
15 Q. Sure.
16 **A. Billy Joel and Elton John, Taylor Swift,**
17 **Bon Jovi, Aerosmith.**
18 Q. As far as sporting events, what type of sporting
19 events are held there?
20 **A. NBA basketball, college basketball, hockey.**
21 Q. And as far as the NBA basketball, are those
22 exhibition games occasionally during the year?
23 **A. Yes.**
24 Q. Because there's not an NBA team actually in
25 Wichita?

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1 **A. There is not.**
2 Q. And the basketball, college basketball games,
3 which universities play there?
4 **A. Wichita State and Kansas State.**
5 Q. And just so we're all clear, that's not their
6 home stadium or home arena, it's they play
7 several games a year there; is that correct?
8 **A. That's correct.**
9 Q. Do you know approximately how many games Wichita
10 State played at Intrust Bank Arena during this
11 year?
12 **A. This year, they -- well, this year, they haven't**
13 **played any.**
14 Q. Well --
15 **A. Last year, they played one game at the arena.**
16 **And the arena also hosted the women's NCAA**
17 **tournament early rounds.**
18 Q. Why -- were you involved in the decision to
19 invest in the naming rights of the Intrust Bank
20 Arena?
21 **A. Yes.**
22 Q. And why did Intrust choose to invest in the
23 naming rights for the arena?
24 **A. We chose to invest in the naming rights because**
25 **we wanted that facility to be successful, it was**

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1 **important for the future of downtown Wichita.**
2 **It's also important for our brand to be**
3 **associated with something that's so significant**
4 **in our community, this being our headquarters.**
5 **It also offers us regional and national**
6 **recognition as a brand and just elevates the**
7 **perception of Intrust Bank in people's minds.**
8 **And we've had exposure for our brand outside**
9 **of -- outside of this market as a result of it.**
10 Q. Okay. Could you --
11 **A. Our logo has been on national TV during the**
12 **broadcast of college basketball games. And when**
13 **individuals are looking at tour schedules for**
14 **events, Intrust Bank Arena is listed as one of**
15 **the stops on that tour, so there's definitely**
16 **some notoriety that comes along with that.**
17 Q. And does Intrust use the Intrust Bank Arena in
18 its marketing efforts?
19 **A. Yes.**
20 Q. How so?
21 **A. Well, part of our agreement with the arena is to**
22 **conduct cross-promotional activities, so we work**
23 **with them closely to identify opportunities to**
24 **promote the arena to our customer base and to**
25 **use our resources to help them be successful in**

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1 **filling seats in the arena; and then they also**
2 **offer us opportunity to promote the bank within**
3 **their marketing efforts.**
4 Q. Is the name on the arena, the Intrust Bank
5 Arena, viewable from any major highways?
6 **A. Yes.**
7 Q. Okay. And which highways?
8 **A. U.S. 54.**
9 Q. And that runs along the south side of the arena;
10 is that correct?
11 **A. Yes.**
12 Q. Can you see -- have you driven U.S. 54 just
13 south of the arena?
14 **A. Yes.**
15 Q. Can you see the Intrust Bank Arena name from the
16 highway there?
17 **A. Yes.**
18 Q. Is it difficult to see?
19 **A. No.**
20 Q. We began the day, Ms. Elliott, talking about the
21 various services and products that Intrust
22 offers. Do you recall that?
23 **A. Yes.**
24 Q. And you had prepared a list, Exhibit 1 -- 1B, as
25 well as 1A, listing out Intrust's various

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1 services; is that right?
2 **A. Yes.**
3 Q. In your experience, do other banks offer the
4 types of services that you have listed out in
5 Exhibit 1?
6 **A. Yes.**
7 Q. Let's look at Exhibit 13, it's in front of you.
8 The fourth row --
9 **A. Yes.**
10 Q. -- is marketing/promotion/advertising spent each
11 year for the last ten years. Do you see that?
12 **A. Yes.**
13 Q. Did you have any involvement in preparing that
14 row of information?
15 **A. No, those -- the dollar amounts provided there**
16 **were provided by Linda Cullinan, and they're**
17 **specific only to products that fall in our**
18 **credit or -- our credit card division.**
19 Q. And when you are marketing -- when you are
20 marketing Intrust products, for example
21 Relationship checking, do you itemize your
22 marketing spend related to each aspect of
23 Relationship checking?
24 **A. No, I do not.**
25 Q. And is bill pay or online bill pay included with

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1 Relationship checking?
2 **A. Yes.**
3 Q. And do you break out bill pay as a separate
4 category of advertising expense?
5 **A. No, I do not.**
6 Q. And why do you not?
7 **A. Because we generally -- it's generally included**
8 **in an overall topic that we might be covering or**
9 **paying for, so we don't -- we don't itemize our**
10 **expenses based on what products we're promoting**
11 **or services or what mark. It's based on how**
12 **that expense was incurred or what type of an**
13 **expense it was.**
14 Q. And is online bill pay part of the consumer
15 checking account services that Intrust offers?
16 **A. Yes.**
17 Q. And in your experiences, is online bill pay
18 offered by other banking institutions?
19 **A. Yes.**
20 Q. And as a corporate representative of Intrust, do
21 you believe that online bill pay is a
22 banking-related service?
23 **A. Yes.**
24 Q. And do you believe that external transfers are a
25 banking-related service?

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1 **A. Yes.**
2 Q. Do you believe that direct deposit into a
3 customer's account is a banking service?
4 **A. Yes.**
5 Q. Do you believe that the issuance of credit cards
6 is a banking-related service?
7 **A. Yes.**
8 Q. And is the issuance of debit cards a
9 banking-related service?
10 **A. Yes.**
11 Q. Is the issuance of the Intrust gift cards a
12 banking service?
13 **A. Yes.**
14 Q. Does Intrust offer a mobile banking service?
15 **A. Yes.**
16 Q. Could you generally describe that service for
17 us?
18 **A. It's a service where customers can access their**
19 **accounts through their mobile device; they can**
20 **pay bills, transfer funds, view their account**
21 **balances, view transactions, and deposit checks.**
22 Q. And do you believe that the services offered
23 through Intrust mobile banking product are to be
24 banking services?
25 **A. Yes.**

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1 Q. And does Intrust use its Intrust trademarks and
2 brands with its mobile banking service?
3 **A. Yes.**
4 **MR. NGUYEN:** Objection, vague and
5 ambiguous.
6 **BY MR. NORTON:**
7 Q. Are you familiar with the Intrust Bank iPhone
8 application?
9 **A. Yes.**
10 Q. Okay. And does the -- do you personally -- or
11 have you used that service before?
12 **A. Yes.**
13 Q. And does the Intrust Bank iPhone application
14 include the Intrust brand within it?
15 **A. Yes.**
16 Q. And is it viewable by a person who is using the
17 iPhone --
18 **A. Yes.**
19 Q. -- with that application?
20 **A. Yes.**
21 Q. Are you familiar with the Intrust mobile banking
22 Android application?
23 **A. Yes.**
24 Q. By the way, does part of your marketing include
25 marketing for these mobile banking services?

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1 **A. Yes.**
2 Q. And does the Android phone mobile banking
3 application for Intrust display the Intrust name
4 and brand?
5 **A. Yes.**
6 Q. And the mobile banking services that you
7 described a few minutes ago, are those utilized
8 using both the iPhone or an Android phone?
9 **A. Yes.**
10 Q. Are Intrust customers who use mobile banking on
11 either the Android or iPhone able to use the
12 online bill payment service?
13 **A. Yes.**
14 Q. We touched on this earlier, but I -- but I want
15 to make sure that we fully understand, so could
16 you explain for us or summarize the -- a
17 consumer's ability to direct deposit funds using
18 an iPhone or Android phone?
19 **A. You want me to explain --**
20 Q. Yeah.
21 **A. -- how it works?**
22 Q. Correct.
23 **A. Okay.**
24 Q. From the consumer's standpoint, how does it
25 work?

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1 **A. Sure. They log into the mobile banking app on**
2 **their device, they select deposit, and then they**
3 **use the camera's phone to take a picture of the**
4 **front and back of the check, that's uploaded,**
5 **they verify, they enter the amount of the check,**
6 **and then they submit it and that's trans --**
7 **transmitted to Intrust Bank where we process,**
8 **approve that, and the funds are deposited into**
9 **their account.**
10 Q. Okay. And I think you misspoke and said
11 camera's phone, you meant phone's camera?
12 **A. I meant the phone's camera, thank you.**
13 Q. Does Intrust offer its customers any sort of
14 fraud prevention or protection?
15 **A. Yes.**
16 Q. If you would take a look at Exhibit Number 29.
17 And could you tell us what that document is?
18 **A. This is a page from our website that discusses**
19 **how Intrust protects customers from fraud, our**
20 **privacy policy, it provides educational**
21 **information to customers on how they can protect**
22 **themselves. We also list fraud alerts and give**
23 **them the instructions on how to report fraud or**
24 **suspicious activity on their accounts.**
25 Q. And if you look towards the bottom of the page

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1 that's Bates numbered 04121, you'll see there's
2 a web address there?
3 **A. Yes.**
4 Q. For Intrust Bank, back slash, about, back slash,
5 fraud, dash, center ASPX. Do you see that?
6 **A. Yes.**
7 Q. And then the date is October 8, 2013?
8 **A. Yes.**
9 Q. And as the corporate representative for Intrust,
10 do you believe that the description of Intrust's
11 services under this fraud center page are
12 accurate?
13 **A. Yes.**
14 Q. And does Intrust offer those services?
15 **A. Yes.**
16 Q. Okay. Let's look at the second page. And if
17 you look towards the bottom of the second page
18 there, you will see that same date of August --
19 I'm sorry, October 8, 2013. Do you see that?
20 **A. Yes.**
21 Q. Have you -- well, did you have any involvement
22 in preparing or drafting the web pages that are
23 shown in Exhibit 29?
24 **A. Just the review and editing and approval.**
25 Q. And if you look on that second page, Bates

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1 number 4122, at the top, it is described as
2 fraud types and detection. Do you see that?
3 **A. Yes.**
4 Q. And then there are four tabs beginning with
5 recent fraud alerts, card alert FAQ, fraud
6 types, and fraud detection. Do you see that?
7 **A. Yes.**
8 Q. And as you flip through the pages, you will see
9 that the tabs change color, I suspect -- or I
10 suppose for each tab?
11 **A. Yes.**
12 Q. Have you reviewed these statements that are made
13 on Intrust's website before?
14 **A. Yes.**
15 Q. And you had at least some involvement in, at
16 least, oversight related to what was published
17 in these pages; is that correct?
18 **A. Yes.**
19 Q. As a corporate representative for Intrust, do
20 the statements related to fraud protection and
21 detection shown in Exhibit 29 accurately state
22 the services that are offered by Intrust?
23 **MR. NGUYEN:** Objection, lacks
24 foundation, best evidence rule, document
25 speaks for itself.

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1 **A. Yes.**
2 **BY MR. NORTON:**
3 Q. At the very least, you would agree that the
4 statements that are made in these Internet pages
5 in Exhibit 29 are published by Intrust to its
6 customers and potential customers via the
7 Internet, correct?
8 **A. Yes.**
9 Q. If you would, take a look at Exhibit Number 14.
10 And could you tell us what that document is?
11 **A. This is from our website, and it is an**
12 **explanation of our personal online banking**
13 **service.**
14 Q. Okay. Did you have any involvement in drafting
15 or preparing Exhibit 14?
16 **A. Yes, the review, editing, and publishing.**
17 Q. Okay. Towards the top upper left, there's a
18 date of February 11th, 2014. Do you see that?
19 **A. Yes.**
20 Q. And then towards the bottom is a web address to
21 a Intrust Bank page. Do you see that?
22 **A. Yes.**
23 Q. The -- Exhibit 14, is that information stated
24 there published on the Internet and available to
25 Intrust customers and prospective customers?

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1 **A. Yes.**
2 Q. And could you tell us just real quickly what
3 personal online banking is?
4 **A. It's a service where customers can log in online**
5 **securely and access the information on all of**
6 **their bank accounts with Intrust, including**
7 **credit cards, loans, and deposit accounts. They**
8 **can see their balances, view transactions,**
9 **transfer funds, order checks, make payments, set**
10 **up alerts, pay bills.**
11 Q. And the -- you'll notice there are a number of
12 bullet pointed paragraphs or statements towards
13 the top third of that page. Do you see that?
14 **A. Yes.**
15 Q. The -- are the bullet pointed items there
16 services that Intrust provides to its customers
17 who have a personal online banking account?
18 **MR. NGUYEN:** Objection, lacks
19 foundation, violates best evidence rule,
20 document speaks for itself. Let me just
21 state a ongoing objection so you can move
22 past it which is --
23 **MR. NORTON:** I don't want to do
24 that.
25 **MR. NGUYEN:** But let me just, I'm

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1 just going to state an ongoing objection to
2 all of the -- the use of all of the website
3 pages from the intrustbank.com website with
4 respect to purporting that they are
5 evidence of the actual services used.
6 Obviously, they describe what Intrust Bank
7 says it offers, but I'm objecting to their
8 use as -- on hearsay purposes, as well --
9 on hearsay grounds, as well to the extent
10 you're saying that that actually is the
11 service or actually describes the services.
12 **MR. NORTON:** Here's the deal, Jimmy.
13 We can either do it this way or we can
14 spend days going through every single item,
15 and that just doesn't make a lot of sense
16 to me.
17 **MR. NGUYEN:** Like I said, I state a
18 standing objection, which is I don't think
19 the website pages themselves demonstrate
20 all of the services that are being claimed.
21 They certainly describe what Intrust Bank
22 says it claims in some situations to offer
23 services, but that's not necessarily the
24 same thing. So that's my objection.
25 **MR. NORTON:** All right. I mean,

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1 that's fine.
2 **MR. NGUYEN:** You can -- you can ask
3 whatever questions you feel appropriate.
4 **MR. NORTON:** We'll just be here
5 longer.
6 **BY MR. NORTON:**
7 Q. Okay. Ms. Elliott, we'll go through each bullet
8 point, okay? The first bullet point is check
9 your balance. Are Intrust customers able to
10 check their balance using personal online
11 banking?
12 **A. Yes.**
13 Q. Are customers able to monitor account activity
14 using personal online banking?
15 **A. Yes.**
16 Q. Are customers able to transfer funds using
17 personal online banking?
18 **A. Yes.**
19 Q. Are customers able to order checks using
20 personal online banking?
21 **A. Yes.**
22 Q. Are customers able to stop payments using
23 personal online banking?
24 **A. Yes.**
25 Q. Are customers able to make credit card payments

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1 using personal online banking?
2 **A. Yes.**
3 Q. Are customers able to create alerts using
4 personal online banking?
5 **A. Yes.**
6 Q. Are customers able to view statements and images
7 as described using personal online banking?
8 **A. Yes.**
9 Q. Are customers able to open accounts using
10 personal online banking?
11 **A. Yes.**
12 Q. Are customers able to communicate with Intrust
13 customer service using their online banking?
14 **A. Yes.**
15 Q. Are customers able to use the Quicken banking
16 service described here using their -- using
17 personal online banking?
18 **A. Yes.**
19 Q. And are customers able to enroll in mobile
20 banking using personal online banking?
21 **A. Yes. And customers are also able to pay bills**
22 **using personal online banking.**
23 Q. Have you used any of the ser -- have you used
24 Intrust personal online banking?
25 **A. Yes.**

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1 Q. And have you used all of the bullet pointed
2 services that are identified here?
3 **A. Yes.**
4 Q. Okay. You receive account statements from
5 Intrust?
6 **A. Yes.**
7 Q. Are the Intrust -- is the Intrust trademark used
8 on statements, account statements that are sent
9 to customers?
10 **A. Yes.**
11 **MR. NGUYEN:** Objection, vague as to
12 which mark.
13 **BY MR. NORTON:**
14 Q. Is the Intrust Bank mark used on statements that
15 are sent to customers?
16 **A. Yes. And the Intrust Wealth Management mark is**
17 **used on Intrust Wealth Management statements**
18 **that are sent to customers.**
19 Q. Let's look at -- well, how is online banking
20 marketed?
21 **A. We market that through collateral pieces that we**
22 **deliver to customers, through e-mail, through**
23 **our website, social media, and direct mail.**
24 Q. And is the Intrust Bank mark used in those
25 materials when they are -- when they leave

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1 Intrust?
2 **A. Yes.**
3 Q. Are you aware of any document that Intrust sends
4 to a customer that does not include the word
5 Intrust?
6 **A. No.**
7 Q. Let's look at Exhibit Number 16. Can you tell
8 us what that document is?
9 **A. This is a page from our website that explains**
10 **our mobile banking service.**
11 Q. And at the top of the page in the upper left
12 there's a date of February 18th, 2014. Do you
13 see that?
14 **A. Yes.**
15 Q. And down at the bottom is the web address for
16 this page. Do you see that?
17 **A. Yes.**
18 Q. Did you have any involvement in drafting or
19 preparing the documents or the pages that are
20 included in Exhibit 16?
21 **A. Yes.**
22 Q. Okay. What was your involvement?
23 **A. Layout, writing, review, approval.**
24 Q. And are the pages that are shown in Exhibit 16
25 published by Intrust to the public using the

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1 Internet?
2 **A. Yes.**
3 Q. The first page on Exhibit 16, towards the top,
4 it has a mobile banking identifier. Do you see
5 that?
6 **A. Yes.**
7 Q. And then with four tabs, overview, apps, web,
8 and text. Do you see that?
9 **A. Yes.**
10 Q. And if you flip through each page, you will see
11 that a different tab is highlighted or
12 referenced. Do you see that?
13 **A. Yes.**
14 Q. And you had involvement in preparing all of
15 these pages?
16 **A. Yes.**
17 Q. Do you use the Intrust mobile banking
18 application?
19 **A. Yes, I do.**
20 Q. And the services that are identified as
21 available with the mobile application as shown
22 on Exhibit 16, do you use all of those services?
23 **A. Yes, I do.**
24 Q. And if we look on page -- the second page,
25 there's a category, the tab for mobile apps. Do

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1 you see that?
2 **A. Yes.**
3 Q. And there's a bullet pointed list that begins
4 with, mobile apps offer a fast and easy way to
5 view account balances, view account activity,
6 pay bills, transfer funds, locate banking
7 centers and ATMs, and deposit checks. Do you
8 see that?
9 **A. Yes.**
10 Q. And does Intrust offer those services to its
11 clients?
12 **A. Yes.**
13 Q. Or customers, I should say?
14 **A. Yes.**
15 Q. And have you used all of those services
16 personally?
17 **A. Yes.**
18 Q. When did Intrust begin offering mobile banking?
19 **A. Can I reference another document --**
20 Q. Sure.
21 **A. -- so I can get it right? We began offering**
22 **mobile banking in 2011.**
23 Q. Okay. And which document are you referencing?
24 **A. I'm referencing Exhibit 10.**
25 Q. And that's the list of --

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1 **A. Ad campaigns.**
2 Q. Okay. And what is it about that document that
3 helped refresh your recollection?
4 **A. We ran an ad campaign for mobile check deposit**
5 **in 2012.**
6 Q. The services that are listed on the second page
7 of Exhibit 16 under the mobile banking apps tab,
8 those bullet pointed items, are those banking
9 services?
10 **A. Yes.**
11 Q. Do other banks offer -- well, in your analysis
12 and investigation of what other banks offer as
13 part of your marketing responsibilities, have
14 you found other banks offer the same type of
15 mobile banking --
16 **A. Yes, they do.**
17 Q. -- services? Have you -- in your experience in
18 marketing, have you noticed or has there been a
19 shift with your customers moving to mobile
20 banking?
21 **A. Yes, there's been a shift.**
22 Q. Okay. Could you describe that for us briefly?
23 **A. Customers have adopted new ways of accessing**
24 **their bank accounts. They haven't necessarily**
25 **given up other ways of accessing their accounts,**

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1 **but they -- there is a trend of customers using**
2 **mobile and online accessibility. There's an**
3 **increasing trend of that activity and a**
4 **decreasing trend of teller face-to-face**
5 **transaction activity.**
6 Q. And have you adjusted your marketing as a
7 result?
8 **A. Yes, we have.**
9 Q. How so?
10 **A. Our marketing has -- has added on online and**
11 **mobile advertising. We haven't necessarily**
12 **taken away any channel of communication, but**
13 **we've added on. And we've decreased our amount**
14 **of dollars spent on certain forms of**
15 **communication that are not as widely used as**
16 **they once were.**
17 Q. And have you increased the amount of marketing
18 spend on Internet or mobile based?
19 **A. Yes, we have.**
20 Q. Okay. Let's look at Exhibit Number 17. And can
21 you tell us what that document is?
22 **A. This is an example of an animated web banner**
23 **promoting online banking and bill pay.**
24 Q. And if you look at each page --
25 **A. And our virtual checking account.**

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1 Q. What's a virtual checking account?
2 **A. It was an account that we offered. We no longer**
3 **offer it, but it was an account where we**
4 **encouraged customers to use electronic channels**
5 **of banking versus a traditional banking center.**
6 Q. Okay. And you said you still -- customers still
7 use both electronic -- or have the ability to
8 use both electronic and physical interaction
9 with Intrust?
10 **A. Yes.**
11 Q. This banner that is shown beginning with
12 Exhibit -- or this image beginning with
13 Exhibit 7 (sic), is that a GIF, G-I-F, image
14 that changes without having to click on it or
15 click to another page?
16 **A. Right, it's -- yeah, you do not have to click**
17 **through, it's animated.**
18 Q. Okay. And where -- or approximately when did
19 Intrust use this -- the images that are shown in
20 Exhibit 17?
21 **A. Again, my mem -- I'm sorry, my memory is**
22 **horrible, but I'm going to go back to Exhibit**
23 **10, and we began using that advertising in 2010,**
24 **associated with the Fall Image Campaign.**
25 Q. And was it published via the World Wide Web?

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1 **A. Yes.**
2 Q. And on what -- on what websites or web addresses
3 was this image published?
4 **A. I cannot say for sure, but it was either**
5 **published through a network where ads are**
6 **displayed on sites based on geography, or it was**
7 **displayed on kansas.com, which is the website**
8 **for our local newspaper.**
9 Q. And you said it may have been displayed on a
10 network, what network are you referring to?
11 **A. I can't remember the name of the company, but**
12 **you can purchase advertising through a network**
13 **by where our ad could be presented on any number**
14 **of sites but only in the geography that we**
15 **purchase. So if an individual is visiting**
16 **cnn.com in Wichita, our ad may be presented if**
17 **it was a part of the network purchase.**
18 Q. And as marketing director, have there been times
19 in the past where an Intrust ad is published on
20 the same site -- or on cnn.com?
21 **A. Yes, it's possible that that's happened in the**
22 **past.**
23 Q. The Exhibit Number 18, what is that?
24 **A. This is an animated online ad that was placed on**
25 **the Kansas Chamber site.**

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1 Q. And --
2 **A. So each rectangle was a different -- was**
3 **presented separately. So it rotated through**
4 **each of those rectangle items there.**
5 Q. And did you have any involvement in preparing
6 this ad?
7 **A. Just the approval of it.**
8 Q. And approximately when was this ad published on
9 the Internet?
10 **A. I cannot say for sure.**
11 Q. Would it have been in the last five years?
12 **A. It would have been, yeah. It could have been**
13 **from 2005 to 2 -- to today.**
14 Q. It states, animated GIF for Kansas Chamber's
15 online newsletter, open quote, The Business
16 Advocate, end quote. Do you see that?
17 **A. Yes.**
18 Q. What is The Business Advocate?
19 **A. As far as I am aware, it's the Kansas Chamber's**
20 **newsletter.**
21 Q. Okay. Let's look at Exhibit Number 19 and can
22 you tell us what this document is?
23 **A. This is a proof of an e-mail that we sent to**
24 **new -- to customers who have just enrolled in**
25 **personal online banking.**

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1 Q. And were you involved in preparing this
2 document?
3 **A. Yes.**
4 Q. And approximately what time period did Intrust
5 send -- well, let me back up. Did Intrust --
6 you said this was approved. Did Intrust
7 actually send this ad to its new customers at
8 sometime?
9 **A. Yes.**
10 Q. Okay. Do you remember approximately what that
11 time period was?
12 **A. It -- to the best of my knowledge, we started**
13 **sending these in 2012, and we still send them**
14 **today.**
15 Q. All right. Let's look at Exhibit Number 20.
16 Can you tell us what that document is?
17 **A. This is an image that was posted, along with**
18 **some content, on Facebook. Through Intrust**
19 **Bank's account.**
20 Q. Did you have any involvement in preparing the ad
21 that is shown in Exhibit 20?
22 **A. The approval.**
23 Q. And do you remember approximately when it was
24 published on Facebook?
25 **A. Approximately January 31st but I do not know**

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1 **what year.**
2 Q. Would it have been in the last --
3 **A. Was it this year?**
4 Q. Would it have been in the last five years?
5 **A. It would have been in the last five years, yes.**
6 Q. And does Intrust continue to publish ads with
7 the word Intrust on its Facebook page?
8 **A. Yes.**
9 Q. And let's look at Exhibit Number 21 and can you
10 tell us what that document is?
11 **A. This is a page of -- out of Intrust Bank's**
12 **Facebook profile, it's a screen capture of our**
13 **wall, and it lists a post that we've made.**
14 Q. And you're familiar with the Facebook -- with
15 the Intrust Facebook page?
16 **A. Yes.**
17 Q. And are the posts that are shown on this Exhibit
18 21, were those published on Intrust's Facebook
19 page?
20 **A. Yes, they were.**
21 Q. Do you have any involvement in what statements
22 or posts are made by Intrust Bank on its
23 Facebook page?
24 **A. Yes.**
25 Q. What's your involvement?

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1 **A. The ideas, writing, approval.**
2 Q. And if we look on this Exhibit Number 21, you'll
3 see that each post bears a date. For example,
4 the top leftmost one with the red highlighted
5 box is May 17th, 2012. Do you see that?
6 **A. Yes.**
7 Q. And was this post made by Intrust on May 17th,
8 2012?
9 **A. Yes.**
10 Q. And the other posts that show dates, do you
11 believe those posts were made on the dates
12 shown?
13 **A. Yes.**
14 Q. Is Intrust's Facebook page set to private or
15 public?
16 **A. Public.**
17 Q. Let's look at Exhibit Number 22 and can you tell
18 us what that document is?
19 **A. This is a screen shot from the pandora.com**
20 **website showing our ad placement within their**
21 **application.**
22 Q. Okay. And were you involved in the decision to
23 advertise on Pandora?
24 **A. Yes.**
25 Q. And why was that decision made?

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1 A. We were targeting a certain demographic and were
2 talking about a product that was appealing to
3 that demographic, and one of the media that that
4 demographic consumed was Pandora.
5 Q. And what demographic are you referring to?
6 A. Young adults.
7 Q. And when did Intrust run ads on pandora.com?
8 A. 2010.
9 Q. And the screen shot that is shown on Exhibit 22,
10 does that accurately reflect the ad that Intrust
11 ran on pandora.com during that time period?
12 A. Yes.
13 Q. Okay. Let's look at Exhibit Number 23. Can you
14 tell us what this document is?
15 A. This is a screen shot showing Intrust Bank's ad
16 on Pandora's mobile app.
17 Q. Okay. And were you involved in the decision to
18 advertise on the Pandora app?
19 A. Yes.
20 Q. And during what -- well, does the -- do the
21 images shown on Exhibit Number 23 accurately
22 reflect the ads that Intrust ran on the Pandora
23 application?
24 A. Yes.
25 Q. And that's an application for cellular phones;

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1 is that correct?
2 A. Correct.
3 Q. During what time period did Intrust run ads on
4 Pandora and its mobile -- mobile media?
5 A. 2012.
6 Q. And let's look at Exhibit Number 24. Can you
7 tell us what this document is?
8 A. This is an ad promoting online banking.
9 Q. And were you involved in preparing this ad?
10 A. Yes.
11 Q. What was your involvement?
12 A. The review and approval.
13 Q. And where was this ad published, what media?
14 A. For certain, this was published in our banking
15 centers. It may have been in print elsewhere,
16 but I can't say for sure.
17 Q. Okay. Do you recall whether it was placed in
18 any magazines?
19 A. I do not recall.
20 Q. Okay. And what time period was Exhibit Number
21 24 used as advertising material by Intrust?
22 A. I cannot say for sure.
23 Q. Was it within the last five years?
24 A. I'd say it was within the last eight years.
25 Q. Okay. Let's look at Exhibit Number 25, can you

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1 tell us what this document is?
2 A. It's an -- this is an example of a print ad
3 featuring a customer story.
4 Q. And where were these ads placed?
5 A. They were placed in The Wichita Business Journal
6 or the Wichita Eagle.
7 Q. And those are local newspapers --
8 A. Yes.
9 Q. -- out of Wichita; is that correct?
10 A. Yes.
11 Q. If you -- were these ads also placed online?
12 A. Yes, in a different format.
13 Q. Okay. And what format were these ads placed
14 online?
15 A. They were sized for whatever banner ad placement
16 we were purchasing, and they were animated.
17 Q. On what websites were these ads that are
18 depicted in 25, or something similar to them,
19 published?
20 A. I can't say for sure. We purchased either local
21 websites or purchased a network buy or both.
22 Q. And who do you purchase your network buys from?
23 A. Sullivan Higdon & Sink makes those purchases for
24 us.
25 Q. And I notice on this Exhibit Number 25 towards

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1 the bottom there are -- the image appears to be
2 of a sky or clouds or something of that --
3 A. Yes.
4 Q. Did -- in its advertising, has Intrust used
5 clouds?
6 A. Yes, we have.
7 Q. And for how long has Intrust been using clouds
8 in its marketing?
9 A. Since 2004, 2005, somewhere around in that time
10 period.
11 Q. And were you involved in the decision to use
12 clouds as part of Intrust's marketing?
13 A. Yes.
14 Q. And what was the reason the clouds were used?
15 A. They were used in conjunction with using the
16 sign, Intrust Bank monument -- or pylon sign in
17 advertising, and it just represented the
18 cloud -- the sign being in the cloud, showing in
19 the sky, and they were friendly and positive,
20 and that was what we were trying to portray.
21 Q. Let's look at Exhibit Number 26, can you tell us
22 what this document is?
23 A. This is a brochure provided to customers to walk
24 them through the details of personal online
25 banking.

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1 Q. And were you -- did you have involvement in
2 that, preparing Exhibit Number 26?
3 **A. The review and approval.**
4 Q. Okay. And if you look on the second page,
5 you'll see that there is a copyright with the
6 date 2010, 2012. Do you see that?
7 **A. Yes.**
8 Q. When was this Exhibit Number 26 first utilized
9 by Intrust in its marketing?
10 **A. 2010.**
11 Q. And is this document that's Exhibit Number 26
12 made available online?
13 **A. Yes. It was in print and online.**
14 Q. And is it currently being used?
15 **A. No, it is not.**
16 Q. Okay. For how long was it used?
17 **A. It was used through 2012.**
18 Q. And does Intrust use something different to
19 convey the same information now?
20 **A. Yes, we do.**
21 Q. And what do you use now?
22 **A. We have a different brochure that is used in**
23 **print, and then our website content is**
24 **accessible to customers with similar**
25 **information.**

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1 Q. Was the Exhibit Number 26 as used -- as
2 published online, was it linked to the Intrust
3 website?
4 **A. Yes, you could access it from the Intrust**
5 **website.**
6 **MR. NORTON:** Yeah, you can go ahead
7 and take it. Sorry, I was thinking about
8 using -- we can go off the record.
9 (Discussion held off the record.)
10 **BY MR. NORTON:**
11 Q. And do the statements made in Exhibit 26
12 accurately reflect the personal online banking
13 services that Intrust offers to its customers?
14 **A. Yes.**
15 Q. All right.
16 **MR. NORTON:** Let's -- just so you
17 get an idea on time, what I'm thinking,
18 Jimmy, is I've got one more ad, I don't
19 think there are any more, and then a couple
20 of, like, 60-second videos, and then I'll
21 be done with this part of it so maybe we
22 take a short lunch --
23 **MR. NGUYEN:** Sure.
24 **MR. NORTON:** -- whatever you guys
25 want to do.

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1 **MR. NGUYEN:** Okay.
2 **BY MR. NORTON:**
3 Q. Okay. Let's look at Exhibit Number 27 and can
4 you tell us what Exhibit Number 27 -- what the
5 documents shown in Exhibit Number 27 are?
6 **A. This is an ad that we ran promoting our**
7 **stability and strength and the I trust message.**
8 Q. And approximately when was this ad run?
9 **A. 2008.**
10 Q. Okay. And where was it run?
11 **A. It was run in Kansas and Oklahoma.**
12 Q. Okay. Any other specific -- well, what type of
13 media?
14 **A. Billboards, online, print.**
15 Q. And we're talking -- just so we're clear, we're
16 talking about the first page, 2725; is that
17 right?
18 **A. Oh, well, this is an -- this is -- this is a**
19 **brochure, sorry. The first two pages -- if**
20 **these are meant to be together, it's meant to be**
21 **a brochure.**
22 Q. I don't think they are, I think those got
23 included.
24 **A. Okay. Well, this looked like an ad to me --**
25 Q. You're talking about --

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1 **A. -- because it would --**
2 Q. Hang on. Hang on, Lisa.
3 **A. Yeah.**
4 **MR. NORTON:** I think the second two
5 pages of Exhibit 27 were included
6 inadvertently.
7 **MR. NGUYEN:** So are you going to
8 remove them from the exhibit?
9 **MR. NORTON:** Yeah.
10 **MR. NGUYEN:** So Exhibit 27 is just
11 going to be a page, 02725?
12 **MR. NORTON:** Yeah.
13 **BY MR. NORTON:**
14 Q. Okay. And just so we're clear, Lisa, when you
15 were testifying about where Exhibit 27 -- making
16 statements about Exhibit 27, you were referring
17 only to document number 2725?
18 **A. Yes.**
19 **MR. NGUYEN:** So just so we're clear,
20 page -- what was page 2721, which was
21 originally the second page of Exhibit 27,
22 does not go with the cover page, the first
23 page, 2725? Because I thought there was
24 some mention of it being part of a
25 brochure. I'm just trying --

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1 **MR. NORTON:** Yeah, we can clarify.
2 **BY MR. NORTON:**
3 Q. Ms. Elliott, Bates numbered pages 2725 and 2721,
4 do those go together, or are they separate
5 documents?
6 **A. They do not go together, they are separate**
7 **documents.**
8 Q. Okay.
9 **A. This is an ad.**
10 Q. That's okay.
11 **A. This was a part of a brochure that had a similar**
12 **cover so ...**
13 Q. Okay. So 2725 is the ad that we've marked as
14 Exhibit 27, and 2721 was part of a different ad
15 and we have now removed it from the exhibit
16 notebook.
17 Ms. Elliott, do you have involvement in
18 video marketing materials that Intrust uses?
19 **A. Yes.**
20 Q. Generally speaking, what's your involvement with
21 regard to video marketing?
22 **A. Approval, review of concepts, decisions on how**
23 **they're produced.**
24 Q. I want -- we're going to play just a handful of
25 videos, the first is a video with Bates number

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1 0-04039.
2 **MR. NGUYEN:** 04039, okay.
3 **MR. NORTON:** 04039.
4 **(AT THIS TIME, THE VIDEO PLAYED:**
5 Intrust Bank has a great spin on trust with
6 dozens of convenient locations. I don't
7 need one of these to get some of this. And
8 Intrust extended hours mean more of this
9 when it's time for me to deposit this.
10 Plus with online banking and bill pay, I
11 just need one of these to pay all of these.
12 That's why no matter where life's twists
13 and turns take me, I can always say I Trust
14 Intrust.)
15 **BY MR. NORTON:**
16 Q. Okay. The video --
17 **MR. NGUYEN:** And does that have an
18 exhibit number?
19 **MR. NORTON:** The exhibit number for
20 the CD --
21 **MR. NGUYEN:** Is 28.
22 **MR. NORTON:** -- is 28.
23 **MR. NGUYEN:** That's one of the
24 videos on the CD?
25 **MR. NORTON:** Right, I figured it

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1 would be easier to just put them all on one
2 disk.
3 **BY MR. NORTON:**
4 Q. Okay. Ms. Elliott, the video that we just
5 played that is Bates number 04039, do you
6 recognize that video?
7 **A. Yes.**
8 Q. Did you have any involvement related to that
9 video?
10 **A. Yes.**
11 Q. And what was your involvement?
12 **A. Review of the concept, approval, editing, or**
13 **input into editing, and decisions on where to**
14 **use it.**
15 Q. And approximately when was that video first
16 published?
17 **A. That would have been in 2010.**
18 Q. And where was it published?
19 **A. It was published on our website, it was also**
20 **used on TV.**
21 Q. And is it -- was it also published on YouTube?
22 **A. It is now, but I'm not sure when we put it on**
23 **YouTube.**
24 Q. And does Intrust maintain a YouTube site?
25 **A. Yes, we do.**

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1 Q. Approximately when did Intrust begin using a
2 YouTube site?
3 **A. I can't say for sure.**
4 Q. Has it been in the last five years --
5 **A. Yes.**
6 Q. -- or longer? Is the video that we just
7 watched, 04039, available at Intrust's YouTube
8 site?
9 **A. Yes.**
10 Q. All right. And 04039, did it reference bill pay
11 in that video?
12 **A. Yes.**
13 Q. Is that the Intrust online bill pay service that
14 we've been discussing here today?
15 **A. Yes.**
16 Q. All right. Let's look at 04 -- I'm sorry, let
17 me start again, look at 0-04040.
18 **(AT THIS TIME, THE VIDEO PLAYED:** My
19 new virtual checking account from Intrust
20 Bank virtually eliminates checks. That's
21 because I can do my shopping by swiping
22 this and pay all my bills with this.
23 Virtual checking with free online bill pay,
24 just one more reason why I Trust Intrust.)
25 **BY MR. NORTON:**

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1 Q. The video that we just watched, 0404,
2 approximately when was that video published?
3 **A. 2010.**
4 Q. Were you involved in the -- in the content shown
5 in that video?
6 **A. Yes.**
7 Q. What was your involvement?
8 **A. I'm trying to say the same thing I said last**
9 **time, but I keep mixing words. Review,**
10 **approval, input into content, how it was**
11 **produced, where it was published.**
12 Q. And that video included the cloud background,
13 didn't it?
14 **A. It did.**
15 Q. It also included references to bill pay?
16 **A. Yes.**
17 Q. And by the way, bill pay and online bill pay,
18 are those the same things?
19 **A. Yes.**
20 Q. And is that video, 0404, available at Intrust's
21 YouTube page?
22 **A. Yes.**
23 Q. Was it also available at intrustbank.com?
24 **A. I believe so.**
25 Q. And was it also run on television?

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1 **A. Yes.**
2 Q. Let's look at -- let's look at the video that is
3 O-04042.
4 **(AT THIS TIME, THE VIDEO PLAYED:**
5 Trust is taking a path to financial
6 security. Trust is a steady hand to guide
7 you. Trust is a reliable partner for the
8 long haul. For all you trust in life,
9 there's a bank that shares your interests,
10 your values, and brings years of proven
11 experience to your community. No wonder so
12 many people say I Trust Intrust. Intrust
13 Bank.)
14 **BY MR. NORTON:**
15 Q. Approximately -- well, did you have any
16 involvement related to this video ad?
17 **A. Yes.**
18 Q. What was your involvement?
19 **A. Approval of the concept, how it was produced,**
20 **input into editing, and where it was published.**
21 Q. And where was it published?
22 **A. TV.**
23 Q. Is it also available on the Intrust YouTube
24 site?
25 **A. Yes.**

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1 Q. Is it also available through intrustbank.com?
2 **A. No.**
3 Q. Approximately when was 04042 published for the
4 first time?
5 **A. I believe that was published in 2010.**
6 Q. Okay. And --
7 **A. No, wait, I'm sorry. I have to go back to**
8 **Exhibit 10.**
9 Q. Sure.
10 **A. At least I can remember that. 2008.**
11 Q. And in that video, it displays the cloud imagery
12 that we've talked about earlier, correct?
13 **A. Correct.**
14 Q. And it also -- did that video also mention --
15 **A. It did not --**
16 Q. Did not.
17 **A. -- mention bill pay.**
18 Q. Okay. Let's look at one more.
19 **MR. NGUYEN:** And which Bate number
20 is this one?
21 **MR. NORTON:** This one is Bates
22 number 04053.
23 (AT THIS TIME, THE VIDEO PLAYED.)
24 **BY MR. NORTON:**
25 Q. And the ad that we just watched that is 04053

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1 was -- included text but not voice-over; is that
2 correct?
3 **A. Correct.**
4 Q. Were you involved in that -- marketing that
5 video?
6 **A. Yes.**
7 Q. What was your involvement?
8 **A. Approval of the concept and input into editing**
9 **and final approval.**
10 Q. Approximately when was 04053 published?
11 **A. I cannot say for sure, but it was within the**
12 **last five years.**
13 Q. And where was it published?
14 **A. It was -- it was an event video, so it was only**
15 **played at a specific event and then published on**
16 **our YouTube channel.**
17 Q. And do you recall which event it was used at?
18 **A. It was Kansas City Chamber, small business**
19 **celebration event, and we've used it for two to**
20 **three years at that event; it's an annual event.**
21 Q. I think that is all of the ads.
22 **A. Can I go back -- can I go back and edit**
23 **something I've said?**
24 Q. Well, hang --
25 **A. Not yet?**

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1 Q. Hang on. Let's chat just real quick.
2 **A. Oh, okay.**
3 Q. Well, you know, if you need to make a
4 correction, Ms. Elliott, would you like to make
5 a correction to something you testified to
6 earlier today?
7 **A. Yes, I would.**
8 Q. Okay. Would you give us that correction?
9 **A. Earlier I said that we had published two of**
10 **those videos on intrustbank.com, and I cannot**
11 **say for certain that we did.**
12 Q. Okay.
13 **A. We may have.**
14 Q. You can say for certain that they were on the
15 Intrust YouTube page?
16 **A. No, I can't say for certain that they were on**
17 **intrustbank.com.**
18 Q. No, no, I'm asking you a question --
19 **A. Oh.**
20 Q. -- can you say for certain --
21 **A. Oh, can I say --**
22 Q. -- they were on youtube.com?
23 **A. Yes, I can say for certain that they are on**
24 **YouTube.**
25 Q. Great, thank you for that clarification.

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1 **A. Sure.**
2 **MR. NORTON:** Do you guys want to --
3 we can have lunch brought in, there are a
4 few restaurants around here.
5 (Thereupon, a lunch recess was
6 taken; whereupon the following was
7 had.)
8 **BY MR. NORTON:**
9 Q. I want you to look at Number 12.
10 **A. Oh, 12.**
11 Q. Yep. And, Ms. Elliott, we are back on the
12 record after a short lunch break. Could you
13 identify Exhibit Number 12 for us?
14 **A. This is an example of an ad that the Intrust**
15 **Bank Arena published.**
16 Q. And did you have any involvement with regard to
17 this ad?
18 **A. Approval of the ad and the use of the mark.**
19 Q. And I notice at the top it says, now open,
20 Intrust Bank Arena, Wichita, Kansas. Can you
21 tell us approximately when this ad was
22 published?
23 **A. Approximately in January of 2010.**
24 Q. And where was it published?
25 **A. I believe, based on the contents of the ad, this**

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1 **was published in a trade publication --**
2 Q. And what --
3 **A. -- that would have been seen by event promoters,**
4 **those that book acts in facilities.**
5 Q. Okay. And do you recall the name of any of the
6 trade publications?
7 **A. I do not.**
8 Q. Okay. And does the image of the facility there,
9 does that accurately depict the -- at least this
10 angle of the Intrust Bank Arena?
11 **A. Yes, it does.**
12 Q. Now, you'll see in the far right there, you see
13 Intrust Bank Arena on the facility itself?
14 **A. Yes.**
15 Q. On the top of the building, is there also the
16 Intrust Bank Arena signage there?
17 **A. Yes.**
18 Q. And the Intrust Bank Arena sign that sits on
19 the top of the building, can you see that from
20 U.S. 54?
21 **A. Yes.**
22 Q. And is the signage that is on the top of the
23 building, is it larger than what is shown on the
24 front of the building or on the side of the
25 building in Exhibit 12?

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1 **A. Yes.**
2 Q. All right. Let's look at Exhibit 15. And can
3 you tell us what Exhibit 15 is?
4 **A. This is a page from our website that discusses**
5 **online bill pay.**
6 Q. Okay. And on the upper left-hand corner, you'll
7 see there's a date, February 11, 2014, and at
8 the bottom, there is a web address linking to
9 the Intrust Bank site. Do you see that?
10 **A. Yes.**
11 Q. Was this page published on the Internet as of
12 the January 11 -- or February 11th, 2014 date?
13 **A. Yes.**
14 Q. Did you have any involvement in preparing the
15 contents of Exhibit 15?
16 **A. Just the review and approval of it.**
17 Q. Okay. Approximately when did the contents of
18 Exhibit 15, when were they first published?
19 **A. I do not know.**
20 Q. Okay. Would it have been within the last five
21 years?
22 **A. Yes.**
23 Q. And what is your understanding of what the
24 content of Exhibit 15 is?
25 **A. It explains how you can enroll in bill pay and**

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1 **what the functionality is --**
2 Q. And --
3 **A. -- as well as fees associated.**
4 Q. And have you -- have you personally applied for
5 online bill pay?
6 **A. Yes.**
7 Q. And does -- do the statements in Exhibit 15
8 accurately reflect how a customer goes about
9 signing up for online bill pay?
10 **A. Yes.**
11 Q. And have you used online bill pay?
12 **A. Yes.**
13 Q. And do the statements in Exhibit 15 accurately
14 state how a customer can use online bill pay?
15 **A. Yes.**
16 Q. Okay. Let's move to a little different subject.
17 Are you involved in decisions related to whether
18 another person or company is infringing on
19 Intrust's trademarks?
20 **A. Yes.**
21 Q. What is your involvement?
22 **A. My involvement is the review of entities that**
23 **we've identified as a potential infringement,**
24 **discussing whether or not we wish to pursue**
25 **those -- those infringements and how we want to**

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1 **pursue them.**
2 Q. Okay. Can you describe for us what the process
3 is in determining whether to take action against
4 another company or person?
5 **A. Sure. We look at -- depending on how we**
6 **discovered the entity, we look at whether or not**
7 **they've -- they're in business currently or just**
8 **looking to start using that mark, how closely it**
9 **is to the mark that we maintain, their**
10 **geographic footprint, as well as what type of**
11 **industry or service they're providing, and if it**
12 **aligns with the service we're providing as well.**
13 **And I think that's it.**
14 Q. Okay. Do you also consider the cost of whether
15 to pursue a specific individual or company?
16 **A. Yes, we do.**
17 Q. Okay. Does Intrust subscribe to any monitoring
18 services?
19 **A. Yes, we do.**
20 Q. Okay. Can you tell us about that?
21 **A. We subscribe to Corsearch, and they provide us**
22 **regular reports on potential trademark conflicts**
23 **that would exist in categories that -- that**
24 **we've established as priority categories,**
25 **including the Intrust Bank mark and a couple of**

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1 **other trademarks that we have.**
2 Q. Okay. What other trademarks have you identified
3 as priority?
4 **A. There's a product that we have called Depozips**
5 **that we monitor, and we also monitor NestEgg U,**
6 **which is another entity that the bank owns that**
7 **does not carry the Intrust mark.**
8 Q. And do you monitor specifically the words
9 Intrust Bank, or do you monitor Intrust?
10 **A. We monitor anything that has the word Intrust in**
11 **it.**
12 Q. Okay. Including other spellings?
13 **A. Yes.**
14 Q. What is the procedure if you receive a
15 notification from Corsearch?
16 **A. We'll review it and dismiss any that we think**
17 **are irrelevant. And those that we find**
18 **interesting, we will discuss internally with our**
19 **counsel and decide how we want to proceed.**
20 Q. Okay. And how do you determine -- or are there
21 factors that you take into account in discerning
22 whether a use is irrelevant or interesting?
23 **A. Yes, we -- we receive a lot of possible**
24 **conflicts related to NestEgg that aren't**
25 **relevant to the type of business that is for us**

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1 **and --**
2 Q. And just for today, let's just focus --
3 **A. Just on Intrust?**
4 Q. -- on Intrust.
5 **A. Okay. Well, at this point, we haven't found**
6 **anything that we haven't wanted to pursue, so I**
7 **don't know that we've dismissed anything, to the**
8 **best of my knowledge --**
9 Q. Okay.
10 **A. -- that fell under the Intrust category.**
11 Q. If you receive a notification from Corsearch
12 related to Intrust and you decide to pursue it,
13 what is the next step?
14 **A. The next step is to talk with our external**
15 **counsel about how to proceed and what we need**
16 **to -- and how we need to approach it, whether we**
17 **send a letter, a cease and desist letter or some**
18 **other type of communication.**
19 Q. Okay. Let's talk about some specific examples.
20 If you would look at page 33 of your exhibit
21 notebook.
22 **MR. NGUYEN:** You mean Exhibit 33?
23 **MR. NORTON:** 33, yeah.
24 **BY MR. NORTON:**
25 Q. Can you tell us what this document is?

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1 **A. This is a settlement agreement between Intrust**
2 **Financial Corp. and Intrust Mortgage, Inc. from**
3 **Texas.**
4 Q. And were you involved in the efforts against
5 Intrust Mortgage, Inc. in Texas?
6 **A. Yes.**
7 Q. Can you tell us what Intrust Mortgage, you know,
8 what they were doing that caught your attention?
9 **A. They were offering a line of services that we**
10 **also offered.**
11 Q. And then ultimately, what was the resolution
12 related to Intrust Mortgage, Inc.'s use of the
13 name Intrust?
14 **A. They agreed to stop utilizing that name.**
15 Q. Okay. Would the resolution be reflected in the
16 agreement that is Exhibit 33?
17 **A. Yes.**
18 Q. And does the 33 accurately reflect the agreement
19 between Intrust Financial Corporation and
20 Intrust Mortgage, Inc.?
21 **A. Yes.**
22 Q. If you look at the top, the effective date is
23 April of 2009. Do you see that?
24 **A. Yes.**
25 Q. And is that a correct date as to when this

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1 agreement went into effect?
2 **A. Yes.**
3 Q. Do you recall offhand how you became aware of
4 Intrust Mortgage, Inc.?
5 **A. I do not recall.**
6 Q. Okay. And typically before filing a lawsuit,
7 does Intrust send out a cease and desist letter?
8 **A. Yeah, typ -- I think that's our typical**
9 **behavior.**
10 Q. Do you recall in the Intrust Mortgage, Inc.
11 whether an initial letter was sent?
12 **A. To the best of my knowledge it was.**
13 Q. And would you review -- do you review the cease
14 and desist letters before they're sent?
15 **A. Yes, I do.**
16 Q. All right. Let's look at Exhibit Number 34.
17 And can you tell us what this document is?
18 **A. This is a doc -- this is a letter from Foulston**
19 **Siefkin to the counsel for InTrust Wealth**
20 **Management, and I believe this was a cease and**
21 **desist letter.**
22 Q. And that was sent to InTrust Wealth Management,
23 as it appears it was sent to an attorney; is
24 that correct?
25 **A. Yes.**

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1 Q. Did you review this letter before it was sent?
2 **A. Yes, I did.**
3 Q. And according to the date of the letter, it was
4 sent on January 20th, 2010, does that correspond
5 with your recollection?
6 **A. Yes.**
7 Q. And if you could look at Exhibit Number 35, you
8 will see that this is a printout from the PTO
9 Trademark Electronic Search System with InTrust
10 Wealth Management. Do you see that?
11 **A. Yes.**
12 Q. Okay. And the date is shown at the bottom of
13 February 18th, 2014. Do you see that?
14 **A. Yes.**
15 Q. And then the web, the link or whatnot is shown
16 in the bottom left. Do you see that?
17 **A. Yes.**
18 Q. And the -- well, do you recall how Intrust
19 Bank's dispute with InTrust Wealth Management
20 ended?
21 **A. To the best of my knowledge, it has not ended.**
22 **They have -- we have not come -- we have not**
23 **resolved that issue.**
24 Q. Okay. Do you see on page 35 that, according to
25 the PTO's cert system, under the goods and

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1 services, it shows that their application has
2 been abandoned?
3 **A. Yes.**
4 Q. And do you know, was that application abandoned
5 before or after Intrust's attorneys sent Exhibit
6 Number 34?
7 **MR. NGUYEN:** Objection, lacks
8 foundation, the witness hasn't testified as
9 to any knowledge about abandonment of the
10 application.
11 **BY MR. NORTON:**
12 Q. Before you looked at this Exhibit Number 35,
13 were you aware that the PTO shows InTrust Wealth
14 Management's application having been abandoned?
15 **A. No.**
16 Q. Okay, very good. Let's look at Exhibit Number
17 36. And can you tell us what Exhibit Number 36
18 is?
19 **A. It says this is a letter from Foulston Siefkin**
20 **to a representative of InTrust Wealth Management**
21 **in Texas, and it's a cease and desist letter.**
22 Q. Okay. And were you provided a copy of this
23 letter before it was sent?
24 **A. Yes, I was.**
25 Q. And the date on the letter is October 13, 2011.

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1 Do you see that?
2 **A. Yes.**
3 Q. And does that -- does that correspond with your
4 recollection of when this letter was sent?
5 **A. Yes.**
6 Q. And did you give approval of the contents of the
7 letter before it was sent?
8 **A. Yes.**
9 Q. Okay. Exhibit Number 37, can you tell us what
10 that document is?
11 **A. I'm -- I'm reading it.**
12 Q. Do you recall receiving a copy of these e-mails?
13 **A. I -- I do. These documents are correspondence**
14 **between our attorney and the representative from**
15 **InTrust Wealth Management.**
16 Q. And you'll see in the first paragraph where
17 Mr. Stroud writes on October 31st, 2011, the
18 second sentence says, for clarification, I have
19 stopped all use and marketing or anything to do
20 with InTrust as I have told you multiple times.
21 Does that help you refresh your recollection as
22 to whether there's an ongoing dispute with
23 InTrust Wealth Management?
24 **A. Yes.**
25 Q. And how so?

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1 **A. It provides clarification that he stopped using**
2 **the name and has not come up with a name for the**
3 **business that he was in.**
4 Q. Let's look at Exhibit Number 38. And could you
5 tell us what this document is?
6 **A. This is a letter from Foulston Siefkin to a**
7 **representative with Intrust Corp. in Oklahoma**
8 **City asking them to cease and desist use of --**
9 **of that name.**
10 Q. And were you provided with a copy of this letter
11 prior to it being sent?
12 **A. Yes.**
13 Q. And did you approve the contents of this letter?
14 **A. Yes.**
15 Q. The date on the letter is July 16th, 2012, does
16 that correspond with your recollection of when
17 the letter was sent?
18 **A. Yes.**
19 Q. If you look now at Exhibit 39. Can you tell us
20 what that document is?
21 **A. This is a document from -- from an individual**
22 **representing Intrust Corp. in Oklahoma stating**
23 **that they have changed their name.**
24 Q. And you'll see at the top the date of this
25 letter is August 16th, 2012. Do you see that?

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1 **A. I do.**
2 Q. Were you provided with a copy of this letter?
3 **A. Yes.**
4 Q. Was -- do you recall approximately when you were
5 provided with a copy of the letter?
6 **A. I do not recall, but I assume it was in August**
7 **of 2012.**
8 Q. Do you have any reason to believe that you
9 didn't receive a copy of this letter in August
10 2012?
11 **A. No.**
12 Q. What -- well, strike that. And to your
13 knowledge, has Intrust Corp. stopped using
14 Intrust in its name?
15 **A. Yes, to the best of my knowledge.**
16 Q. Look at Exhibit Number 40. Can you tell us what
17 Exhibit Number 40 is?
18 **A. This is a complaint filed by Foulston Siefkin on**
19 **our behalf with Entrust Federal Credit Union in**
20 **Virginia.**
21 Q. And did you review the complaint before it was
22 filed?
23 **A. Yes, I did.**
24 Q. And did you approve of the complaint before it
25 was filed?

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1 **A. Yes.**
2 Q. If you look at page 11, it's dated October 11th,
3 2011, does that date correspond with your
4 recollection of approximately when the -- this
5 complaint was filed?
6 **A. Yes.**
7 Q. And then if you look at Number -- Exhibit Number
8 41, and you'll see that that is a printout,
9 again, from the Patent and Trademark Offices,
10 Trademark Electronic Search System, dated at the
11 bottom February 18th, 2014, and then with a web
12 address to the United States -- or the U.S. PTO.
13 You see that?
14 **A. I do.**
15 Q. Have you viewed this document before today?
16 **A. Yes.**
17 Q. Have you ever run searches on the PTO website to
18 look for specific names or marks?
19 **A. Yes, I have.**
20 Q. And in the past several months or maybe -- well,
21 what is your understanding of the current status
22 of the Entrust Federal Union -- or Federal
23 Credit Union lawsuit?
24 **MR. NGUYEN:** Objection, calls for
25 speculation, lacks foundation.

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1 **A. We settled with that entity.**
2 **BY MR. NORTON:**
3 Q. And that lawsuit has been dismissed; is that
4 right?
5 **A. Yes.**
6 Q. Since the -- from the time that the lawsuit was
7 dismissed until now, have you checked the PTO
8 search records for Intrust related to the
9 federal credit union?
10 **A. No, I have not.**
11 Q. What is your understanding of the settlement
12 reached with Entrust Federal Credit Union as far
13 as the Intrust mark?
14 **A. The settlement was that they could continue**
15 **using the name, but it was restricted to a**
16 **particular geographic area.**
17 Q. What was that geographic area?
18 **A. I can't say for certain, but it was within the**
19 **area of Virginia that they were servicing at the**
20 **time.**
21 Q. Was it limited to a certain category of
22 customers?
23 **A. Yes, it was.**
24 Q. And what was that category?
25 **A. Members of a certain religious community.**

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1 Q. Was it related to specific churches?
2 **A. Yes, it was related to the Baptist Church.**
3 Q. And were you involved in negotiating of that
4 settlement agreement?
5 **A. Yes, I was.**
6 Q. And did you review and approve it?
7 **A. Yes, I did.**
8 Q. Okay. Let's look at Exhibit Number 42. And can
9 you tell us what that document is?
10 **A. This is a complaint filed for Intrust Financial**
11 **Corp. against the Entrust Companies in Arizona.**
12 Q. Did you have any involvement related to this
13 lawsuit?
14 **A. Yes.**
15 Q. The document there, Number 42, is titled
16 Complaint, did you review that document before
17 it was filed?
18 **A. Yes, I did.**
19 Q. If you look to the, oh, third-to-the-last page,
20 you'll see that the complaint is dated March 5th
21 of 2013. Do you see that?
22 **A. Yes.**
23 Q. Does that date correspond with your recollection
24 of when this document was filed?
25 **A. Yes.**

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1 Q. And what was the -- well, has the lawsuit
2 between Intrust Financial Corporation and
3 Entrust Companies, and that's Entrust with an E,
4 has that case been resolved?
5 **A. Yes.**
6 Q. And what was the resolution?
7 **A. They stopped using the name and adopted another**
8 **name.**
9 Q. Okay. Do you know approximately what amount
10 Intrust has spent on its enforcement efforts
11 over, say, the last five years?
12 **A. Approximately 170,000.**
13 Q. And is that primarily legal fees?
14 **A. Yes.**
15 Q. Okay. Let's take a look at Exhibit 30.
16 Ms. Elliott, prior to today, have you had an
17 opportunity to look at the website, at the
18 domain name of ntrust.com, and that is
19 N-T-R-U-S-T, dot com?
20 **A. Yes.**
21 Q. Exhibit Number 30, can you tell us what that
22 document is?
23 **A. That is a view of the ntrust.com website.**
24 Q. And that's nTrust with an N?
25 **A. Right.**

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1 Q. Okay. And on the upper right-hand -- left-hand
2 corner, it's dated January 17th of 2014. Do you
3 see that?
4 **A. I do.**
5 Q. And then on the bottom -- oh, I'm sorry, at the
6 top center is the web address that we just
7 discussed; is that right?
8 **A. Yes.**
9 Q. And did you recall looking at this page or at
10 that web address around January 27th, 2014?
11 **A. Yes.**
12 Q. And does Exhibit 30 accurately reflect what was
13 displayed on the ntrust.com web page on January
14 27th, 2014?
15 **A. Yes.**
16 Q. Let's look at Exhibit Number 31 and can you tell
17 us what Exhibit Number 31 is?
18 **A. This is a view of the intrustbank.com web**
19 **page -- website.**
20 Q. And if you look on the bottom left, you'll see
21 that there is a web address there for domain
22 name I-N-T-R-U-S-T-B-A-N-K, dot com. Do you see
23 that?
24 **A. Yes.**
25 Q. In the upper left-hand corner is the date

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1 February 18th, 2014. Do you see that?
2 **A. Yes.**
3 Q. And have you -- around that time period of
4 February 18th, 2014, did you have an opportunity
5 to look at the intrustbank.com website?
6 **A. Yes.**
7 Q. Okay. And have you compared Exhibit -- the web
8 page identified on Exhibit 30 with the web page
9 identified in Exhibit 31?
10 **A. Yes.**
11 Q. Are there any similarities between the two web
12 pages?
13 **A. Yes.**
14 Q. Can you tell us what those are?
15 **MR. NGUYEN:** Before you go on this
16 line of questioning, I'll just enter an
17 objection - and then you can ask the
18 witness whatever questions you need - with
19 respect to Exhibit 30 based upon any
20 assumption that you would make that that
21 is, A, out of the ntrust.com website or how
22 we would ever operate in the United States.
23 **MR. NORTON:** Are you saying that
24 that's not the ntrust.com -- or nTrust with
25 an N's website?

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1 **MR. NGUYEN:** First of all, I'm not
2 certain, my client here is not certain
3 that's even the accurate printout of the
4 website as of that date. And, second, the
5 point we're making is the services offered
6 by my client on its website are
7 geographically -- are geographically driven
8 and change based upon territory, and so
9 what -- you can ask the witness whatever
10 questions you want, I just don't want you
11 or the witness to make the assumption that
12 that would be how my client's website or
13 services would operate in the United
14 States.
15 **MR. NORTON:** I don't think you quite
16 answered my question, though, is ntrust.com
17 owned by your client?
18 **MR. NGUYEN:** What I'm saying -- yes,
19 it is.
20 **MR. NORTON:** Okay.
21 **MR. NGUYEN:** I'm just --
22 **MR. NORTON:** I got everything else,
23 I just wanted ...
24 **BY MR. NORTON:**
25 Q. All right. Ms. Elliott, and have you -- could

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1 you describe for us the similarities between
2 Exhibit 30 ntrust.com and Exhibit 31
3 intrustbank.com?
4 **MR. NGUYEN:** The question is similar
5 web pages or the marks?
6 **A. The web pages, sorry.**
7 **MR. NGUYEN:** Then I'm going to
8 object as to relevance.
9 **MR. NORTON:** As to what?
10 **MR. NGUYEN:** Relevance.
11 **BY MR. NORTON:**
12 Q. Go ahead, Ms. Elliott.
13 **A. Similarities between the two web pages, a large**
14 **visual graphic at the top, the use of the white**
15 **iPhone device with a web -- web something shown**
16 **on the screen. The blue color that's used in**
17 **solid blocks and text is similar. And both**
18 **marks have a graphic in front of the word**
19 **Intrust, whether it's nTrust with an N or**
20 **Intrust with an I-N. And those -- those are the**
21 **most obvious similarities to me.**
22 Q. Do you see any similarities between the types of
23 services that are offered by nTrust as shown on
24 its web page?
25 **MR. NGUYEN:** Objection, lacks

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1 foundation, best evidence rule.
2 **A. The fact that there's a card on the nTrust, with**
3 **an N, site implies that they offer card**
4 **services, although it's under a MasterCard.**
5 **Platform is similar to what Intrust Bank might**
6 **offer, although that's not visible on the --**
7 **this representation of the home page of**
8 **intrustbank.com.**
9 **MR. NGUYEN:** I'm sorry, I think I
10 missed that, did you say platform?
11 **MR. NORTON:** Dot com.
12 **A. I said MasterCard platform, for lack of a better**
13 **word.**
14 **MR. NORTON:** Oh, I'm sorry.
15 **MR. NGUYEN:** Yeah.
16 **BY MR. NORTON:**
17 Q. Let me ask the question another way. You have
18 talked about several aspects of the two pages
19 that are visually similar. Is that a fair
20 statement?
21 **A. Yes.**
22 Q. What I'd like to do now is talk to you about
23 the services that are described on the nTrust,
24 with an N, website and compare those to Intrust
25 Bank's services --

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1 **A. Okay.**
2 Q. -- not necessarily to Intrust home page, okay?
3 **A. Okay.**
4 **MR. NGUYEN:** I'm just going to
5 assert that same running objection.
6 **MR. NORTON:** Sure.
7 **BY MR. NORTON:**
8 Q. And did you see -- do you see any services
9 identified on Exhibit 30 that are similar to
10 services offered by Intrust Bank?
11 **A. Just from the visuals, some sort of mobile**
12 **service and the prepaid MasterCard is similar.**
13 Q. Is that under the Cloud Money Cards?
14 **A. Yes.**
15 Q. Now, if you look under the type -- under that
16 Cloud Money Card identifier, the -- there's
17 several bullet points. Could you read us --
18 read into the record what those bullet points
19 state?
20 **A. Use at 32 million plus locations in 200**
21 **countries, get cash at 1.7 million ATMs**
22 **worldwide -- 1.7 million plus ATMs worldwide,**
23 **works online and in shops, bank-level security**
24 **and encryption.**
25 Q. If you turn to the second page of Exhibit 30,

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1 towards the bottom there is a section in larger,
2 blue type titled Bank-Level Security. Did I
3 read that correctly?
4 **A. Yes.**
5 Q. And would you agree that the bank-level security
6 statement is shown in a color that is similar to
7 colors used by Intrust Bank?
8 **A. Yes.**
9 Q. Okay. If you would, take a look at Exhibit
10 Number 32. And can you tell us what Exhibit
11 Number 32 is?
12 **A. It's a -- looks like a web page explanation of**
13 **nTrust Cloud Money.**
14 Q. Okay. And if you flip to the third page of that
15 exhibit, you'll see at the bottom there is a web
16 address, www dot N-T-R-U-S-T dot com, back
17 slash, how it works?
18 **A. Yes.**
19 Q. And the time -- or the date is February 18th,
20 2014. Do you see that?
21 **A. Yes.**
22 **MR. NGUYEN:** Objection, lacks
23 foundation that the witness accessed the
24 site on this date. Just lacks foundation.
25 **MR. NORTON:** Has to identify it

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1 first.
2 **BY MR. NORTON:**
3 Q. Ms. Elliott, did you view the nTrust web page
4 that is located at the address shown on the
5 third page of Exhibit 32 on or around February
6 18th, 2014?
7 **A. Yes.**
8 Q. And does the -- do the first three pages of
9 Exhibit 32 accurately reflect what you saw at
10 that web address?
11 **A. Yes.**
12 Q. And up at the top, do you see there where on the
13 first page it says, nTrust is coming soon to
14 your country, sign up to get our list? Do you
15 see that?
16 **A. Yes.**
17 Q. On the second page of Exhibit 32, there's a
18 category called pay. Do you see that?
19 **A. Yes.**
20 Q. If you could take just a minute to review that
21 section.
22 **A. Okay.**
23 Q. Okay. And the first sentence says, pay bills or
24 integrated businesses directly from within your
25 cloud for free, end quote. Do you see that?

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1 **A. Yes.**
2 Q. Does Intrust Bank offer any services similar to
3 what is described here?
4 **MR. NGUYEN:** Same objection,
5 contains an assumption that this website
6 printout would purport to represent how my
7 client would operate in the United States.
8 **BY MR. NORTON:**
9 Q. And you can go ahead and answer, Ms. Elliott.
10 **A. Yes.**
11 Q. What services does Intrust Bank offer that are
12 similar to the pay services described in Exhibit
13 32?
14 **A. Online bill pay.**
15 Q. And under the get paid section of Exhibit 32 on
16 the second page, do you see that?
17 **A. Yes.**
18 Q. In item number 1, it states, receive payment for
19 work performed, refunds, commissions, payouts or
20 payroll directly deposited into your cloud, end
21 quote. Does Intrust Bank offer any services
22 similar to what is shown in the get paid section
23 of the ntrust.com web page?
24 **A. Yes.**
25 Q. What services does Intrust Bank offer that are

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1 similar?
2 **A. Direct deposit.**
3 Q. And that would -- would that be a payroll direct
4 deposit?
5 **A. Payroll direct deposit is an example.**
6 Q. Okay. Are there other examples of direct
7 deposit?
8 **A. Direct deposit from the government, such as a**
9 **Social Security check.**
10 Q. Okay. And then if we look towards the bottom
11 under the category that is labeled as load card,
12 do you see that?
13 **A. Yes.**
14 Q. The last sentence of that section says, quote,
15 then you can withdraw cash from more than 1.7
16 million ATMs or make purchases at over 32
17 million MasterCard acceptance locations
18 worldwide, end quote. Does Intrust Bank offer
19 any services or products that are similar to
20 what is described under the load card section of
21 Exhibit 32?
22 **A. Yes.**
23 Q. What services or products?
24 **A. We offer credit cards and debit cards attached**
25 **to a checking account, all of which can be used**

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1 **at ATMs or to make purchases.**
2 Q. If you flip through Exhibit 32 to the fourth
3 page. Now, can you tell us what this document
4 is?
5 **A. This is a web page from nTrust, with an N, dot**
6 **com describing their bill pay, bill payment**
7 **service.**
8 Q. On the upper left-hand corner, you see there's a
9 date of January 27th, 2014?
10 **A. Yes.**
11 Q. And then the web address H-E-L-P, dot,
12 N-T-R-U-S-T, dot, C-O-M, back slash, bills,
13 dash, payment, dash, overview. Do you see that?
14 **A. Yes.**
15 Q. Did you look at the web page shown at that
16 address on or around January 27th of 2014?
17 **A. Yes.**
18 Q. And does the -- this page of Exhibit 32
19 accurately reflect what was displayed at that
20 web address when you viewed it?
21 **A. Yes.**
22 Q. And have you had an opportunity to read the bill
23 payment overview page for nTrust, with an N?
24 **A. Yes.**
25 Q. Is that service that they offer for paying

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1 bills similar to the service offered by
2 intrustbank.com?
3 **A. Yes.**
4 Q. There's a bolded section under the bills payment
5 overview that says, quote, use our online
6 payment service for your utility, telephone,
7 health insurance, mortgage, and other household
8 bills, end quote. Do you see that, that portion
9 of the bolded text?
10 **A. Yes.**
11 Q. Using Intrust Bank's online bill pay, can a
12 customer pay their utilities?
13 **A. Yes.**
14 **MR. NGUYEN:** Objection, lacks
15 foundation.
16 **BY MR. NORTON:**
17 Q. Can a customer pay their telephone bills?
18 **MR. NGUYEN:** Same objection.
19 **A. Yes.**
20 **BY MR. NORTON:**
21 Q. Can a customer pay their health insurance?
22 **MR. NGUYEN:** Same objection.
23 **A. Yes.**
24 **BY MR. NORTON:**
25 Q. Can a customer pay their mortgage or other

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1 household bills?
2 **MR. NGUYEN:** Same objection.
3 **A. Yes.**
4 **BY MR. NORTON:**
5 Q. Okay. Have you used the Intrust online bill
6 payment service?
7 **A. Yes.**
8 Q. And are you able to pay the types of bills that
9 we just discussed?
10 **A. Yes.**
11 Q. Let's take a look at the following page, and,
12 again, it is dated January 27th, 2014. Do you
13 see that?
14 **A. Yes.**
15 Q. And then the web address says H-E-L-P, dot,
16 N-T-R-U-S-T, dot, C-O-M, back slash, H-O-W,
17 dash, L-O-N-G, dash, D-O-E-S, dash, I-T, dash,
18 T-A-K-E, dash, F-O-R, dash, T-H-E, dash,
19 B-I-L-L-E-R, dash, T-O, dash, R-E-C-E-I-V-E,
20 dash, M-Y, dash, P-A-Y-M-E-N-T. Whoo. Do you
21 see that?
22 **A. Yes.**
23 Q. And on or around January 27th of 2014, did you
24 view the web page shown at that web address?
25 **A. Yes.**

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1 Q. And does this page 5 of Exhibit 32 accurately
2 reflect what you saw when you visited that web
3 address?
4 **A. Yes.**
5 Q. And then on the following page, you will see the
6 same date of January 27th, 2014. Do you see
7 that?
8 **A. Yes.**
9 Q. And then the web address at the top, I think the
10 easiest way to --
11 **MR. NORTON:** What do you think?
12 **MR. NGUYEN:** It's help.ntrust.com,
13 forward slash, with hyphens between the
14 words how can I pay my bills online using
15 nTrust.
16 **MR. NORTON:** Excellent, thank you,
17 Mr. Nguyen.
18 **BY MR. NORTON:**
19 Q. And around January 27th of 2014, did you view
20 the web page shown at that web address?
21 **A. Yes.**
22 Q. And does this page accurately reflect what you
23 saw when you visited that web page?
24 **A. Yes.**
25 Q. And let's look at the next page that is again

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1 dated January 27th, 2014, and the web address is
2 help.ntrust.com, slash, with hyphens in between
3 what do I need to have before paying my bill
4 online. We can get that for you if you -- and
5 did, Ms. Elliott, did you view that web address
6 on or around January 27th of 2014?
7 **A. Yes.**
8 Q. And is what is depicted on this sixth page of
9 Exhibit 32, does that accurately reflect what
10 you saw?
11 **A. Yes.**
12 Q. Now, with regard to Intrust Bank's online bill
13 pay service, do you have to be logged on to
14 utilize that service?
15 **A. Yes.**
16 **MR. NGUYEN:** Are you asking about
17 Intrust Bank?
18 **MR. NORTON:** Yeah, I know it's
19 confusing.
20 **MR. NGUYEN:** Okay. No, we don't
21 think so at all.
22 **MR. NORTON:** Yeah, I apologize.
23 **MR. NGUYEN:** I just wanted to
24 clarify it was Intrust Bank.
25 **MR. NORTON:** Gotcha.

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1 **BY MR. NORTON:**
2 Q. Ms. Elliott, when you use the intrustbank.com
3 online bill pay feature, do you have to -- do
4 you have to be logged on in order to pay a bill?
5 **A. Yes.**
6 Q. Do you have to select a payee?
7 **A. Yes.**
8 Q. Do you have to specify the amount of the
9 payment?
10 **A. Yes.**
11 Q. Are you limited by the funds that are in your
12 account?
13 **A. Yes.**
14 Q. And then do you type in the person who -- or
15 company to whom you wish to send it to?
16 **A. Yes.**
17 Q. From a marketing perspective in having looked at
18 the ntrust.com web pages, do you view nTrust as
19 a competitor of Intrust Bank?
20 **A. Yes.**
21 Q. From a marketing perspective, are you concerned
22 that Intrust Bank's customers may be confused as
23 to the source of bill payment services if
24 they're looking at the ntrust.com website?
25 **A. Yes.**

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1 **MR. NORTON:** Thank you, ma'am.
2 Those are all the questions that I have.
3 **MR. MACGREGOR:** I wonder if I could
4 request a five-minute break?
5 **MR. NORTON:** Sure.
6 (Thereupon, a recess was taken;
7 whereupon, the following was had.)
8
9 **CROSS-EXAMINATION**
10 **BY MR. NGUYEN:**
11 Q. Good afternoon, Ms. Elliott.
12 **A. Hi.**
13 Q. I represent the other party in the case, so it's
14 my turn to ask you some questions. Let's begin
15 by talking about the Intrust mark, as we've
16 heard you testify a lot about various marks with
17 the word Intrust in it. Your company holds
18 trademark registrations for a number of marks,
19 is that correct, with the word Intrust?
20 **A. Correct.**
21 Q. And we'll go through them, but as I understand
22 it in this case, there are 12 that are at issue,
23 which we'll go through. One of them just is for
24 the word Intrust; is that correct?
25 **A. Correct.**

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1 Q. And you also have a registration for Intrust
2 Bank, correct?
3 **A. Correct.**
4 Q. Was there a point in time in which the company,
5 through its marketing department, decided to
6 emphasize using the phrase Intrust Bank as the
7 identifier of the company as opposed to just
8 Intrust by itself?
9 **A. There -- in 1993 when the Intrust Bank mark was**
10 **selected, that was the mark that was used**
11 **primarily.**
12 Q. And would you say Intrust Bank is your company's
13 primary mark?
14 **A. Yes.**
15 Q. As opposed to Intrust by itself?
16 **A. Correct.**
17 Q. Why is that?
18 **A. Because we're a bank.**
19 Q. And the word --
20 **A. And it describes -- it better describes what**
21 **services we provide.**
22 Q. And the word Intrust was selected, as you
23 testified, because your company wanted customers
24 to understand that they could trust placing
25 their money or trust in Intrust Bank; is that

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1 correct?
2 **A. Correct.**
3 Q. And that's because the word intrust has a common
4 meaning to people; is that right?
5 **A. Correct.**
6 Q. And it's a word that is commonly used in the
7 English language?
8 **A. Yes.**
9 Q. I've noticed that in your usages of the Intrust
10 Bank or Intrust mark, the word Intrust is always
11 capitalized; is that correct?
12 **A. Correct.**
13 Q. Why is that?
14 **A. That's just our stylized preference for the**
15 **name; it more easily correlates to the graphic**
16 **design of the mark.**
17 Q. And is the capitalization important to the
18 identification of the mark in the minds of
19 consumers in your view?
20 **A. Yes, in my view, it is.**
21 Q. So when in instances where the word intrust is
22 not capitalized, you would agree that that
23 creates less of a possibility of confusion with
24 your company's mark?
25 **A. In an instance where our name is not**

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1 **capitalized?**
2 Q. In an instance when another company or another
3 person just uses the word intrust and the word
4 is not all capitalized, would you agree with me
5 that that creates less of a possibility of
6 confusion with your company's marks?
7 **A. I can't say for sure. I'm not sure that I**
8 **agree.**
9 Q. Does it depend on whether it's used in a
10 sentence, for example, as part of an ordinary
11 English language phrase?
12 **A. Yes, possibly.**
13 Q. In your -- let me refer you to the corporate ID
14 standards that you discussed before. Look at
15 Exhibit 5, please, and turn to the fourth page
16 of that, which is Bate number 02811. Do you see
17 there there is a sample of the Intrust logo with
18 the I design and the word Intrust in the middle
19 of the page? Do you see that?
20 **A. Yes.**
21 Q. If you could turn to Exhibit 6, which is the
22 updated Intrust Bank brand standards, which I
23 believe you testified went into effect in 2013;
24 is that correct?
25 **A. Correct.**

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1 Q. I looked through this while you were testifying,
2 and I did not see any samples of the Intrust
3 logo without the word bank or some other term.
4 Is that your understanding as well?
5 **A. Yes, it is my understanding.**
6 Q. So for the new bank, Intrust Bank brand
7 standards that were launched in 2013, did you
8 make a decision to no longer have usage of the I
9 in -- of the Intrust logo with just the I design
10 without the word bank?
11 **A. No, if I'm understanding your question**
12 **correctly, we did not make a conscious decision**
13 **to not use that mark. We made a conscious**
14 **decision to not include it in our brand**
15 **standards guide.**
16 Q. Okay.
17 **MR. NORTON:** I want to lodge an
18 objection because I've just looked through
19 a couple of pages and seen it without, so I
20 think that's an inaccurate statement.
21 **BY MR. NGUYEN:**
22 Q. The arena title sponsorship that you did for the
23 arena here in Wichita, the name on the arena is
24 not Intrust Arena, is that correct, it's Intrust
25 Bank Arena?

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1 **A. That's correct.**
2 Q. Is there a reason why you wanted Intrust Bank in
3 the name of the arena as opposed to just the
4 word Intrust by itself?
5 **A. Yes, there is.**
6 Q. What is that reason?
7 **A. It more accurately reflects the entity that we**
8 **are, we're Intrust Bank, and that's the company**
9 **that we wanted represented.**
10 Q. Because you want consumers, when they see the
11 mark, to know that you're a bank?
12 **A. Correct.**
13 Q. And the word -- having the word bank with the
14 word Intrust is important to communicating that
15 message to consumers?
16 **A. It is when we're talking about the bank.**
17 Q. Is it because you ever felt that consumers would
18 not identify the mark Intrust by itself as being
19 associated with the bank?
20 **A. No, absolutely not. In fact, when we were**
21 **making that decision, that was an argument that**
22 **many were making, and the public communicated**
23 **that they were surprised that we chose to name**
24 **the arena Intrust Bank Arena instead of Intrust.**
25 Q. Your Facebook page address is

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1 facebook.com/intrustbank; is that correct?
2 **A. Correct.**
3 Q. And your Twitter handle is Intrust Bank,
4 correct?
5 **A. Correct.**
6 Q. As opposed to Intrust by itself?
7 **A. Correct.**
8 Q. Do you know what your LinkedIn profile address
9 is for the --
10 **A. I'm sorry, I don't.**
11 Q. And were those conscious choices in naming the
12 Facebook page address and Twitter handle to
13 include the word bank?
14 **A. Yes.**
15 Q. You talked a lot during your testimony earlier
16 about banking services. What's your definition
17 of a banking service?
18 **A. Anything that relates to a customer's money and**
19 **how it's handled, whether they're borrowing**
20 **money, depositing money, moving their money**
21 **electronically, earning interest on their money,**
22 **investing it.**
23 Q. So anything related to a customer's money, even
24 if it's not provided by a bank?
25 **A. Even if the money doesn't come from the bank?**

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1 Q. (Nods head.)
2 **A. If the customer owns the money and they're**
3 **utilizing the bank's services -- could you**
4 **repeat that because I'm not sure what you're**
5 **asking?**
6 Q. I want to know what your understanding is of
7 banking services.
8 **A. A service -- any service the bank provides**
9 **that's related to a customer's money or account**
10 **held at the bank.**
11 Q. Okay. So anything a bank does with respect to a
12 customer's money is, in your definition,
13 automatically a banking service?
14 **A. Yes.**
15 Q. Okay. What if there are services provided by a
16 bank that relate to money that nonbank
17 institutions can provide, is that also a banking
18 service?
19 **A. Yes.**
20 Q. Why?
21 **A. Because a bank can provide it so, therefore,**
22 **it's a banking service.**
23 Q. Okay. So in your opinion, anything is a banking
24 service irrespective of whether your -- a
25 company has to be a bank to provide the service

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1 or not?
2 **A. If a service is provided by a bank, then it**
3 **falls in the category of a banking service.**
4 Q. So let's --
5 **A. Whether or not it's provided by any other**
6 **entity.**
7 Q. Okay. So let me take an example. Take a look
8 at Exhibit Number 1, which is the list of
9 services that you helped prepare that are
10 provided by your company.
11 **A. Okay.**
12 Q. So on the first page of Exhibit 1A under
13 Relationship checking, there is an example of a
14 bullet point of direct deposit services?
15 **MR. NORTON:** She's not on the right
16 page yet.
17 **A. Oh, you're on B?**
18 **BY MR. NGUYEN:**
19 Q. No, I'm on 1A.
20 **MR. NORTON:** Oh, are you? I'm
21 sorry, I misspoke.
22 **BY MR. NGUYEN:**
23 Q. Direct deposit services, you testified earlier
24 those can be provided by payroll services; is
25 that correct?

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1 **A. I'm not sure what I said earlier, but what this**
2 **means here, it means that the checking account**
3 **can be set up to receive a direct deposit from**
4 **another entity.**
5 Q. Okay. And that other entity could, for example,
6 be a payroll service which pays -- issues a
7 payment for employees, for example, in weekly or
8 monthly wages and deposit it directly into the
9 employee's bank account?
10 **A. Yes.**
11 Q. Okay. And the payroll company -- many payroll
12 companies provide that service; is that correct?
13 **A. I do not know the answer to that.**
14 Q. Do you receive your payment from your company
15 through a direct deposit?
16 **A. Yes, I do.**
17 Q. Okay. And that happens through a payroll
18 service; is that right?
19 **A. My bank -- my bank is a payroll service.**
20 Q. Are you familiar with third-party payroll
21 services out there that are not banks?
22 **A. I am not.**
23 Q. Okay. You also mentioned that direct deposits
24 can occur from government agency payments such
25 as Social Security?

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1 **A. Correct.**
2 Q. And so when the Social Security Administration
3 deposits a Social Security payment into a bank
4 customer's account, that is some -- that is a
5 form of direct deposit service; is that right?
6 **A. Yes.**
7 Q. Is that a banking service?
8 **A. Yes.**
9 Q. So the Social Security Administration is
10 engaging in banking services?
11 **A. It's a banking service because it comes in --**
12 **because the bank allows that payment to come**
13 **into that checking account.**
14 Q. The receipt of it by the bank --
15 **A. Yeah.**
16 Q. -- you say is a banking service?
17 **A. Yes.**
18 Q. What about the issuance of the payment by
19 whatever the source is?
20 **A. I don't know what the source is, so if it's**
21 **another bank, then, yes, it's a bank-provided**
22 **service; but if it's not, then it wouldn't be.**
23 Q. Got it. So if the sending source of the funds
24 is not a bank, then the sending of a payment
25 into direct deposit into a customer's bank

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1 account with your bank is not a banking service?
2 **A. Can you repeat that, please.**
3 Q. Sure. I'm just trying to confirm what you just
4 said, which is if the sender of monies into one
5 of your customer's bank accounts through a
6 direct deposit mechanism, if that sender is not
7 a bank, then their act of sending the money
8 directly into your customer's account is not a
9 banking service?
10 **A. Yeah, I wouldn't view that as a banking service.**
11 Q. Let's take a look at another example, electronic
12 money issuance and transfer service in the
13 Relationship checking bullet points. So are you
14 aware of -- what kind of institutions are you
15 aware of that provide some form of electronic
16 money transfer?
17 **A. Let's see, banks.**
18 Q. Okay.
19 **A. Credit card issuers.**
20 Q. Okay.
21 **A. PayPal.**
22 Q. Right.
23 **A. That's the end of my list.**
24 Q. What about Western Union, are you familiar with
25 Western Union?

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1 **A. Oh, I am, yes.**
2 Q. And Western Union offers a mechanism for
3 consumers to send money electronically?
4 **A. Yes.**
5 Q. Is Western Union a bank?
6 **A. To the best of my knowledge, no.**
7 Q. Okay. And so if it initiates an electronic
8 money transfer, you would agree that's not a
9 banking service; is that correct?
10 **A. Yes, in my opinion.**
11 Q. Okay. What about PayPal, are PayPal's issuance
12 of electronic money transfers, is that a banking
13 service?
14 **A. No, they're not a bank.**
15 Q. Okay. What about credit card issuers, if they
16 electronically transfer money, is that a banking
17 service?
18 **A. I think -- I think it is because I think they're**
19 **somehow connected to a bank. There's a bank**
20 **behind that.**
21 Q. Okay. Let's talk about stored-value cards and
22 gift cards which are another one of the items
23 that are on your list here of services your bank
24 offers. Is it your position that that is a
25 banking service?

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1 **A. Which item are you looking at?**
2 Q. Sure, gift cards --
3 **A. Oh, okay.**
4 Q. -- and stored-value cards.
5 **A. Okay.**
6 Q. Are those banking services?
7 **A. Yes.**
8 Q. What if they are provided by something that's
9 not a bank, is that a banking service still?
10 **A. To the -- to the best of my knowledge, there has**
11 **to be a bank behind that.**
12 Q. For example, have you -- are you a Starbucks
13 customer, do you like to go to Starbucks?
14 **A. I occasionally do.**
15 Q. Have you ever -- are you aware that Starbucks
16 offers prepaid cards?
17 **A. Yes.**
18 Q. Okay. Do you have one yourself?
19 **A. I don't.**
20 Q. Okay. And if Starbucks offers a prepaid card
21 that you can use at a Starbucks, is that a
22 banking service?
23 **MR. NORTON:** Object to foundation.
24 **A. I -- I don't know. I don't know who's -- who's**
25 **holding those funds.**

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1 **BY MR. NGUYEN:**
2 Q. If it's not a bank, would you agree with me
3 that's not a banking service?
4 **A. I don't know.**
5 Q. Are you aware that many retailers actually offer
6 some type of stored-value card or gift card?
7 **A. Yes.**
8 Q. Okay. And have you ever bought some of them
9 yourself?
10 **A. Yes.**
11 Q. From whom?
12 **A. QuikTrip.**
13 Q. QuikTrip.
14 **A. Cabela's.**
15 Q. You'll have to educate me what Cabela's is;
16 maybe it's a local retailer I'm unfamiliar with.
17 **A. Would you like me to?**
18 Q. Yes, could you?
19 **A. Okay. I thought you meant later. They --**
20 **they're an outfitter --**
21 Q. Okay.
22 **A. -- of hunting, fishing, sporting supplies.**
23 Q. Okay. And you've bought some type of gift card
24 or stored-value card from that retailer?
25 **A. Yes.**

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1 Q. And is your position that the issuance or sale
2 of that gift card by Cabela's is a banking
3 service?
4 **A. If that -- I don't know who backs the funding of**
5 **that card, so if it's a bank, then in my opinion**
6 **it would be.**
7 Q. Okay. Are you familiar with the mobile
8 application called Square?
9 **A. Yes.**
10 Q. What is Square?
11 **A. It's a product that allows you to accept card**
12 **payments through your mobile device as a**
13 **retailer or merchant.**
14 Q. So it's something, for example, a small business
15 might use it?
16 **A. They might.**
17 Q. And are the services that Square provides, in
18 your opinion, a banking service?
19 **MR. NORTON:** Object to foundation.
20 **A. In my opinion, yes.**
21 **BY MR. NGUYEN:**
22 Q. Okay. Do you know whether or not Square is a
23 bank?
24 **MR. NORTON:** Object, foundation.
25 **A. I -- I don't know the answer to that.**

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1 **BY MR. NGUYEN:**
2 Q. Okay. Have you ever bought a prepaid phone
3 card?
4 **A. No.**
5 Q. Okay. Are you familiar with prepaid phone
6 cards?
7 **A. Not particularly.**
8 Q. Okay. So one of the things that banks can do, I
9 believe you mentioned, is to hold money for
10 customers; is that right?
11 **A. Uh-huh.**
12 Q. Is that yes?
13 **A. I'm sorry, yes.**
14 Q. You have to --
15 **A. Sorry, I'm tired.**
16 Q. I know, I understand. So is holding money for
17 consumers a banking service?
18 **A. Yes.**
19 Q. Okay. Is holding funds in trust a banking
20 service?
21 **A. I'm not sure what you mean by that.**
22 Q. Okay. Any time some -- an organization holds
23 money on behalf of another person, is that a
24 banking service?
25 **A. Yes.**

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1 Q. Can nonbanks provide that service?
2 **A. I don't know the answer to that.**
3 Q. Does your bank offer the capability to -- for
4 customers to do international wire transfers?
5 **A. Yes.**
6 Q. Okay. Is that a banking service?
7 **A. Yes.**
8 Q. Okay. Do nonbanks offer that service, such as
9 Western Union?
10 **A. I assume so, I don't know for certain.**
11 Q. Okay. But when they offer it, it's not a
12 banking service?
13 **A. I can't say for sure because I don't know the**
14 **details of how they offer that service.**
15 Q. Okay. You talked earlier about Intrust's
16 competitors, who would you describe as Intrust
17 Bank's competitors?
18 **A. Other banks.**
19 Q. Okay.
20 **A. Any other entity that's in the business of**
21 **providing funding, making loans, moving money**
22 **from one place to another.**
23 Q. So are you familiar with what money trans --
24 transfer services or money transmitter services
25 are?

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1 **A. No, I'm not.**
2 Q. So any entity involved in moving money would be
3 a competitor of Intrust Bank?
4 **A. Yes.**
5 Q. Why would you say that?
6 **A. Anyone who offers a service that we can offer**
7 **our customers or something that's similar would**
8 **be a threat to us.**
9 Q. Even if they offer nonbanking services?
10 **A. Right.**
11 Q. So, for example, do the bank branches of Intrust
12 Bank offer customers the ability to get
13 documents notarized?
14 **A. Yes.**
15 Q. And is that a banking service?
16 **A. Provided by bank employees, yes.**
17 Q. So -- but there are --
18 **A. It's a service we provide.**
19 Q. There are nonbanks that will notarize documents
20 for you; is that right?
21 **A. That's true.**
22 Q. So because of the fact that it's done at your
23 bank branch, that makes it a banking service?
24 **A. To me, it does.**
25 Q. Are you familiar with what government agencies

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1 regulate your bank? If you're not, it's okay,
2 you can just tell me if you are or not.
3 **A. I'm vaguely familiar.**
4 Q. Who are you familiar with that regulates your
5 bank?
6 **A. The OCC.**
7 Q. That's the Office of the Controller of Currency;
8 is that correct?
9 **A. Yes. The CFPD, the FDIC. That's all I know.**
10 Q. I'm going to show you a document we'll mark as
11 Exhibit 101.
12 (Deposition Exhibit Number 101
13 Marked for Identification.)
14 **BY MR. NGUYEN:**
15 Q. Can you take a look at that and tell me if you
16 recognize it?
17 **A. Yes, I do.**
18 Q. Okay. Can you tell me what it is?
19 **A. This is an analysis that Sullivan Higdon & Sink**
20 **conducted for us regarding our competitors.**
21 Q. Okay.
22 **A. And their online presence.**
23 Q. Got it. And if you look at page 854 and 856 of
24 the document, there's a list of competitors; is
25 that right?

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1 **A. Yes.**
2 Q. Okay. All the competitors listed on here are
3 banks and credit unions. Is that an accurate
4 summary?
5 **A. That's true.**
6 Q. Did you have a hand in directing Sullivan Higdon
7 as to what competitors to review?
8 **A. I cannot recall.**
9 Q. But there are no nonbanks here listed in your
10 competitive analysis; is that correct?
11 **A. That's true, there are not.**
12 Q. Earlier, you talked about financial fraud or
13 fraud protection and detection services. Do you
14 recall that?
15 **A. Yes.**
16 Q. Okay. Can such services be offered by nonbanks?
17 **A. Yes.**
18 Q. Can you give me examples of any companies you're
19 aware of who are not banks who offer customers
20 the services related to fraud detection or
21 prevention?
22 **A. Not with confidence. I believe the credit**
23 **bureaus can provide such a service; and there**
24 **may be some other entities that are just in that**
25 **business, but I can't think of their names off**

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1 **the top of my head.**
2 Q. So by the credit bureaus, you're referring to
3 Experian, Trans Union, and Equifax?
4 **A. Yes.**
5 Q. And they provide services to consumers, for
6 example, to purchase a copy of your credit
7 report?
8 **A. Correct.**
9 Q. So that you can detect if there's been any
10 possible fraud among your credit cards?
11 **A. Correct.**
12 Q. And those are not banks?
13 **A. Correct.**
14 Q. And when they provide that service, you'd agree
15 with me that's not a banking service?
16 **A. Right.**
17 **THE WITNESS:** Can you hear me?
18 **THE REPORTER:** Yes.
19 **THE WITNESS:** Okay.
20 **BY MR. NGUYEN:**
21 Q. Okay. Let's go through the trademarks of your
22 company that are at issue in this case. I'm
23 going to show you what we'll mark as Exhibit
24 102 --
25 (Deposition Exhibit Number 102

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1 Marked for Identification.)
2 **BY MR. NGUYEN:**
3 Q. -- which is the registration for the word
4 Intrust by itself. And that is registration
5 number 1,802,917. And you testified earlier,
6 Ms. Elliott, that you're familiar with your
7 company's trademark registrations; is that
8 correct?
9 **A. Correct.**
10 Q. Have you seen this before?
11 **A. I believe I have.**
12 Q. Okay. And this registration is just for Intrust
13 for banking services. Can you describe for me
14 what banking services you believe are covered by
15 this registration?
16 **A. Whatever is in Class 36 and I honestly can't**
17 **tell you off the top of my head what is included**
18 **in that class but I assume it means deposits,**
19 **loans, and --**
20 Q. Anything else?
21 **A. -- online services, account-related services,**
22 **that sort of thing.**
23 Q. Any kind of online service?
24 **A. I do not know.**
25 Q. Okay. Let me show you what we'll mark as

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1 Exhibit 103 --
2 (Deposition Exhibit Number 103
3 Marked for Identification.)
4 **BY MR. NGUYEN:**
5 Q. -- which is your company's registration for
6 Intrust 24 Hour Banking. Have you seen this
7 before? And it's registration number 1,832,427.
8 **A. Yes, I believe I have.**
9 Q. Okay. And this is for the phrase Intrust 24
10 Hour Banking; is that correct?
11 **A. Correct.**
12 Q. And as I understand it, your company only uses
13 this mark in connection with ATMs; is that
14 right?
15 **A. Correct, currently.**
16 Q. So that if a company uses a similar mark but not
17 with respect to ATMs, you would agree with me
18 there's less likelihood of consumer confusion?
19 **A. Which mark are you referring to?**
20 Q. Intrust 24 Hour Banking?
21 **A. If they were to use that entire phrase?**
22 Q. Yes, or something similar?
23 **MR. NORTON:** And I'm objecting to
24 the form of the question, foundation.
25 **A. So what you're asking is if someone were to --**

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1 **someone were to use Intrust 24 Hour Banking with**
2 **something else other than the use of ATMs, there**
3 **would be no confusion?**
4 **BY MR. NGUYEN:**
5 Q. Or less likelihood?
6 **MR. NORTON:** Same objection.
7 **A. Would there be less likelihood of confusion?**
8 **No, I don't agree with that.**
9 **BY MR. NGUYEN:**
10 Q. Okay. Do you agree with me that the phrase 24
11 hour banking is an important part of that mark?
12 **A. Important in what way are you referring?**
13 Q. It makes it different than just Intrust by
14 itself?
15 **A. It does make it different than just Intrust by**
16 **itself.**
17 Q. Okay. And that's why your company got a
18 separate trademark registration for the phrase
19 Intrust 24 Hour Banking?
20 **A. I'm not knowledgeable as to why we got a**
21 **trademark registration for this. That occurred**
22 **prior to my working for Intrust.**
23 Q. But it's part of your job to now do marketing
24 potentially with this mark; is that right?
25 **A. Yes.**

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1 Q. Okay. And why do you think the addition of the
2 phrase 24 hour banking makes this different than
3 Intrust by itself?
4 **A. We're trademarking the 24 hour banking --**
5 Q. Uh-huh.
6 **A. -- as being owned by Intrust, so that's**
7 **what's -- that's what is important to us.**
8 Q. In this phrase?
9 **A. In this phrase.**
10 Q. Okay. Let me show you another document we'll
11 mark as Exhibit, I think we're on 104.
12 (Deposition Exhibit Number 104
13 Marked for Identification.)
14 **BY MR. NGUYEN:**
15 Q. It's the registration for Intrust Bank, comma,
16 N, period, A period. It's registration number
17 1,840,083. Are you familiar with that
18 registration?
19 **A. Yes.**
20 Q. Would you agree with me that the addition of the
21 words bank and N, period, A, period, make that
22 different than the Intrust mark by itself?
23 **A. Yes.**
24 Q. How so?
25 **A. This particular representation explains that**

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1 **we're a national bank. That's what the N.A.**
2 **portion is for.**
3 Q. And that stands for what?
4 **A. National Association.**
5 Q. Do you consider Intrust Bank a national bank?
6 **A. Yes.**
7 Q. In what state does your bank have branches?
8 **A. Kansas, Arkansas, and Oklahoma.**
9 Q. Okay. And are the majority of your branches in
10 Kansas?
11 **A. Yes.**
12 Q. How many branches are there?
13 **A. 46 total.**
14 Q. Okay. And are more than half of them in
15 Sedgwick County, where Wichita is located?
16 **A. Yes. Yes.**
17 Q. Okay. How many are total in Kansas of the 46?
18 **A. Roughly 40.**
19 Q. Okay. So --
20 **A. Or 39.**
21 Q. -- the vast majority are in Kansas; is that
22 right?
23 **A. Yes.**
24 Q. How many are in Oklahoma?
25 **A. Five or six.**

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1 Q. And how many in Arkansas?
2 **A. One.**
3 Q. And is your footprint of ATMs also similar in
4 those three states?
5 **A. Yes.**
6 Q. And nowhere beyond those three states?
7 **A. No.**
8 Q. And based upon that, you would contend that
9 Intrust Bank is a national bank?
10 **A. Yes.**
11 Q. What's your definition of a national bank?
12 **A. My personal definition is a bank that's allowed**
13 **to do business nationally and not restricted to**
14 **just one state charter.**
15 Q. So your bank is allowed to do business
16 nationally because it's not limited to one state
17 charter?
18 **A. As far as I know.**
19 Q. Okay. But do you actually operate in any states
20 beyond those three you've just identified?
21 **A. With physical locations?**
22 Q. With physical locations?
23 **A. No.**
24 **(Deposition Exhibit Number 105**
25 **Marked for Identification.)**

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1 **BY MR. NGUYEN:**
2 Q. Let me show you what we'll mark as Exhibit 105,
3 it's the trademark registration for Intrust
4 Bank, registration number 1,841,487. Have you
5 seen that registration before?
6 **A. Yes.**
7 Q. Okay. And would you agree with me that the
8 addition of the word bank makes this mark
9 different than Intrust by itself?
10 **A. Yes, it is -- it is different.**
11 Q. Does the addition of the word bank affect how
12 you use marks in marketing?
13 **A. Does the addition of the word bank affect how we**
14 **use marks?**
15 Q. Let me ask that in a better way, which is we've
16 seen now several variations of marks with the
17 word Intrust?
18 **A. Yeah.**
19 Q. Intrust by itself as well as with other words?
20 **A. Yes.**
21 Q. How do you determine as a marketing director
22 when to use one phrase versus just Intrust by
23 itself?
24 **A. It depends on the product that we're promoting,**
25 **the audience that we're targeting, or the market**

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1 **that we're in.**
2 Q. Okay.
3 **A. Or -- or all three of those things.**
4 Q. And when there are added words to the mark
5 besides Intrust, would you agree with me that
6 changes the impression in the minds of
7 consumers?
8 **A. Yes.**
9 **(Deposition Exhibit Number 106**
10 **Marked for Identification.)**
11 **BY MR. NGUYEN:**
12 Q. So, for example, I'm going to show you right now
13 what we'll mark as Exhibit 106, it is the
14 registration for Intrust Financial Corporation,
15 it's registration number 1,849,586. Are you
16 familiar with this registration?
17 **A. Yes.**
18 Q. In what instances would your company use the
19 mark Intrust Financial Corporation as opposed to
20 either Intrust by itself or Intrust Bank?
21 **A. We use this mark when it's the holding company**
22 **that needs to be represented or it's the holding**
23 **company that's communicating.**
24 Q. But your primary mark to consumers is Intrust
25 Bank; is that correct?

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1 **A. That's correct.**
2 Q. Okay. And do you use -- is it a fair statement
3 to say that your usage of Intrust Financial
4 Corporation as a mark is much more limited than
5 Intrust Bank?
6 **A. It is -- it is more limited.**
7 Q. Just in instances when you need to refer to the
8 holding company?
9 **A. Yes.**
10 Q. All right. So, for example, you would not use
11 Intrust Financial Corporation in consumer
12 advertising?
13 **A. That's true.**
14 Q. And you would probably not use Intrust Financial
15 Corporation in advertising to your business
16 customers; is that right?
17 **A. That's true.**
18 Q. So do you use the mark Intrust Financial
19 Corporation to advertising of any of your kinds
20 of customers, whether individuals or businesses?
21 **A. We use it when we're representing our financial**
22 **statement annually, our annual reports. And to**
23 **the best of my knowledge, that's -- that's one**
24 **of the few times that that mark is represented**
25 **publicly.**

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1 Q. So, for example, you use the Intrust Financial
2 Corporation mark in corporate filings? Filings
3 about the company?
4 **A. As far as I know, yes.**
5 Q. With government agencies, for example?
6 **A. Yes.**
7 Q. But not with any customer-facing advertising or
8 promotion?
9 **A. No, not unless our customers see our annual**
10 **report.**
11 Q. Okay.
12 **A. Which is published on our website and is**
13 **distributed in print.**
14 **(Deposition Exhibit Number 107**
15 **Marked for Identification.)**
16 **BY MR. NGUYEN:**
17 Q. Okay. Let me show you what I've marked as
18 Exhibit 107, it's the registration for Intrust
19 Card Center. There you go. Are you familiar
20 with that registration?
21 **A. Yes.**
22 Q. And you would agree with me that the addition of
23 the phrase card center is important in
24 distinguishing this mark from Intrust by itself?
25 **A. Yes.**

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1 Q. What do you think -- how do you think it
2 communicates a different message to consumers
3 than Intrust by itself?
4 **A. It represents our card center division, our bank**
5 **card division.**
6 Q. And can you describe for me what the bank card
7 division is?
8 **A. It's the division of the bank that provides**
9 **credit card, debit card, payroll card, gift**
10 **card, merchant service processing, corporate**
11 **cards, purchasing cards.**
12 Q. Got it. And as you see in the description of
13 services on the registration, it says for
14 banking services, namely credit card services.
15 Do you see that?
16 **A. Yes.**
17 Q. And is it your understanding that this mark is
18 only used in connection with credit card related
19 services by your company?
20 **A. Yes. The services that I just listed --**
21 Q. Okay.
22 **A. -- are those that are represented with that**
23 **mark.**
24 **(Deposition Exhibit Number 108**
25 **Marked for Identification.)**

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1 **BY MR. NGUYEN:**
2 Q. Let me show you the registration, which we'll
3 mark as Exhibit 108, which is the registration
4 for Intrust Check Card as a mark, it is
5 registration number 1,957,654. Are you familiar
6 with that registration?
7 **A. Yes.**
8 Q. And you would agree with me that the addition of
9 the words check card make this mark different
10 than Intrust by itself?
11 **A. Yes.**
12 Q. Okay. And this registration is limited to
13 online -- banking services, specifically online
14 debit card. Do you see that?
15 **A. Yes.**
16 Q. Can you describe for me how your company uses
17 this mark as opposed to any of the other marks
18 we've talked about?
19 **A. We use it in conjunction with just one product,**
20 **the check card.**
21 Q. Okay. Describe for me what the check card is.
22 **A. It's a debit card provided by Visa.**
23 Q. Okay. So you don't, for example, use this
24 registration in connection with any money
25 transfer services?

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1 **MR. NORTON:** Object to form.
2 **A. Excuse me? Oh, you objected, okay. In my**
3 **opinion, it isn't a money transfer service, but**
4 **I'm not sure we've defined what that means to**
5 **you.**
6 **BY MR. NGUYEN:**
7 Q. Do you have an understanding of what a money
8 transfer service is?
9 **A. Not really.**
10 Q. Okay. In part of your marketing duties, do you
11 market on behalf of your company any money
12 transfer or money remittance services?
13 **MR. NORTON:** Object to foundation.
14 **A. I don't know the answer to that. You can ask**
15 **Tom Morrison.**
16 **BY MR. NGUYEN:**
17 Q. Okay. Let me show you a registration which
18 we'll mark as, I think we're on 109.
19 (Deposition Exhibit Number 109
20 Marked for Identification.)
21 **BY MR. NGUYEN:**
22 Q. It's a registration for a design mark, which is
23 a graphic I with the word Intrust Bank. Are you
24 familiar with that registration?
25 **A. Yes.**

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1 Q. Okay. And would you agree with me that this
2 registration is for Intrust Bank with a
3 particular I logo; is that correct?
4 **A. Yes.**
5 Q. And that the presence of the I logo is important
6 in distinguishing this mark from the word
7 Intrust by itself?
8 **A. Yes.**
9 Q. Or even the phrase Intrust Bank?
10 **A. Yes.**
11 Q. And that's the most distinctive part of this
12 particular mark --
13 **A. Yes.**
14 Q. -- the I logo? And is this the primary logo
15 that you use now when you do marketing promotion
16 on behalf of your company?
17 **A. This particular layout is not.**
18 Q. But the I is part of the --
19 **A. With the I in the front of Intrust, yes.**
20 Q. With the word bank underneath?
21 **A. We put the bank underneath.**
22 **(Deposition Exhibit Number 110**
23 **Marked for Identification.)**
24 **BY MR. NGUYEN:**
25 Q. Let me mark as Exhibit 110 the registration for

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1 the mark Intrust Merchant Services, which is
2 registration 2,738,638. Are you familiar with
3 this registration, Ms. Elliott?
4 **A. Yes.**
5 Q. Before I get too -- let's hold off on that for a
6 second. So I've now shown you a series of, I
7 believe, seven registrations which were Exhibits
8 102 through 109 which were for Intrust and other
9 phrases or design with the word Intrust, they're
10 all for banking services. Okay. And it's your
11 view that those registrations cover the type of
12 banking services you described before; is that
13 right?
14 **A. Yes.**
15 Q. Okay. But you would agree with me that if any
16 of the services you described for which the bank
17 provide -- strike that, let me ask a better
18 question. So your company provides what you
19 view as banking services under those seven marks
20 reflected in Exhibits 102 through 107?
21 **A. Yes.**
22 Q. If a nonbank provided the same services that are
23 captured in your mind under Exhibits 102 through
24 107, those would not be banking services?
25 **MR. NORTON:** Object to the form and

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1 foundation.
2 **A. It depends. It depends on how they're offering**
3 **them.**
4 **BY MR. NGUYEN:**
5 Q. So if they're not a bank, they can offer banking
6 services?
7 **A. If they're offering it through a -- if that's**
8 **being provided by a bank.**
9 Q. Let's turn now to the Exhibit 110, which I just
10 put in front of you, which is for merchant
11 services. I'm now going to go through the
12 various registrations your company has which are
13 for services that don't use the phrase banking
14 services, okay?
15 **A. Okay.**
16 Q. So Exhibit 110 --
17 **A. Okay.**
18 Q. -- is the first of those, it is for Intrust
19 Merchant Services. Do you see that?
20 **A. Yes.**
21 Q. And the description is for merchant services,
22 namely credit card and debit card services. Can
23 you describe for me what services your company
24 offers under this mark?
25 **A. Credit card and debit card processing for**

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1 **merchants.**
2 Q. Okay. So the customers to whom this mark is
3 directed are all business customers; is that
4 correct?
5 **A. Yes.**
6 Q. Merchants who would process some type of payment
7 card?
8 **A. Payment, yes.**
9 Q. So you would never promote -- strike that. And
10 the company has not promoted this mark in its
11 advertising to consumers; is that correct?
12 **A. No. Yes, that's correct.**
13 Q. Yes --
14 **A. Sorry.**
15 Q. -- I was going to ask you to clarify that, thank
16 you.
17 And you would agree with me that the
18 addition of the phrase merchant services makes
19 this a different mark than just the word Intrust
20 by itself?
21 **A. Yes.**
22 Q. And that would affect the impression to whoever
23 saw this mark?
24 **A. Yes.**
25 Q. Okay. Show you what we'll mark as exhibit --

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1 **MR. NGUYEN:** Madam Court Reporter, I
2 think I need some more exhibit -- oh, here
3 they are.
4 (Deposition Exhibit Number 111
5 Marked for Identification.)
6 **BY MR. NGUYEN:**
7 Q. Exhibit 111, registration for the phrase Intrust
8 Value Pack. Are you familiar with this
9 registration, Ms. Elliott?
10 **A. Yes.**
11 Q. Okay. And this registration has the phrase
12 Intrust Value Pack. You would agree with me,
13 again, that the addition of the words value pack
14 distinguish -- or strike that, make this -- let
15 me start that question over again. You would
16 agree with me that the addition of the words
17 value pack make this mark different than Intrust
18 by itself?
19 **A. Yes.**
20 Q. And affect the impression to consumers when
21 compared to the word Intrust by itself?
22 **A. Yes.**
23 Q. What is an Intrust Value Pack?
24 **A. It no longer exists, but when it did, it was an**
25 **add-on package of services for a checking**

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1 **account.**
2 Q. Okay. And when did it stop being provided?
3 **A. I cannot answer that, I'm not sure.**
4 Q. Was it within the last five years?
5 **A. It was probably within the last eight years.**
6 Q. Okay. So meaning around 2006?
7 **A. Maybe.**
8 Q. Has it been offered since 2006?
9 **A. Well, if we didn't discontinue it until after**
10 **2006, then, yes, but -- so it depends on when we**
11 **discontinued offering it.**
12 Q. Okay. When's the last time you can remember
13 your company has used the word Intrust Value
14 Pack -- or, excuse me, the phrase Intrust Value
15 Pack in any marketing or promotion?
16 **A. I can't recall, it was within the last eight**
17 **years.**
18 Q. So it's been at least six or seven years since
19 that mark has been used; is that correct?
20 **A. Right, right.**
21 Q. Okay. What -- the description reads
22 noncommercial banking service, namely upgraded
23 checking account services. Do you see that?
24 **A. Yes.**
25 Q. What's a noncommercial banking service?

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1 **A. I don't know.**
2 Q. Okay. But your understanding of the product, it
3 was some upgraded checking account services?
4 **A. Yes, it was.**
5 Q. Have you ever heard within your company people
6 describe the difference between a commercial
7 versus a noncommercial banking service?
8 **A. No.**
9 **(Deposition Exhibit Number 112**
10 **Marked for Identification.)**
11 **BY MR. NGUYEN:**
12 Q. Okay. I'm going to show you what we'll mark as
13 Exhibit 112, which is the registration for the
14 phrase Intrust Wealth Management, it's
15 registration number 3,358,359. Are you familiar
16 with this registration?
17 **A. Yes.**
18 Q. Okay. And you would agree with me that the
19 addition of the phrase wealth management makes
20 this a different mark than Intrust; is that
21 correct?
22 **A. Yes.**
23 Q. And that it communicates a different commercial
24 impression to consumers?
25 **A. Yes.**

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1 Q. Okay. This mark is for financial services,
2 namely management of trust and investment
3 accounts. Do you see that?
4 **A. Yes.**
5 Q. And that's a service provided by your bank?
6 **A. Yes.**
7 Q. And it deals with money?
8 **A. Yes.**
9 Q. Okay. But you notice here that the description
10 doesn't say banking services, it just says
11 financial services?
12 **A. Correct.**
13 Q. Okay. So would you agree with me this is an
14 example of a financial service provided by your
15 company that's not a banking service?
16 **MR. NORTON:** Object to the form,
17 foundation.
18 **A. I guess I would -- I'm not sure what my opinion**
19 **is on that.**
20 **BY MR. NGUYEN:**
21 Q. Okay. But your company did describe the service
22 to the U.S. Patent and Trademark Office as
23 something other than a banking service. You see
24 that?
25 **A. Yes, I do.**

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1 Q. Okay. Are you familiar with what kinds of
2 services are provided under the Intrust Wealth
3 Management mark?
4 **A. Yes.**
5 Q. What kind of services?
6 **A. Trusts and investments.**
7 Q. Are trust and investment services provided by
8 companies that are not banks, to your knowledge?
9 **A. Yes, I believe so.**
10 Q. So, for example, tell me any other companies you
11 know that provide investment management
12 services.
13 **A. Fidelity Investments, Merrill Lynch, Edward**
14 **Jones.**
15 Q. And those are not all banks?
16 **A. I don't know the answer to that.**
17 Q. Okay. Look back at Exhibit 110 for me, if you
18 would, which is the registration for Intrust
19 Merchant Services. You see there the
20 description of services does not refer to
21 banking services? Do you see that?
22 **A. Right.**
23 Q. But that is a service provided by your bank?
24 **A. Yes.**
25 Q. That deals with money?

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1 **A. Yes.**
2 Q. For which your company did not describe it to
3 the U.S. Patent and Trademark Office as a
4 banking service? Is that correct?
5 **A. That's correct.**
6 Q. So would you agree with me this is an example of
7 a service that's provided by your company that
8 is not a banking service?
9 **MR. NORTON:** Object to form,
10 foundation.
11 **A. No, I don't, I don't agree.**
12 **BY MR. NGUYEN:**
13 Q. Why not?
14 **A. Because we are a bank and we provide this**
15 **service.**
16 Q. Can other companies that are not banks provide
17 merchant services?
18 **A. To the best of my knowledge, yes.**
19 Q. Can you give me examples of any?
20 **A. No, I cannot.**
21 Q. Okay. Let's talk about the process through
22 which someone becomes a consumer customer of
23 your bank?
24 **A. Okay.**
25 Q. We're setting aside businesses, talking about

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1 consumers.
2 **A. Okay.**
3 Q. I want to become a customer of your bank, what
4 are the steps I need to go through?
5 **A. It depends on what kind of a customer you're**
6 **becoming, but there would be an account opening.**
7 Q. Okay.
8 **A. Either through an application or by providing**
9 **information to us.**
10 Q. So open, for example, a checking or deposit, a
11 savings account?
12 **A. A deposit account or to apply for a loan or to**
13 **open a credit card.**
14 Q. Okay. How can I complete the application?
15 **A. In person or online.**
16 Q. Okay.
17 **A. Or by phone.**
18 Q. All right. If I complete it online, at some
19 point do I have to come to one of your physical
20 branches?
21 **A. No, that's not necessary in all cases.**
22 Q. What are the cases in which it is necessary?
23 **A. If you are applying for a loan and it's time to**
24 **close on that loan, then you'll need to come in**
25 **person and sign the documentation.**

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1 Q. What about to open a checking account or a
2 savings account?
3 **A. No, you are not required to come in person.**
4 Q. I can just do it online?
5 **A. You can.**
6 Q. Okay. And then if I open an account, I have to
7 deposit some money at some point?
8 **A. Yes.**
9 Q. Okay. And how can I do that?
10 **A. By check, cash, or transfer from another**
11 **account.**
12 Q. Okay. Then at some point, if I choose to, I can
13 open an online account; is that correct?
14 **A. Yes.**
15 Q. To access your online banking services?
16 **A. Right.**
17 Q. What are the steps I have to go through to do
18 that?
19 **A. It's an online process and you enroll so you --**
20 **it's a sign-up.**
21 Q. Okay. So I would need my account number; is
22 that correct?
23 **A. I believe so.**
24 Q. Do I have to create a user ID?
25 **A. Yes.**

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1 Q. Do I have to create a password?
2 **A. Yes.**
3 Q. Do I have to select an image for a security,
4 sort of verification purposes?
5 **A. No, but there is a multifactor authentication**
6 **process.**
7 Q. Okay. And then how do I -- and then I have to
8 accept an online banking and mobile banking
9 agreement with your company; is that right?
10 **A. Yes.**
11 Q. Okay. And what steps do I have to go through to
12 then begin using your online bill pay services?
13 Do I have to take additional steps?
14 **A. Yes, once you're enrolled in online banking,**
15 **then you can enroll in or sign up for bill pay.**
16 Q. Because not -- you're not automatically put in
17 online bill pay just by enrolling in online
18 banking?
19 **A. That's true.**
20 Q. Okay. What steps do I have to go through to
21 enroll in online bill pay?
22 **A. Within -- once you're logged in to online**
23 **banking, there's a process for signing up for**
24 **that, and I can't tell you exactly how that**
25 **goes.**

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1 Q. Okay. What about for using your mobile
2 application services, what steps do I have to go
3 through to use your mobile banking service?
4 **A. First you have to be an online banking user, so**
5 **you have to have that set up. And then from**
6 **within online banking or from your mobile**
7 **device, you can enroll, and there's an**
8 **enrollment process.**
9 Q. Do I have to download a mobile app first?
10 **A. First or second.**
11 Q. At some point in the process?
12 **A. Yes.**
13 Q. And then do I have to create a separate user ID
14 or account number within the mobile application?
15 **A. No.**
16 Q. I use the same one from my online --
17 **A. Yes.**
18 Q. -- banking profile?
19 **A. Yes.**
20 Q. So would you agree with me that there are many
21 steps a customer would have to go through before
22 they can end up using your online banking
23 service?
24 **A. Many steps? Well, to just use online banking,**
25 **no, there's one step. But if you want to add on**

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1 **mobile access and bill pay, then that's an**
2 **additional step.**
3 Q. Okay. And within each of those phases, there
4 are some multiple things I have to do?
5 **A. I believe so.**
6 Q. Okay. Let's talk about your process for
7 acquiring customers. Would you agree with me
8 that consumers are very careful in selecting a
9 banking institution?
10 **MR. NORTON:** Object, foundation.
11 **A. I don't have any knowledge as to whether or not**
12 **they're careful about it.**
13 **BY MR. NGUYEN:**
14 Q. Would you agree with me that consumers are
15 careful about making decisions with respect to
16 their money?
17 **A. I don't have any knowledge about how careful**
18 **people are about making decisions with their**
19 **money.**
20 Q. Have you, in your capacity as marketing director
21 for Intrust Bank, tried to study or evaluate the
22 factors that lead a consumer to select a bank?
23 **A. Yes.**
24 Q. Okay. What are those factors that you've
25 learned?

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1 **A. They ought -- they have a need, whether they**
2 **need to borrow money or they need to put their**
3 **money somewhere --**
4 Q. Uh-huh.
5 **A. -- so that they can access it when they need it.**
6 **And then in terms of who they bank with, they**
7 **choose based on accessibility and what's**
8 **important to them.**
9 Q. What do you mean by accessibility?
10 **A. Can I access the bank in the way in which I want**
11 **to access them.**
12 Q. Either physically --
13 **A. Whether that's physically, are they located**
14 **close to where I am, or are they -- if that's**
15 **important to me, or can I access them online, if**
16 **that's important to me. They also choose based**
17 **on price.**
18 Q. Uh-huh.
19 **A. And I think -- and that -- I think those are**
20 **some of the things that we've learned about**
21 **our -- about customers and how they choose.**
22 Q. In your experience, is it difficult for your
23 company to acquire new consumer customers?
24 **A. It is difficult.**
25 Q. Why?

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1 **A. Because customers, once they have a**
2 **relationship, it's hard for them to leave,**
3 **particularly with a checking account or the**
4 **products and services they use every day where**
5 **they can become easily intertwined with that**
6 **account, so it's hard for them to leave. And**
7 **our research has said that if they do leave,**
8 **it's because they're fleeing from a -- that poor**
9 **customer service situation.**
10 Q. But short of having a poor customer service
11 situation at another bank, it is difficult to
12 cause consumers to switch banks?
13 **A. It -- it has proven so to us.**
14 Q. And have you ever tried to calculate or estimate
15 the amount of spend you have to put out to
16 acquire new customers, such as an average of
17 marketing costs or other promotional costs?
18 **A. In certain product lines we have but not just**
19 **from a general perspective.**
20 Q. And what product lines have you tried to
21 estimate that?
22 **A. On the consumer loan side and the credit card**
23 **side.**
24 Q. And what have you learned to be the estimated
25 consumer acquisition cost for those product

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1 lines?
2 **A. I can't say off the top of my head without**
3 **looking at information.**
4 Q. Give me a rough estimate of your memory.
5 **A. On the credit card side, it's -- it's a --**
6 **there's a range, it depends on the situation and**
7 **the communication channel, but it could be as**
8 **much as 400 plus dollars per account.**
9 Q. Okay. Have you reviewed statistics regarding
10 the demographics of your customer base?
11 **A. Yes.**
12 Q. Okay. And what have you reviewed or studied?
13 **A. We've segmented our customer base based on age**
14 **and income --**
15 Q. Okay.
16 **A. -- in the past, and it's been quite sometime**
17 **since we've -- we've looked at that. We -- we**
18 **look a lot at geography, as well as segmenting**
19 **customers based on products that they have with**
20 **us.**
21 Q. When's the last time you looked at such data?
22 **A. Unfortunately, it's probably been two years**
23 **maybe.**
24 Q. Okay. And when you last looked at that data,
25 did you look at what the average age of the

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1 Intrust customer is?
2 **A. We did.**
3 Q. What was the average age, if you can remember?
4 **A. It was in the mid 40s, if I remember correctly.**
5 Q. Okay. What about the geography of your customer
6 base, did you -- where are they concentrated?
7 **A. Customers are concentrated in the markets where**
8 **we have, excuse me, physical locations; and then**
9 **aside from that, we have concentrations of**
10 **customers in warm areas of the United States.**
11 Q. So how many of your -- what percentage of your
12 customers are in Kansas, let's just start with
13 Kansas, if you know?
14 **A. I'm not sure, I can't answer that.**
15 Q. Do you know what percentage of your customers
16 are in the states where you have physical
17 locations, which are Kansas, Oklahoma, and
18 Arkansas?
19 **A. Yeah, I can't -- I don't know the percentage.**
20 Q. Do you know what percentage of your customers
21 are located outside of those states in, as you
22 say, warm areas of the U.S.?
23 **A. No, no.**
24 Q. Is it a small percentage?
25 **A. I can't -- I'm sure it's -- that's relative to**

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1 **what you think is small, but I'm sure it's a**
2 **small percentage compared to the whole.**
3 Q. Under 10 percent?
4 **A. I don't know, I can't honestly say.**
5 Q. But from your knowledge of the bank's customer
6 base, you would believe it's a small percentage?
7 **A. Probably.**
8 Q. I'm going to show you a document which we'll
9 mark as --
10 **MR. NGUYEN:** What exhibit number are
11 we on?
12 **MS. RYE:** 113.
13 **BY MR. NGUYEN:**
14 Q. Okay. Actually, before we get to that, let me
15 finish -- I have one more trademark registration
16 I forgot to mark.
17 **MR. NGUYEN:** We're on 113; is that
18 right?
19 **MS. RYE:** Yes.
20 **MR. NGUYEN:** Can I get more exhibit
21 stickers?
22 (Deposition Exhibit Number 113
23 Marked for Identification.)
24 **BY MR. NGUYEN:**
25 Q. I'm going to show you a document which I marked

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1 as Exhibit 113, it's the trademark registration
2 for the phrase I Trust Intrust. Are you
3 familiar with that registration?
4 **A. Yeah. Yes.**
5 Q. And that is for a phrase I Trust Intrust; is
6 that right?
7 **A. That's right.**
8 Q. Were you involved in making the decision to
9 register this phrase?
10 **A. Yes.**
11 Q. And why did you feel it was necessary to get a
12 registration for the phrase I Trust Intrust as
13 opposed to just the word Intrust which was
14 already registered?
15 **A. Why did we decide to get this phrase registered**
16 **instead of --**
17 Q. Uh-huh, separately?
18 **A. Separately from the word Intrust?**
19 Q. Yes.
20 **A. Because this was an important phrase that we**
21 **wanted to own and we wanted to associate with**
22 **our brand in its entirety and so we registered**
23 **it so it would not be -- so that it would be**
24 **protected.**
25 Q. And would you agree with me that the addition of

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1 the words I trust before Intrust are important
2 in making this a different mark than Intrust by
3 itself?
4 **A. Yes.**
5 Q. Why so?
6 **A. Because it conveys a more specific message than**
7 **Intrust alone.**
8 Q. And would you agree with me that placing the
9 words before the word Intrust make those words
10 more prominent in the mark?
11 **A. Make the words I trust more prominent?**
12 Q. Yes.
13 **A. Are you meaning because they're in front of it?**
14 Q. Yes.
15 **A. Are those words more prominent? Yes.**
16 Q. So from a marketing perspective, you would agree
17 that whatever words come first are seen by the
18 consumer first?
19 **A. True.**
20 Q. We've now reviewed 12 different trademark
21 registrations your company has that are at issue
22 in this case. None of them cover financial --
23 excuse me, none of them cover fraud protection
24 and detection services; is that correct?
25 **MR. NORTON:** Object, form and

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1 foundation.
2 **A. Not -- I don't know if they cover that or not.**
3 **BY MR. NGUYEN:**
4 Q. Are you aware of any trademark registration held
5 by your company which is for fraud protection
6 and detection services?
7 **A. No.**
8 Q. None of the trademark registrations we've just
9 looked at claim color as an element of the
10 trademark; is that correct?
11 **A. I believe that's correct.**
12 Q. So you testified earlier that the use of a blue
13 color is something that is done in connection
14 with your company's marks?
15 **A. Yes.**
16 Q. But to your knowledge, your company has never
17 secured a trademark registration which claims
18 rights to use of the word color?
19 **A. Not to the best of my knowledge.**
20 Q. To your knowledge, has your company obtained any
21 trademark registration with respect to the word
22 cloud?
23 **A. No.**
24 Q. To your knowledge, has your company ever claimed
25 any trademark registration to an image or design

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1 of a cloud?
2 **A. No.**
3 Q. Or a sky?
4 **A. No.**
5 Q. And you would agree with me that clouds and
6 skies are very commonly used graphics in
7 advertising?
8 **A. Yes.**
9 Q. Many companies use those?
10 **A. They do.**
11 Q. And you'd agree with me there's nothing unique
12 about your company's usage of a cloud or sky in
13 its graphics?
14 **A. No, I would not agree with that.**
15 Q. You think there's something unique about that?
16 **A. Yes.**
17 Q. Okay. But not to the point where you've claimed
18 trademark protection to it; is that right?
19 **A. Right, we have not found that necessary.**
20 Q. Okay. Let me show you a document which we will
21 mark as Exhibit 114.
22 (Deposition Exhibit Number 114
23 Marked for Identification.)
24 **BY MR. NGUYEN:**
25 Q. It is a document titled Digital Transactions,

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1 and it is Bate numbered 02588 through 2605.
2 Have you seen this before, Ms. Elliott?
3 **A. Yes.**
4 Q. Okay. Can you tell me what it is?
5 **A. It is an evaluation of person-to-person**
6 **payments, Near Field Communication.**
7 Q. And relationship with online and mobile banking?
8 **A. Yes.**
9 Q. Are you familiar with the phrase
10 person-to-person payments?
11 **A. Yes.**
12 Q. Can you describe for me what your understanding
13 of person-to-person payments is?
14 **A. It's my ability to -- to directly pay an**
15 **individual through some form of normal**
16 **communication such as e-mail or text or**
17 **something like that.**
18 Q. Using, for example, the person's mobile number?
19 **A. Yes.**
20 Q. Or a social media account ID?
21 **A. Yeah.**
22 Q. Or, I think as you mentioned, an e-mail address?
23 **A. Yes.**
24 Q. Okay. As opposed to, for example, as I
25 understand it, you know, with a lot of online

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1 banking these days, you could send someone funds
2 to their bank account, but you would have to
3 know their bank account information, such as the
4 institution and account number; is that correct?
5 **MR. NORTON:** Object to form.
6 **A. I -- I am not sure of that, that's not the way**
7 **in which we --**
8 **BY MR. NGUYEN:**
9 Q. Okay.
10 **A. -- can provide that to our customers, so I don't**
11 **know.**
12 Q. Okay. And when did you first see this document
13 we have in front of us, which is Exhibit 114?
14 **A. I was involved in the preparation of it.**
15 Q. Okay. What was your involvement in preparing
16 this?
17 **A. My team provided the research and graphics and**
18 **compiled the report.**
19 Q. And what was the purpose of this report?
20 **A. It was internal exploration of those services**
21 **that -- that were starting to present themselves**
22 **as an opportunity, and there was a team of**
23 **individuals at the bank who were examining**
24 **whether or not they were services we wanted to**
25 **consider offering or engaging in.**

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1 Q. And specifically, it says person-to-person
2 payments?
3 **A. Yes.**
4 Q. As well as Near Field Communication payments?
5 **A. Yes.**
6 Q. Was this the first time your company began to
7 consider offering person-to-person payments?
8 **A. I --**
9 Q. Meaning June 2011?
10 **A. Yeah, I don't know the answer to that. This was**
11 **the first time that I had been involved in the**
12 **conversation.**
13 Q. Okay. Before we talk about the document, I want
14 to refer you to page 2603 in the document, which
15 describes some customer demographics and
16 consumer demographics in Wichita. Do you see
17 that, under the heading Wichita Demographics?
18 **A. Yes.**
19 Q. Okay. And was this data that your team
20 compiled?
21 **A. No, this information came from an outside**
22 **source.**
23 Q. Got it. If you look at the next page, which is
24 page 2604. Oh, by the way, on that prior page
25 2603, the estimate was -- actually, never mind.

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1 Go back to 2604. The top paragraph under
2 Intrust customer demographics refers to a
3 customer relationship survey conducted by Raddon
4 in 2007, shows the average age of an Intrust
5 customer is 56.5. Do you see that?
6 **A. I do.**
7 Q. Do you recall having a customer relationship
8 survey prepared for the company?
9 **A. Yes.**
10 Q. And does seeing that refresh your memory at all
11 as to the average age --
12 **A. Yes.**
13 Q. -- of an Intrust customer?
14 **A. Yes, it does.**
15 Q. Is it about age 56?
16 **A. In 2007 it was. And it's likely very similar**
17 **today.**
18 Q. Okay. So would you agree with me the average
19 age of an Intrust customer is relatively old?
20 **A. Yes.**
21 Q. Has it been the bank's effort to try and attract
22 more younger customers?
23 **A. There have been efforts, yes.**
24 Q. Okay. Have those been successful?
25 **A. Modestly.**

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1 Q. In the paragraph there, it says, 14 percent of
2 our customers are between the ages of 18 and 34.
3 Do you see that?
4 **A. Yes.**
5 Q. Do you recall that was a finding in the survey?
6 **A. Yes.**
7 Q. Okay. Is that currently still an accurate
8 estimate of the percentage of your customers
9 that are between the ages of 18 and 34?
10 **A. It's likely very similar.**
11 Q. Okay. And then it says, another 11 percent lies
12 in the age range of 35 to 44. Is that
13 consistent with your estimates for today?
14 **A. Yes, it's likely the -- it's likely similar.**
15 Q. And then it says, a whopping 58 percent of our
16 customer base is 55 and older. Do you see that?
17 **A. Yes.**
18 Q. Is that consistent with your estimates for
19 today?
20 **A. Yes.**
21 Q. Why was the word whopping used?
22 **A. I honestly do not know.**
23 Q. Is that --
24 **A. Because it's a large number would be my guess.**
25 Q. And you would agree with me that customers who

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1 are 55 and older are less likely to use a mobile
2 banking service?
3 **A. I would assume that, but I don't have any recent**
4 **knowledge that would say that for certain.**
5 Q. In fact, this paragraph says that your target
6 customer for mobile banking products would be
7 those between 18 and 34?
8 **A. Right.**
9 Q. Is that because younger people are more likely
10 to use mobile devices?
11 **A. I think that's a fair assumption.**
12 Q. Have you done any stud -- would you agree --
13 strike that. Would you agree with me that
14 customers who are 55 and older are less likely
15 to use online banking?
16 **A. I can't say for sure on that either.**
17 Q. Have you done any studies as to your customers
18 and what percentage, based on age demographic,
19 use online banking?
20 **A. I believe that we probably have. In fact, this**
21 **study probably had that data in it, but I can't**
22 **recall --**
23 Q. Okay.
24 **A. -- what the result of that was.**
25 Q. You can set that aside for a moment, we'll get

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1 back to that document. I'm going to show you
2 another document which -- I'll show you another
3 document we'll mark as Exhibit 115.
4 (Deposition Exhibit Number 115
5 Marked for Identification.)
6 **BY MR. NGUYEN:**
7 Q. Which is a document titled Intrust Plan
8 Construction - Step 1, Current Status of Your
9 Area of Responsibility, and it's Bate marked
10 03939 through 03949. Are you familiar with that
11 document, Ms. Elliott?
12 **A. Yes.**
13 Q. What is it?
14 **A. It's a strategic planning document.**
15 Q. And this was created for your marketing
16 department; is that right?
17 **A. Yes.**
18 Q. Is this for 2010?
19 **A. Yes, for the -- in preparation for the year**
20 **2010.**
21 Q. Okay. If you turn to page 3941 in the document,
22 there is a sentence under where -- it's in where
23 it says number 1 and then result, there's a
24 paragraph that starts with result, colon. Do
25 you see that?

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1 **A. Yes.**
2 Q. And in that paragraph there's a statement that
3 says, I'll read it, according to the bank's 2009
4 advertising study, 10 percent of consumers in
5 Intrust's footprint moved their checking account
6 within the last 30 days. Nationally, it is
7 documented that there is typically 8 percent
8 market movement in personal checking accounts
9 during the year. Do you see that?
10 **A. Yes.**
11 Q. Is that consistent with your experience that
12 there's a low percentage of people who move
13 checking accounts?
14 **A. Yes.**
15 Q. Okay. You can set that aside. Have you done
16 any estimates of what the length of your
17 company's customer relationships are on average?
18 For example, when someone's opening an account
19 or become a customer of your bank, on average,
20 how long do they stay a customer?
21 **A. We have done that sort of analysis in the past,**
22 **but it was not done at a customer level, it was**
23 **done at an account type level, and I honestly**
24 **can't remember the results of that.**
25 Q. Okay. Is it more than ten years?

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1 **A. Probably, based on the knowledge I have of our**
2 **customer base.**
3 Q. Which is an older customer base?
4 **A. Older and longer term relationships.**
5 Q. More than 20 years?
6 **A. Some, yes.**
7 Q. Okay. Would you agree with me that consumers
8 are not going to accidentally open up a bank
9 account, it's an intentional decision on their
10 part?
11 **MR. NORTON:** Object to form.
12 **A. So you're asking that they won't accidentally**
13 **open up an account?**
14 **BY MR. NGUYEN:**
15 Q. Yes.
16 **A. I would hope that they wouldn't.**
17 Q. Would you agree with me that consumers are more
18 likely to notice differences in the names of
19 companies that they are evaluating with respect
20 to services for their money?
21 **MR. NORTON:** Object to form and
22 foundation.
23 **A. I do not have that confidence level.**
24 **BY MR. NGUYEN:**
25 Q. Why not?

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1 **A. Because I have seen customers confuse us with**
2 **other local institutions, just in calling and**
3 **inquiring and saying that they received**
4 **something from us when, in fact, they did not,**
5 **so ...**
6 Q. Have you ever received knowledge about consumers
7 being confused with other companies' websites?
8 **A. Other companies' websites?**
9 Q. Uh-huh.
10 **A. Nothing that comes to mind.**
11 Q. So let's turn back to Exhibit 114, which is this
12 report entitled Digital Transactions that you
13 helped prepare. At the time you prepared this,
14 which was dated June 2011, your company was not
15 offering any person-to-person payment services
16 to consumers; is that right?
17 **A. That's right.**
18 Q. Okay. And today does your company offer any
19 person-to-person payment services?
20 **MR. NORTON:** Are we assuming the
21 definition you established earlier?
22 **MR. NGUYEN:** Yes.
23 **BY MR. NGUYEN:**
24 Q. Yeah, let's make that clear 'cause we're going
25 to spend sometime talking about person-to-person

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1 payment services. I'll just use the definition
2 that you mentioned earlier, but let me summarize
3 it so we are on the same page, which is a
4 service that gives an individual the capability
5 to send funds to another individual using some
6 common identifier such as an e-mail address,
7 mobile phone number, or social media account.
8 **A. Okay.**
9 Q. Okay. Is your company currently offering any
10 person-to-person payment services to consumers?
11 **A. No.**
12 Q. Is your company planning to do so in the future?
13 **A. Yes.**
14 Q. Does your company have an expected launch date
15 for any such person-to-person payment services?
16 **A. Yes.**
17 Q. What is that?
18 **A. 2014, to the best of my knowledge.**
19 Q. Is there a particular month in 2014, since we're
20 already in 2014?
21 **A. Fourth quarter.**
22 Q. Okay. Sometime this year, you hope?
23 **A. Absolutely.**
24 Q. And has this been a topic of discussion for a
25 long time within the company?

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1 **A. Yes.**
2 Q. Would you agree with me that person-to-person
3 payment services are different than the type of
4 services your company has offered in the past to
5 consumers?
6 **A. Yes.**
7 Q. How are they different?
8 **A. We've not allowed customers to send money to**
9 **another individual based on the description**
10 **we've discussed earlier, which is just through**
11 **some common knowledge information or more public**
12 **information.**
13 Q. Would you agree with me that a person-to-person
14 payment service is a much more convenient way
15 for people to send money to each other than your
16 bank has offered in the past?
17 **MR. NORTON:** Object, foundation.
18 **A. Yes, it would be more convenient than the**
19 **alternatives.**
20 **BY MR. NGUYEN:**
21 Q. Are you familiar -- strike that. As part of
22 preparing your report that's Exhibit 114, did
23 you or your team conduct any review of what
24 other companies in the marketplace offer
25 person-to-person payments?

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1 **A. Yes.**
2 Q. Okay. What other companies are you aware of
3 that offer a person-to-person payment service?
4 **A. I'm going to refer to this study but --**
5 Q. Please.
6 **A. -- at the time it was PayPal and, oh, there was**
7 **another entity, ZashPay, Popmoney. Clear**
8 **Exchange was something that was being discussed**
9 **at the time, Serve through American Express.**
10 Q. Okay. And are those companies that you listed,
11 are they banks?
12 **A. I don't believe so.**
13 Q. So you would agree with me that PayPal is not a
14 bank?
15 **A. I don't believe so.**
16 Q. Okay. And the companies behind Popmoney and
17 ZashPay are not banks, to your knowledge; is
18 that correct?
19 **A. That's correct.**
20 Q. And so the offering of person-to-person payment
21 services by such companies is not a banking
22 service, correct?
23 **A. Not when offered by those other companies.**
24 Q. Because they're not banks?
25 **A. Right.**

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1 Q. So if my client offers such services in the
2 United States and it is not a bank, you would
3 agree with me that is not a banking service?
4 **MR. NORTON:** Object to form and
5 foundation.
6 **A. If they're not a bank and they're offering that**
7 **service, then I wouldn't consider them a bank.**
8 **BY MR. NGUYEN:**
9 Q. And you wouldn't --
10 **A. I wouldn't consider it a banking service that**
11 **they were offering.**
12 Q. Based upon this report, did the company take any
13 action after you prepared this report with
14 respect to implementing a person-to-person
15 payment service?
16 **A. We did take action.**
17 Q. Okay. What did you do?
18 **A. I cannot speak to the details of this, but I**
19 **know that we executed an agreement with our core**
20 **processor to implement their person-to-person**
21 **payments platform.**
22 Q. Is that FIS?
23 **A. Yes.**
24 Q. And is that for the People Pay payments
25 platform?

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1 **A. At the time I don't believe it was called People**
2 **Pay.**
3 Q. Is it now called People Pay?
4 **A. But -- but it is now called People Pay.**
5 Q. In connection with your marketing duties, are
6 you having to prepare to begin marketing
7 person-to-person payment services for Intrust?
8 **A. I have not begun to prepare.**
9 Q. Okay. Because there's no specific launch date
10 yet?
11 **A. And there's no existing agreement because the**
12 **original agreement was not acted upon.**
13 Q. Okay. So is there currently an agreement
14 between your company and FIS --
15 **A. I cannot say for certain or not.**
16 Q. Okay.
17 **A. I believe that's still in negotiation.**
18 Q. You are aware that your bank provides customers
19 other ways to transfer money --
20 **A. Yes.**
21 Q. -- is that correct? For example, there is a
22 reference on your web page, I can show you if
23 you need, called external transfers?
24 **A. Yes.**
25 Q. Okay. What's an external transfer?

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1 **A. So for our customers, that's where they can**
2 **transfer money from an Intrust account within**
3 **online banking to an account at another**
4 **financial institution that they are also an**
5 **owner of or have access to.**
6 Q. Got it. So if I had an account at Bank of
7 America and at your bank --
8 **A. Yes.**
9 Q. -- I could do an external transfer from my
10 Intrust Bank account to my Bank of America bank
11 account?
12 **A. Yes.**
13 Q. But a customer cannot transfer, using that
14 service, money from an Intrust Bank account to
15 an account of another person at another
16 financial institution to which they don't have
17 any control?
18 **A. That's true.**
19 Q. So you would agree with me that person-to-person
20 payments are a different service than external
21 transfers that you -- your company provides?
22 **A. Yes.**
23 Q. Okay. And through personal online banking, your
24 company allows a customer to transfer money
25 between their own Intrust bank accounts; is that

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1 right?
2 **A. Yes.**
3 Q. But you'd also agree with me that that is
4 different than person-to-person payments?
5 **A. Yes.**
6 Q. Through your mobile banking service or mobile
7 banking application, you allow a customer also
8 to transfer funds between Intrust accounts that
9 they hold with your bank; is that correct?
10 **A. Yes.**
11 Q. And you would also agree with me that is a
12 different service than person-to-person
13 payments?
14 **A. Yes.**
15 Q. Do you have any sense of how many customers a
16 year use any of your bank services to transmit
17 money to a receiver that is in a foreign
18 country?
19 **A. I do not know the answer to that.**
20 **MR. NORTON:** Jimmy, we've been going
21 for a little over an hour, is it a good
22 time for a short break or ...
23 **MR. NGUYEN:** Let me show one more
24 document and then we'll take a break.
25 **BY MR. NGUYEN:**

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1 Q. I'm going to show you a document, Ms. Elliott,
2 which we will mark as Exhibit 116, I believe
3 we're on.
4 (Deposition Exhibit Number 116
5 Marked for Identification.)
6 **BY MR. NORTON:**
7 Q. Which is a document entitled P2P CeB Guide, and
8 it's Bate numbered 0721 through 0735. Are you
9 familiar with this document?
10 **A. I do not believe I've seen it before.**
11 Q. Okay. So it's not something you were involved
12 in reviewing. Okay. If that's okay, then I
13 will not ask you any questions about it. Okay.
14 Yeah, why don't we take a break now.
15 (Thereupon, a recess was taken;
16 whereupon, the following was had.)
17 **BY MR. NGUYEN:**
18 Q. Let's go back on the record. All right.
19 Ms. Elliott, before we took a break, I had shown
20 you a document which I marked as Exhibit, what
21 number was it, 116, which was an FIS P2P CeB
22 guide, and you are not familiar with that
23 document; is that correct?
24 **A. That's correct.**
25 Q. All right. Let me show you another document

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1 which we will mark as Exhibit 117 --
2 (Deposition Exhibit Number 117
3 Marked for Identification.)
4 **BY MR. NGUYEN:**
5 Q. -- which looks like a PowerPoint deck that is
6 Bate numbered 0736 through 0738. It's FIS
7 People Pay Payments to the People on the cover.
8 Are you familiar with this deck?
9 **A. No, I am not, I have not seen it.**
10 Q. Have you been involved in any of the discussions
11 your company has had with a company called FIS
12 with respect to person-to-person payments?
13 **A. I have not.**
14 Q. Okay. Have you been involved at all in any
15 discussions within your company related to the
16 functional implementation of a person-to-person
17 payment service?
18 **A. No, I have not.**
19 Q. Okay. You can set those aside. Okay. Let me
20 ask you about some questions with respect to the
21 brand awareness of --
22 **A. Okay.**
23 Q. -- the Intrust-related marks. Would you agree
24 with me that the brand awareness of Intrust and
25 Intrust Bank is greatest in the Wichita area?

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1 **A. Yes.**
2 Q. Okay. Would you -- how would you rate the level
3 of brand awareness in Kansas? Have you done
4 studies --
5 **A. Have I done studies for the State of Kansas?**
6 Q. Yes.
7 **A. No.**
8 Q. Okay. Do you have any reason to believe that
9 the Intrust brand has a high level of consumer
10 awareness outside the State of Kansas?
11 **A. Outside our own customer base, no.**
12 Q. Okay. And how many customers do you have that
13 are consumer customers?
14 **A. I do not have the answer to that.**
15 Q. Okay. So to summarize, is it a fair statement
16 that Intrust and its brand have a high consumer
17 awareness in Wichita; is that correct?
18 **A. Yes.**
19 Q. And in Kansas to your customer base?
20 **A. And the markets that we are in. Our customer**
21 **base as well as the market area that we are**
22 **physically located in.**
23 Q. What are the main market areas you're physically
24 located in?
25 **A. In Kansas?**

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1 Q. Yes.
2 **A. Sedgwick and Butler Counties.**
3 Q. Okay.
4 **A. Junction City, Manhattan, Topeka, Lawrence, and**
5 **Kansas City.**
6 Q. Okay. Do you believe that the Intrust brand has
7 consumer brand awareness in anyplace outside of
8 Kansas and those marketplaces you just
9 identified?
10 **A. Yes.**
11 Q. In what other places?
12 **A. Arkansas and Oklahoma.**
13 Q. Okay. You only have one branch in Arkansas; is
14 that correct?
15 **A. That's correct.**
16 Q. So would you agree with me that the consumer
17 brand awareness of the Intrust brand is limited
18 to the market for that one branch?
19 **A. Yes.**
20 Q. What market is that?
21 **A. Rogers.**
22 Q. In Oklahoma, you have, I believe, is it six
23 branches?
24 **A. I believe so.**
25 Q. Okay. In three counties; is that right?

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1 **A. I don't know the answer to that.**
2 Q. Do you know where those branches are located?
3 **A. Yes.**
4 Q. Where are they located?
5 **A. Two in Oklahoma City, one in Edmond, Moore,**
6 **Mustang, and Norman.**
7 Q. Would you agree with me that in Oklahoma, the
8 consumer brand awareness of the Intrust brand is
9 limited to those markets you've just listed?
10 **A. Yes.**
11 Q. Would you agree with me that the majority of
12 your customers are in Sedgwick County, in
13 Kansas?
14 **A. Yes, that's prob -- that's more than likely**
15 **true.**
16 Q. More than 50 percent?
17 **A. More than likely but I can't say for sure.**
18 Q. Let's talk about the advertising --
19 **A. Uh-huh.**
20 Q. -- that you do using any of the Intrust marks
21 that we've talked about.
22 **A. Okay.**
23 Q. Do you geographically target your advertising?
24 **A. Yes, we do.**
25 Q. To what geographies?

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1 **A. Primarily the markets that we've listed in**
2 **Kansas, those in Oklahoma, and Rogers, Arkansas.**
3 Q. Okay. So, for example, direct marketing is one
4 of the marketing channels you use?
5 **A. Uh-huh.**
6 Q. Is that yes?
7 **A. Yes, I'm sorry.**
8 Q. To what geographic markets do you send direct
9 marketing?
10 **A. That's a much broader scope than our other**
11 **traditional marketing because we have Affinity**
12 **relationships on the credit card side with**
13 **universities, and their alumni are located**
14 **outside of our -- our physical footprint.**
15 Q. Okay. Do you know what percentage of your
16 direct marketing pieces are sent to people who
17 are outside of your physical geographic
18 footprint?
19 **A. No, I do not know.**
20 Q. Is it a small percentage, a big percentage?
21 **A. I don't -- I don't have the answer to that.**
22 Q. Okay. What about television advertising, are --
23 you have responsibility for the media buys for
24 television commercials; is that correct?
25 **A. Yes.**

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1 Q. Okay. And in what geographic markets do you
2 purchase television advertising spots?
3 **A. Primarily Sedgwick and Butler County.**
4 Q. Okay. Have you ever purchased television
5 advertising spots in any other county?
6 **A. Yes.**
7 Q. Where else?
8 **A. Manhattan, Junction City, Lawrence, Topeka,**
9 **Kansas City, Oklahoma City.**
10 Q. Okay. So only in Kansas and in one Oklahoma
11 broadcast market?
12 **A. Yes.**
13 Q. And when you do television ad buys, is that with
14 a local broadcast station?
15 **A. I believe so, cable and local broadcasts.**
16 Q. Okay. You've never done a television
17 advertising buy on a national network; is that
18 correct?
19 **A. We've never done a national buy.**
20 Q. For television?
21 **A. For television.**
22 Q. For radio as well?
23 **A. Correct.**
24 Q. What about for online advertising?
25 **A. Correct.**

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1 Q. And that's because -- what about billboard
2 advertising?
3 **A. Not national.**
4 Q. And that's because doing a national advertising
5 buy is much more expensive than focusing on the
6 local markets where you have a geographic
7 footprint?
8 **A. Correct.**
9 Q. So have you ever had billboards in any geography
10 outside your physical geographic footprint?
11 **A. No.**
12 Q. What about print ads, have you ever done a print
13 ad buy in a print publication for a publication
14 outside of your geographic footprint you've
15 identified?
16 **A. Not that I can think of.**
17 Q. Let's talk about online advertising for a
18 moment. So one way in which you've done online
19 advertising is through search-based keyword
20 advertising; is that correct?
21 **A. Yes.**
22 Q. Can you describe for me what you understand
23 search-based keyword advertising to be?
24 **A. We purchase keyword groups --**
25 Q. Uh-huh.

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1 **A. -- through Google AdWords and -- and it's**
2 **assigned to a specific geographic area and we**
3 **are -- any time those terms are searched within**
4 **our geographic area, we -- our ads are served.**
5 **And it's a -- our placement is based on a**
6 **bidding price, so we're bidding for -- for**
7 **placement.**
8 Q. Meaning you're bidding to have a search result
9 with your website higher in a Google search
10 result ranking than --
11 **A. No.**
12 Q. -- someone else?
13 **A. No, Google AdWords is ad placement, not search**
14 **results.**
15 Q. Okay, you're right. Let's differentiate those
16 two.
17 **A. Right, so AdWords is placing text ads with links**
18 **to the right or top of the results page, and**
19 **that's what we're bidding on placement for.**
20 Q. To be placed in sponsored links?
21 **A. Sponsored or to the right.**
22 Q. Correct. Which are all result -- they're all
23 ads that are paid for by some advertiser?
24 **A. Right, we have to bid for those placements.**
25 Q. And you mentioned that you do that based upon

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1 the location of the searcher; is that correct?
2 **A. Yes.**
3 Q. Right. And tell me how the location of the
4 searcher comes into play.
5 **A. I don't know how this works, but if their -- if**
6 **their IP address is located in a geographic area**
7 **we're buying --**
8 Q. Right.
9 **A. -- then they are going to see our ad if the**
10 **stars align and we bid for that keyword and they**
11 **searched for that keyword and our ad's**
12 **presented. But outside -- if someone Googles a**
13 **keyword group that we have purchased and they**
14 **live in Colorado, they will not see our ad.**
15 Q. Correct. So, for example, you might purchase
16 the keyword mortgage?
17 **A. Right.**
18 Q. So that if someone searches on Google or other
19 search engine for the term mortgage and they --
20 their IP address indicates that they are in
21 Kansas, they might see your ad?
22 **A. Yes.**
23 Q. You hope that they see your ad?
24 **A. Yes.**
25 Q. What geographic areas are the area for your

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1 online ad buy when it comes to search results?
2 **A. The same geographic areas I've mentioned**
3 **previously, those markets where we have a**
4 **physical location.**
5 Q. So the markets in Kansas you listed?
6 **A. The markets in Kansas and Oklahoma.**
7 Q. What about in Arkansas?
8 **A. I don't believe we've done any of that type of**
9 **purchasing in Arkansas.**
10 Q. Is that because you only have one branch in
11 Arkansas now?
12 **A. No, it has -- no, it's not because there's only**
13 **one location.**
14 **(Deposition Exhibit Number 118**
15 **Marked for Identification.)**
16 **BY MR. NGUYEN:**
17 Q. Let me show you what we'll mark as Exhibit 118,
18 we're going to turn to the topic of AdWords.
19 Are you familiar with this document?
20 **A. Yes.**
21 Q. Can you tell me what it is?
22 **A. This is a list of ads that were developed to be**
23 **presented under the search keyword categories**
24 **that we were purchasing.**
25 Q. Okay. And so if mortgage keyword was searched

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1 for by an Internet user, then, for example, one
2 of the ads that has been listed here might show
3 up?
4 **A. Right.**
5 Q. Okay. And are your Google AdWords campaigns
6 also geographically limited?
7 **A. Yes, yes.**
8 Q. To the same geographic areas where you have a
9 physical footprint?
10 **A. Yes.**
11 Q. Kansas and Oklahoma?
12 **A. Yes.**
13 Q. And in Oklahoma, it's only for the geographies
14 where you have those six branches; is that
15 correct?
16 **A. Yes.**
17 Q. Is it targeted by zip code to get to the city
18 level?
19 **A. I honest -- I don't know how it's targeted. I**
20 **would assume it's zip code.**
21 Q. But do you do any Google AdWords campaigns for
22 target users in Arkansas?
23 **A. No, we have not done any.**
24 Q. When did you first begin doing any online
25 search-based advertising campaigns?

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1 **A. Oh, that's a good question. I cannot recall**
2 **what year that was in.**
3 Q. Okay. Let me show you --
4 **A. You showed me something previously that might**
5 **have a clue.**
6 Q. If you have just an approximate date, that would
7 help.
8 **A. It may have been sometime after July 30th, 2009,**
9 **so perhaps 2009, 2010.**
10 Q. Okay. Let me see if I can give you something
11 that will help you. Take a look at this
12 document, which is entitled Competitive
13 Analysis, which we'll mark as Exhibit 119.
14 (Deposition Exhibit Number 119
15 Marked for Identification.)
16 **A. I've got the same document that you've already**
17 **entered.**
18 **BY MR. NGUYEN:**
19 Q. Oh, you are correct, let's strike that as a
20 duplicate. Look back at Exhibit 101. So 119 is
21 no longer going to be the document I just
22 referenced. Exhibit 101 is the competitive
23 analysis prepared by your marketing agency; is
24 that correct?
25 **A. Correct.**

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1 Q. And in that competitive analysis, does it
2 discuss anything with respect to online
3 search-based advertising?
4 **A. Yes, it does.**
5 Q. And does that refresh your memory as to when you
6 first began doing online search-based
7 advertising?
8 **A. Well, their proposal or recommendations were**
9 **given to us in July of 2009. What it doesn't**
10 **tell me is what our action was based on that**
11 **proposal, so I can't say for certain if we**
12 **implemented a Google AdWords purchase in 2009 or**
13 **if it was in 2010.**
14 Q. Got it. But it was around 2009 or 2010?
15 **A. Right.**
16 Q. Can you look on that -- in that document at page
17 number 822? I'm sorry, 837. You do have 837 in
18 there?
19 **A. No. In this -- in this document 101?**
20 Q. Yeah. Sorry, I moved on to a different
21 document.
22 **MR. NORTON:** It starts with 851.
23 **MR. NGUYEN:** Yeah, my apologies.
24 Now we're going to mark what's Exhibit 119.
25 (Deposition Exhibit Number 119

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1 Remarked for Identification.)
2 **BY MR. NGUYEN:**
3 Q. Which is an Intrust Bank website 2012 SEO and
4 website analytics report. Have you seen this
5 before, Ms. Elliott?
6 **A. Yes.**
7 Q. And is this prepared by your marketing agency to
8 evaluate traffic and search engine optimizations
9 for the Intrust Bank website?
10 **A. Yes.**
11 Q. Okay. Will you look at page 874 -- sorry,
12 wrong -- 837 in this document? And this refers
13 to mobile traffic, this page. Is this with
14 respect to access to your website from a mobile
15 device?
16 **A. Yes, I believe that's true.**
17 Q. Okay. And it reports that in 2012 the mobile
18 percentage of overall traffic was 13.22 percent.
19 Do you see that?
20 **A. Yes.**
21 Q. Which is increased from 2010 when it was only
22 2.28 percent?
23 **A. Yes.**
24 Q. Would you agree with me that mobile traffic
25 represents still a small percentage of your

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1 website traffic?
2 **A. It is a small percentage of website traffic.**
3 Q. Okay. And if you look in this document at page
4 831, there is a breakdown of traffic by
5 locations. Do you see that?
6 **A. Hold on. Yes.**
7 Q. And Wichita is at the top for both 2010 and
8 2012. In 2012, it was 53.3 percent of traffic.
9 Do you see that?
10 **A. Yes.**
11 Q. Did you have the Sullivan Higdon firm prepare
12 this report so that you could evaluate where
13 your website traffic came from?
14 **A. Yes.**
15 Q. And based upon this, is it your understanding
16 that more than 50 percent of your Internet
17 traffic comes from Wichita?
18 **A. Yes.**
19 Q. Okay. And then the next percentage is -- the
20 next location, which is Topeka, has 2.4 percent.
21 Do you see that?
22 **A. Yes.**
23 Q. Do you know if that is the next largest
24 geographic area from which your website gets
25 traffic?

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1 **A. That would be my assumption.**
2 Q. So pretty much it's more than half from Wichita
3 and then any other geography accounts for less
4 than 3 percent of your traffic?
5 **A. Correct.**
6 Q. And so the locations listed on page 0831, under
7 the 2012 column, are Wichita and then Topeka,
8 Derby, Lawrence, and Oklahoma City. The first
9 four are all in Kansas; is that correct?
10 **A. Yes.**
11 Q. And then you have one location, Oklahoma City,
12 which gets 2 percent of your traffic?
13 **A. Yes.**
14 Q. So there are no locations within your top five
15 geographic areas for traffic that are from
16 outside of Kansas or Oklahoma?
17 **A. That's true.**
18 Q. Okay. Let me show you a document we'll mark as
19 Exhibit 120 --
20 (Deposition Exhibit Number 120
21 Marked for Identification.)
22 **BY MR. NGUYEN:**
23 Q. -- which is a deck entitled Paid Search
24 Opportunities Revised Cost Estimates for Intrust
25 Bank. And is this a presentation that Sullivan

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1 Higdon prepared to assist you in implementing
2 paid Internet search campaigns?
3 **A. Yes, it looks like it.**
4 Q. Okay. And if you will turn to page 874, there's
5 a listing of geographical coverage
6 prioritization. Do you see that?
7 **A. Yes.**
8 Q. Were these recommendations being made by your
9 media agency as to where to target any paid
10 online search campaigns?
11 **A. Yes.**
12 Q. Did you actually implement paid online search
13 campaigns in all of the geographic areas listed
14 on page 874?
15 **A. I believe we did, but I can't say for sure.**
16 Q. Okay. If you look at the next page, page 875,
17 there's a slide that says how would we
18 prioritize lines of business, and lists various
19 lines of business. Are these lines of business
20 that would be the focus of any paid search
21 advertising campaigns?
22 **A. Yes. These would be the lines of business that**
23 **we would then purchase keyword -- keyword**
24 **categories in.**
25 Q. Okay. And none of the lines of business

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1 reflected on page 875 relate to online bill pay,
2 do they?
3 **MR. NORTON:** Object to form.
4 **A. No, not specifically.**
5 **BY MR. NGUYEN:**
6 Q. Okay. That might be a service that's part of a
7 checking account?
8 **A. True.**
9 Q. Okay. But you weren't calling it out
10 separately?
11 **A. True.**
12 Q. And none of the items listed on page 875 relate
13 to electronic money transfers?
14 **A. True.**
15 Q. You testified earlier about various companies
16 that use a mark which you believed was similar
17 to your company's trademarks and for which your
18 company took some action to enforce its rights.
19 Are there any other companies which you've
20 become aware of that have used a mark similar to
21 Intrust or Intrust Bank which you have chosen
22 not to take action against?
23 **A. Not that I can think of.**
24 Q. Are you aware of a company called EnTrust, with
25 an E, E-N-T-R-U-S-T, Financial in Pennsylvania?

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1 **A. Entrust Financial in Pennsylvania. I don't know**
2 **if I am or not. I don't think I am.**
3 Q. Are you familiar with a company called Entrust
4 Group in Nevada?
5 **A. How is that spelled?**
6 Q. With an E, E-N-T-R-U-S-T.
7 **A. E-N-T-R-U-S-T. Entrust Group in Nevada, I don't**
8 **believe so.**
9 Q. What about Entrust Administration in Oakland,
10 California?
11 **A. No.**
12 Q. What about MN Trust in Minnesota?
13 **A. MN Trust, no.**
14 Q. Let's talk about my client's application for the
15 mark nTrust, just the letter N, T-R-U-S-T. You
16 testified earlier that you believe that services
17 described on a website you viewed at ntrust.com
18 are similar to services your bank offers. How
19 many times have you accessed ntrust.com?
20 **A. nTrust with an N?**
21 Q. Yes.
22 **A. Less than five times.**
23 Q. Okay. When was the first time?
24 **A. I -- I can't say. I don't -- because I don't**
25 **know.**

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1 Q. Did you actually attempt to create an account on
2 ntrust.com?
3 **A. I probably started into the process but didn't**
4 **proceed.**
5 Q. Okay. So you didn't actually use nTrust's
6 services?
7 **A. No.**
8 Q. So earlier, I believe you testified that nTrust
9 offered services as described on the web pages
10 you visited?
11 **A. nTrust, with an N, offered services?**
12 Q. My client, let's just --
13 **A. Yes.**
14 Q. And did you testify, if I recall correctly, that
15 you actually used those services?
16 **A. No.**
17 Q. Okay. So I -- that's what I was trying to
18 clarify. So you did not actually use any of the
19 services offered by my client?
20 **A. No.**
21 Q. Okay. You just viewed the website to see what
22 it was describing?
23 **A. Yes.**
24 Q. Do you have -- I'm going to ask you to pull back
25 out the trademark registrations we looked at

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1 from your company, which started with 102.
2 **A. Okay.**
3 Q. So it's your position, if I'm correct, that my
4 client's nTrust mark is likely to cause
5 confusion with Intrust, which is registered in
6 Exhibit 102 in front of you; is that correct?
7 **A. Yes, that's one of the marks.**
8 Q. Even if my client is not offering banking
9 services?
10 **A. Yes, but in my opinion, your client is offering**
11 **service -- the same services that we are**
12 **offering.**
13 Q. And what services would those be that are the
14 same?
15 **A. Bill pay.**
16 Q. Anything else?
17 **A. There's intent to -- the application is for a**
18 **class of services that we do business in so**
19 **there's the opportunity to do -- to offer other**
20 **services that Intrust already offers, Intrust,**
21 **I-N-T-R-U-S-T.**
22 Q. Because it's in Class 36 where you have your
23 many -- your trademarks registered?
24 **A. Right.**
25 Q. So just because my client's application is in

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1 Class 36, that means it'll cause likely
2 confusion with your marks?
3 **A. That's one of the reasons that -- that we're**
4 **concerned about the trademark application.**
5 Q. Okay. Other than bill pay, what other services
6 do you believe my client is intending to offer
7 that conflict with your company's services?
8 **A. Even though we don't offer it today,**
9 **person-to-person payments, that capability is**
10 **something we plan to offer, and that would be a**
11 **conflict.**
12 Q. Even though you don't offer it today?
13 **A. Yes. And even though we're not talking about a**
14 **checking account, the behavior or the services**
15 **that the consumer can use at nTrust, with an N,**
16 **function or can function in a similar fashion to**
17 **the services that we offer our customers.**
18 Q. So for --
19 **A. A cloud account behaves an awful lot like a**
20 **checking account.**
21 Q. What do you mean by that?
22 **A. You can fund it and then you can withdraw funds**
23 **and send them other places or you can have funds**
24 **sent into the account and you can access those**
25 **funds with a -- with a card provided by**

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1 **MasterCard, which is an issuer similar to Visa,**
2 **which is what we offer our clients.**
3 Q. And you believe that that set of services is
4 conflicting with your company's services even if
5 they're not provided by a bank?
6 **A. Yes.**
7 Q. And even if they're not banking services then?
8 **MR. NORTON:** Object to form.
9 **A. They are banking services. They -- they are**
10 **what we offer so -- and they are similar so**
11 **they ...**
12 **BY MR. NGUYEN:**
13 Q. You told me earlier that --
14 **A. They look like, they smell like, they -- without**
15 **being called banking services, they're the same**
16 **as the banking services that we provide.**
17 Q. So you told me earlier that when they're not
18 provided by a bank, they're not banking
19 services; is that right?
20 **A. That's true.**
21 Q. But you think anything that a bank does is
22 considered banking service?
23 **A. Yes.**
24 Q. Even if it's not something the bank is
25 authorized by its charter to do?

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1 **A. What would be -- what's an example of something**
2 **we wouldn't be authorized to do?**
3 Q. I walk in, I want a document notarized, is that
4 a banking service?
5 **A. I believe it's a service we provide as a bank,**
6 **so I throw it under that category.**
7 Q. Even if your charter doesn't talk about
8 licensing a bank to notarize documents?
9 **A. Yes.**
10 Q. Therefore, it becomes a banking service?
11 **A. It's -- yes.**
12 Q. So if you want to start selling hamburgers
13 tomorrow in your bank branches, is that a
14 banking service?
15 **A. It would be a service that we would be**
16 **providing.**
17 Q. And, therefore, you could stop a company from
18 having a similar mark to sell hamburgers?
19 **MR. NORTON:** Object to the form,
20 it's argumentative.
21 **A. No, because our trademark is not registered**
22 **under the class of services titled -- or**
23 **whatever a hamburger operator would be operating**
24 **under.**
25 **BY MR. NGUYEN:**

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1 Q. Right. It's not a banking service?
2 **A. It's not in the Class 36.**
3 Q. Right. So -- okay. All right. Let's take a
4 look at Exhibit 103, which, again, which is the
5 next trademark registration, which was for
6 Intrust 24 Hour Banking. Would you agree with
7 me that the presence of 24 hour banking in that
8 mark means it is less likely to be confused with
9 the word nTrust by itself?
10 **MR. NORTON:** Objection, form.
11 **A. Can you ask that again, please.**
12 **BY MR. NGUYEN:**
13 Q. Sure. You believe that Intrust 24 Hour Banking
14 and my client's nTrust have potential for being
15 confused by consumers; is that right?
16 **A. Yes.**
17 **MR. NORTON:** Object -- object to
18 form, incomplete hypothetical.
19 **BY MR. NGUYEN:**
20 Q. Okay. Would you agree with me that the presence
21 of the phrase 24 hour banking in the mark in
22 front of you in Exhibit 103 means it is less
23 likely to be confused by consumers with the word
24 nTrust by itself?
25 **MR. NORTON:** Same objection.

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1 **A. No, I do not believe it's less likely to be**
2 **confused.**
3 **BY MR. NGUYEN:**
4 Q. So you believe there's no impact to the
5 inclusion of the phrase 24 hour banking --
6 **MR. NORTON:** Same objection.
7 **BY MR. NGUYEN:**
8 Q. -- it's the same as Intrust by itself?
9 **A. Intrust 24 Hour Banking describes a service or**
10 **an offering provided by Intrust, but it does**
11 **not, by having those words added to the end of**
12 **it, make it less confusing with nTrust,**
13 **N-T-R-U-S-T.**
14 Q. So the presence of the words 24 hour banking
15 have no meaning to you when you are comparing
16 the mark nTrust against Intrust 24 Hour Banking?
17 **MR. NORTON:** Object to form,
18 misrepresents testimony.
19 **A. I'm not sure I understand what you're saying.**
20 **BY MR. NGUYEN:**
21 Q. Well, you think that Intrust and nTrust are
22 likely to cause -- there's likely to be
23 confusion in consumers' minds between those two
24 marks; is that right?
25 **A. Yes.**

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1 Q. Now I'm talking about -- I'm going to start
2 talking about your other marks that have Intrust
3 in them but other words as well, such as Intrust
4 24 Hour Banking.
5 **A. Uh-huh.**
6 Q. You believe that nTrust is still likely to cause
7 confusion with Intrust 24 Hour Banking?
8 **A. Yes.**
9 **MR. NORTON:** And I will have a
10 running objection as to incomplete
11 hypothetical --
12 **MR. NGUYEN:** Sure.
13 **MR. NORTON:** -- for those types of
14 questions.
15 **MR. NGUYEN:** That's fine.
16 **BY MR. NGUYEN:**
17 Q. Even though my client's mark doesn't have the
18 words 24 hour or banking in it?
19 **A. Right.**
20 Q. Or the word banking at all?
21 **A. Right.**
22 Q. So you think the mark Intrust 24 Hour Banking is
23 the same as Intrust by itself for the purpose of
24 being compared to my client's nTrust mark?
25 **MR. NORTON:** Objection, misstates

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1 prior testimony.
2 **A. Yeah, I really have no idea, I have no idea what**
3 **you're asking or what ...**
4 **BY MR. NGUYEN:**
5 Q. That mark has three additional words in it --
6 **A. Right.**
7 Q. -- compared to Intrust by itself; is that right?
8 **A. That is true.**
9 Q. Do you think the addition of those three
10 additional words has any impact on whether a
11 consumer is likely to be confused with the
12 nTrust mark my client wants to use? Do you
13 think that increases confusion, decreases
14 confusion, is neutral?
15 **A. I don't think they're any less likely to be**
16 **confused.**
17 Q. Because of those words?
18 **A. Right.**
19 Q. So those words have no meaning to you in the
20 mark?
21 **MR. NORTON:** Objection,
22 misrepresents testimony.
23 **A. Yeah, I don't agree with that, I think that's**
24 **a -- those two questions are not related.**
25 **BY MR. NGUYEN:**

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1 Q. What about Exhibit 104, the next exhibit,
2 Intrust Bank, N.A., do you think the inclusion
3 of the words bank and N, period, A, period have
4 any impact on whether or not that mark is likely
5 to be confused with my client's nTrust mark?
6 **A. I do not think there is any less likelihood of**
7 **confusion.**
8 Q. And you think that would be true for all of your
9 client's other marks that have the word Intrust
10 and some other words as well?
11 **A. Yeah, I would -- I would answer the same way.**
12 Q. What about Exhibit 109, the design mark with the
13 I graphic and the phrase Intrust Bank?
14 **A. As compared to the design mark of your client?**
15 Q. As compared to the word?
16 **A. nTrust with an N?**
17 Q. Yes.
18 **A. Yes, I think that there's likelihood of**
19 **confusion between those two.**
20 Q. Even though your mark has the I design and the
21 word nTrust has no I in it anywhere or an I
22 design?
23 **A. Yes.**
24 Q. And even though my -- do you believe my client
25 is using a design that is similar to the I

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1 design reflected on Exhibit 109?
2 **A. It's similar in that it has a graphic in front**
3 **of the word nTrust.**
4 Q. But it's not an I graphic, is it?
5 **A. It's a -- it's a graphic with two linked**
6 **components.**
7 Q. It's a cloud graphic, isn't it?
8 **A. It looks like two hearts linked together to me.**
9 Q. So are you saying that if anyone uses any
10 graphic in front of the word Intrust that it
11 would be likely to be confused with the mark
12 reflected in Exhibit 109 owned by your company?
13 **MR. NORTON:** Objection, incomplete
14 hypothetical.
15 **A. Yes.**
16 **BY MR. NGUYEN:**
17 Q. Any design?
18 **A. A design.**
19 Q. Okay. You testified earlier that you compared
20 my client's web pages to your company's web
21 pages, and one of the similarities you
22 identified was the presence of a graphic on the
23 header?
24 **A. Yeah, the photo.**
25 Q. The photo?

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1 **A. The large photo.**
2 Q. Were the photos similar? We can take a look at
3 them if you need.
4 **A. They were both large, and they were both**
5 **spreading the expanse of the width of the**
6 **website.**
7 Q. And so you think that will --
8 **A. And that's the similar element.**
9 Q. So you think that will lead consumers to confuse
10 my client's nTrust website with your company's
11 website?
12 **A. It could.**
13 Q. How many websites have you seen that use photos
14 on the home page?
15 **A. I don't know how many.**
16 Q. Isn't it a common practice for most website home
17 pages to have some type of photo on the landing
18 page?
19 **A. Yes, I would say so.**
20 Q. And you would agree with me -- here, let me see
21 if I can find the exhibits.
22 **MR. MAYANS:** 30 and 31.
23 **MR. NORTON:** 30, 31.
24 **MR. NGUYEN:** Thank you.
25 **BY MR. NGUYEN:**

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1 Q. Take a look at Exhibit 30 and 31 which you
2 reviewed earlier. Exhibit 30, do you know if
3 this is the current home page for the ntrust.com
4 website?
5 **A. I do not.**
6 Q. Okay. And just looking at the pictures here,
7 the picture you are pointing to is a picture of
8 a man and a woman drinking coffee; is that
9 right?
10 **A. Correct.**
11 Q. And if you look at Exhibit 31, that's a picture
12 of a hand holding a white iPhone?
13 **A. I'm sorry. Yes.**
14 Q. And you think those are similar?
15 **MR. NORTON:** Object to the form.
16 **A. They're similar because they are two photo --**
17 **they are both photos and they are both large and**
18 **are as wide as the web page is wide.**
19 **BY MR. NGUYEN:**
20 Q. And you also identified that the presence of a
21 white iPhone on both web pages suggests that
22 consumers might be confused?
23 **MR. NORTON:** Object to the form,
24 incomplete hypothetical, misrepresents
25 prior testimony.

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1 **BY MR. NGUYEN:**
2 Q. Let me restate that. You identified as a
3 similarity between the two web pages in Exhibit
4 30 and 31 the presence of a white iPhone
5 picture?
6 **A. Yes.**
7 Q. Have you seen white iPhones depicted on other
8 companies' websites?
9 **A. On Apple's website.**
10 Q. And isn't it a common practice for companies,
11 when they are depicting mobile applications, to
12 depict a mobile smartphone device?
13 **A. In my opinion it is but those devices are rarely**
14 **white. They're -- they are typically, in my**
15 **opinion, the black version.**
16 Q. Okay. What other similarities did you identify,
17 if you can recall?
18 **A. The color blue and the blocks of color blue.**
19 Q. Okay. So you believe that the color blue and
20 the blocks are similar. But you acknowledged
21 earlier that your client -- your company, excuse
22 me, has no trademark registrations which
23 encompass the color blue; is that right?
24 **A. That's true.**
25 Q. Okay. So do you believe there's something

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1 unfair with my client using the color blue on a
2 website home page?
3 **A. No, blue is a fine color to use. My**
4 **representation of the two sites was that they**
5 **both were using the blue color, so that was a**
6 **similarity.**
7 Q. Okay. But there's nothing inherently wrong with
8 my client using the color blue?
9 **A. There is when it's the same color blue that we**
10 **use on our website and our names are similar.**
11 Q. Do you own the color blue? Does your company --
12 **MR. NORTON:** Object to form.
13 **BY MR. NGUYEN:**
14 Q. -- own the trademark rights to that color blue?
15 **MR. NORTON:** Object to the form,
16 argumentative.
17 **A. No, we do not.**
18 **BY MR. NGUYEN:**
19 Q. Okay. So you can't stop somebody else from
20 using the same color blue, can you?
21 **MR. NORTON:** Object to the form,
22 argumentative, and she doesn't have to
23 answer that question. Next question,
24 please.
25 **BY MR. NGUYEN:**

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1 Q. You can answer.
2 **MR. NORTON:** No.
3 **MR. NGUYEN:** Unless you're going to
4 instruct her not to answer, you can answer.
5 **MR. NORTON:** I'm instructing her not
6 to answer unless you want to rephrase it.
7 **BY MR. NGUYEN:**
8 Q. Okay. Earlier you testified about Intrust
9 Bank's iPhone app and Android app, those two
10 mobile apps. And you indicated that they
11 include the Intrust brand; is that correct?
12 **A. Yes.**
13 Q. Which specific mark or marks of your company do
14 those mobile apps use?
15 **A. Intrust and Intrust Bank.**
16 Q. Okay. Any of the other 12 we looked at today?
17 **MR. NORTON:** Object as --
18 **A. The stylized --**
19 **MR. NORTON:** -- as asked and
20 answered.
21 **A. -- version.**
22 **BY MR. NGUYEN:**
23 Q. You mean the I --
24 **A. Uh-huh.**
25 Q. -- Intrust Bank?

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1 **A. Uh-huh.**
2 Q. Was that yes?
3 **A. I'm sorry, yes, that was yes.**
4 Q. Can you look at Exhibit 29? This is the web
5 pages related to Intrust Bank fraud center and a
6 fraud and security section. You testified
7 earlier that this reflects fraud prevention and
8 detection services offered by your company; is
9 that correct?
10 **A. That's correct.**
11 Q. Can you tell me what actual fraud and protection
12 services your company offers to consumers?
13 **MR. NORTON:** Are you asking beyond
14 what is stated in the exhibit?
15 **BY MR. NGUYEN:**
16 Q. You don't even have to refer to the exhibit, can
17 you give me an example of a product or service
18 your company offers to help me as a consumer
19 detect or prevent fraud?
20 **A. I -- I cannot --**
21 Q. Okay.
22 **A. -- provide that to you.**
23 Q. So in Exhibit 29, this provides, from my read of
24 it, information to consumers to inform them
25 about credit card fraud. Does it do that?

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1 **A. Yes, it does.**
2 Q. Such as, for example, on the third page,
3 offering some tips such as don't volunteer any
4 personal information when you use your credit
5 card, don't leave receipts at ATMs, bank
6 counters, or unattended gasoline pumps. Do you
7 see that?
8 **A. Yes.**
9 Q. That's some general advice that is good practice
10 for people to avoid having their identities
11 stolen; is that correct?
12 **A. Yes.**
13 Q. That's not a product or service your company
14 offers to consumers?
15 **A. No.**
16 Q. And is there anything in Exhibit 29 that
17 describes a fraud prevention and/or detection
18 service your company offers to consumers?
19 **MR. NORTON:** Are you asking her to
20 read the entire document?
21 **MR. NGUYEN:** Yeah.
22 **MR. NORTON:** To speed things up, can
23 I direct her --
24 **MR. NGUYEN:** No --
25 **MR. NORTON:** -- to some pages?

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1 **MR. NGUYEN:** -- I don't think that's
2 appropriate. She tried to testify
3 earlier -- the witness testified earlier
4 that the document -- that exhibit reflects
5 products and services for fraud prevention
6 and detection, and I want to know which
7 ones.
8 **MR. NORTON:** Which I am looking at
9 and reading right now.
10 **A. I'm sorry, can you repeat your question, please.**
11 **BY MR. NGUYEN:**
12 Q. Sure. I'm trying to learn what actual products
13 and services that your company offers to
14 consumers to detect and prevent fraud. Does
15 Exhibit 29 actually describe any products and
16 services?
17 **A. The service -- the service portion of that is**
18 **provided here in terms of the access to alerts**
19 **and the tips and recommendations and educational**
20 **information.**
21 Q. Okay.
22 **A. From the product perspective, the products that**
23 **we offer customers are not represented in this**
24 **exhibit, and I cannot speak to those products.**
25 Q. Okay. With respect to services, you listed

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1 several, you listed education --
2 **A. Uh-huh.**
3 Q. -- in this Exhibit 29?
4 **A. Right.**
5 Q. Is that a fraud prevention or detection service?
6 **A. Providing educational information, I believe, is**
7 **a service.**
8 Q. That's not -- okay. And what about, you
9 mentioned alerts, is that a service you provide
10 to customers?
11 **A. Yes.**
12 Q. Can you describe for me what those are?
13 **A. When we are aware of fraud happening, we post it**
14 **here in this section as an alert and describe it**
15 **so that customers know what's out there and**
16 **whether or not something they might have**
17 **experienced is legitimate.**
18 Q. Meaning you would post something to your public
19 web page saying we're aware somebody out there
20 is committing fraud?
21 **A. Right, and explaining it and verifying that it's**
22 **not representative of Intrust.**
23 Q. Okay. Turn with me to Exhibit 12, which is an
24 ad related to the Intrust Bank Arena. You
25 testified earlier that was published in a trade

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1 publication --
2 **A. Yes.**
3 Q. -- is that correct?
4 **A. As far as I can tell, yes.**
5 Q. In Kansas; is that right?
6 **A. No.**
7 Q. Oh, where was the trade publication circulated?
8 **A. I don't know which trade publication, but**
9 **because of the nature of the content of the ad,**
10 **I believe it was placed in a trade publication**
11 **for the entertainment industry.**
12 Q. Did your company place the ad, or did the owner
13 of the arena place the ad?
14 **A. The owner of the arena placed the ad.**
15 Q. So this is not an ad placed by your company?
16 **A. That's true.**
17 Q. And that's why the ad does not list your Intrust
18 Bank website as the domain name for reference;
19 it lists intrustbankarena.com?
20 **A. That's right.**
21 Q. And the reference person, Scott Neal, who is
22 listed for booking information, does he work for
23 your company?
24 **A. No.**
25 Q. Who does he work for?

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1 **A. He worked for Intrust Bank Arena.**
2 Q. Earlier you testified about subscribing to
3 monitoring services, including Corsearch?
4 **A. Right.**
5 Q. You also mentioned that the monitoring service
6 you subscribe to is for certain service
7 categories; is that correct?
8 **A. Yes, I believe so.**
9 Q. So, for example, you want a report from
10 Corsearch of any marks it becomes aware of that
11 are similar to Intrust that are in certain
12 service categories as opposed to just any
13 product or service?
14 **A. I believe that that's how our search is set up.**
15 Q. Do you know what those service categories are
16 for how your search is set up?
17 **A. I'm sorry, I don't remember.**
18 Q. Do you know which specific marks you have
19 included in the search setup?
20 **A. Yes.**
21 Q. Which ones?
22 **A. Intrust Bank and then two that are unrelated to**
23 **this case.**
24 Q. What about the word Intrust by itself?
25 **A. It's included so it's a -- in the search, it's**

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1 **like Intrust and bank or either --**
2 Q. Okay.
3 **A. -- or Intrust by itself.**
4 Q. Earlier, you talked about a settlement you
5 reached with Intrust Mortgage in Texas related
6 to your belief that it was using a mark that was
7 confusing with your company's marks. Do you
8 recall that?
9 **A. Yes.**
10 Q. And you said it's because they offered a same
11 line of services as your bank offers. What line
12 of services were you referring to?
13 **A. Mortgage services.**
14 Q. Okay. You also testified about the settlement
15 of your trademark dispute with InTrust Federal
16 Credit Union out in Virginia, I believe it was?
17 **A. Right.**
18 Q. And the resolution was that InTrust Federal
19 Credit Union canceled its trademark registration
20 that was on the U.S. trademark register but is
21 still being allowed by your company to use its
22 mark in a confined geographic area?
23 **A. Yes.**
24 Q. Okay. And so you are okay with them using the
25 mark in Virginia?

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1 **A. We decided that that was reasonable.**
2 Q. Okay. And you were aware that they actually had
3 a registration for InTrust Federal Credit Union
4 with the U.S. Patent and Trademark Office before
5 this dispute; is that right?
6 **A. I believe so.**
7 Q. Or you learned about that during the time --
8 **A. I believe so.**
9 Q. So are you aware that the Patent and Trademark
10 Office deemed their mark registrable even though
11 your company had Intrust marks registered?
12 **A. Correct.**
13 Q. Earlier you testified about what you thought
14 were some similarities for what you believe my
15 client's services will be and your bank's
16 services, and one of them you referenced was,
17 I'm trying to quote this as close as possible,
18 some sort of mobile service?
19 **A. Oh, right, it appeared as I was looking at that**
20 **web page example that there is -- there's**
21 **something being offered through a mobile device,**
22 **some kind of mobile accessibility or service.**
23 Q. So you believe a service similar to services
24 your bank offers if it's done through a mobile
25 device?

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1 **A. There's -- yes, in addition to reviewing the**
2 **other information on the page, which is you can**
3 **pay bills, you can -- you have a card, the**
4 **MasterCard visual was there. So that knowledge**
5 **in addition to the graphic of the device showing**
6 **something happening on it would lead me to**
7 **believe that there are mobile services of a**
8 **similar nature provided.**
9 Q. So it's not that it was purely a mobile service,
10 it's the type of service offered through a
11 mobile device that concerns you?
12 **A. Yes.**
13 Q. And that's because it involves transfer of
14 money?
15 **A. Yes.**
16 Q. Okay. So any company that provides a service to
17 transfer money through a mobile device, you
18 believe would offer a conflicting service with
19 your bank?
20 **MR. NORTON:** Object to form.
21 **A. It would offer a similar service with our bank.**
22 **BY MR. NGUYEN:**
23 Q. Okay, got it. And then you also mentioned
24 prepaid Master Cards that you saw as a reference
25 on the nTrust website?

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1 **A. Yes.**
2 Q. Okay. And that, you believe, is a similar
3 service to your bank's services?
4 **A. Yes.**
5 Q. Are you aware of retailers that offer prepaid
6 MasterCards or Visas?
7 **A. Yes.**
8 Q. Such as you can buy those at a grocery store?
9 **A. Yes.**
10 Q. And you think that is a similar service to
11 services offered by your bank --
12 **A. Yes.**
13 Q. -- that you can buy at a grocery store?
14 **A. Yes.**
15 Q. You were able to access the ntrust.com website
16 from here in Kansas; is that correct?
17 **A. Yes.**
18 Q. Do you know of anyone else at your company who
19 has accessed the website?
20 **A. I assume people have, but I can't tell you who.**
21 Q. To date, do you have any evidence that any
22 consumer's been actually confused into thinking
23 the ntrust.com website is associated with or
24 comes from your company?
25 **A. No, I do not.**

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1 Q. Do you have any evidence that any consumer has
2 been confused between my client's nTrust mark
3 and your company or any of its marks?
4 **A. No.**
5 Q. Let me deal with a couple documents and then we
6 can wrap it up.
7 (Discussion held off the record.)
8 **BY MR. NGUYEN:**
9 Q. Ms. Elliott, are you aware of requirements for a
10 bank to know the identity of customers that open
11 accounts with the bank?
12 **A. Do I know the details of that?**
13 Q. Yes.
14 **A. I am sorry, I do not.**
15 Q. Are you aware of the fact that there is such a
16 requirement?
17 **A. Yes.**
18 Q. Okay. So based upon that, how is it possible
19 for me to open an account at your bank purely
20 online?
21 **A. I can't speak to how that works from an**
22 **operational perspective, but the customer or the**
23 **individual filling out the application has to**
24 **provide, I believe, a driver's license and needs**
25 **to be -- I believe they need to be an existing**

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1 **customer or they have to have an existing**
2 **account card or some other account information**
3 **that they're entering on that application.**
4 Q. An existing account with your bank?
5 **A. I believe so.**
6 Q. So if I've never been a customer of your bank, I
7 can't open a new account online?
8 **A. I don't believe so. I believe you can -- if I**
9 **remember correctly, you can start the process**
10 **online, but then there still has to be some**
11 **verification that's done on the back end. I**
12 **think whether that -- it might be possible**
13 **through mail that that can be completed or -- or**
14 **the individual can come in person and do the**
15 **proper identification process.**
16 Q. Because someone would have to actually look at
17 my driver's license or ID and verify --
18 **A. I believe so.**
19 Q. -- that it's me?
20 **A. I believe so but I -- or send a copy, but I**
21 **honestly can't say for sure.**
22 **(Deposition Exhibit Number 121**
23 **Marked for Identification.)**
24 **BY MR. NGUYEN:**
25 Q. Let me show you what I've marked as Exhibit 121,

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1 I think we're on now, which are responses to
2 interrogatories, your company's responses to our
3 first set of interrogatories in this case. And
4 I'm not going to go through these all, I just
5 want to verify on the last page there is a
6 verification that carried your name; is that
7 correct?
8 **A. Yes.**
9 Q. Okay. And did you verify the answers in these
10 interrogatories on behalf of your company?
11 **A. Yes, I did.**
12 Q. Did you actually review the document before you
13 signed it --
14 **A. I did.**
15 Q. -- to verify its accuracy?
16 **A. I read it, yes.**
17 **(Deposition Exhibit Number 122**
18 **Marked for Identification.)**
19 **BY MR. NGUYEN:**
20 Q. And then I'm going to mark as Exhibit 122 a set
21 of supplemental responses to the same
22 interrogatories, which I believe you verified as
23 well. Is that your signature, Ms. Elliott, on
24 the last page of that document?
25 **A. Yes.**

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1 Q. Did you review that document before you signed
2 it?
3 **A. Yes.**
4 Q. And to your knowledge, are the responses in that
5 document accurate?
6 **A. Yes.**
7 **(Deposition Exhibit Number 123**
8 **Marked for Identification.)**
9 **BY MR. NGUYEN:**
10 Q. I'm going to mark as Exhibit 123 a document
11 entitled Intrust Online Bill Pay and e-Bill
12 Presentment Terms and Conditions. It is Bate
13 marked 050 through 055. Are you familiar with
14 this, Ms. Elliott?
15 **A. Yes, somewhat.**
16 Q. Is this the set of -- or one of the sets of
17 terms and conditions I have to agree to when --
18 if I'm a customer and I want to set up an online
19 bill pay service through your personal online
20 banking?
21 **A. Yes, I believe so.**
22 Q. Got it. If you see under the heading where it
23 says online bill pay and e-bills, it says, you
24 must be at least 18 years of age to enroll in
25 the services --

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1 **A. Yes.**
2 Q. -- and a resident of the United States? So do
3 you under -- do you have any understanding as to
4 whether that is one of the restrictions your
5 bank imposes on the use of online bill pay?
6 **A. Yes, it must be.**
7 Q. And then it also says, in order to use the
8 services, you must maintain at least one
9 checking or NOW account with the bank. Do you
10 see that?
11 **A. Yes.**
12 Q. What's a NOW account?
13 **A. I do not know the answer to that.**
14 Q. Okay. But I have to have some type of account
15 already with the bank in order to use online
16 bill pay; is that correct?
17 **A. Yes.**
18 Q. Okay. Just about done here. Just check a
19 couple other things. So online bill pay is a
20 service that you can add to a customer's
21 personal online banking service; is that
22 correct?
23 **A. Yes.**
24 Q. I'm trying to figure out the best way to
25 describe that.

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1 **MR. NGUYEN:** Do you have another
2 witness that's going to go over all those
3 e-banking bill pay, like, summaries?
4 **MR. NORTON:** Yes, that's Tom
5 Morrison.
6 **MR. NGUYEN:** Okay. Got it.
7 **BY MR. NGUYEN:**
8 Q. Okay. Two more sheets and then we'll be done.
9 **A. Okay.**
10 Q. Okay.
11 (Deposition Exhibit Number 124
12 Marked for Identification.)
13 **BY MR. NGUYEN:**
14 Q. Let me mark as Exhibit 124 a document which is
15 Bate marked 04373, and it's entitled
16 International Banking. That's Exhibit 124. Are
17 you familiar with this document, Ms. Elliott?
18 **A. Yes.**
19 Q. What is it?
20 **A. It's a piece of literature that we use to**
21 **describe our international banking services.**
22 Q. Okay. And if I'm correct in reading this
23 document, the -- there is a reference at the end
24 to international wire transfers?
25 **A. Yes.**

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1 Q. Do you see that?
2 **A. Yes.**
3 Q. Is that the only way today that if I'm a
4 customer of your bank I can transmit money to a
5 recipient in a foreign country, through
6 international wire transfers?
7 **A. To the best of my knowledge, it is.**
8 Q. Okay. There are no other services described on
9 Exhibit 124 for a customer to use to transfer
10 money to a foreign recipient, are there?
11 **A. I don't know much about international banking**
12 **services, so I can't say for sure.**
13 **MR. NGUYEN:** Okay. All right.
14 That's all the questions I have.
15
16 **REDIRECT EXAMINATION**
17 **BY MR. NORTON:**
18 Q. Just one quick series of questions, Ms. Elliott.
19 If you could turn to Exhibit 29. This is the
20 set of intrustbank.com printouts related to
21 fraud prevention and detection. Do you see
22 that?
23 **A. Yes.**
24 Q. And Mr. Nguyen had asked you -- or had stated to
25 you that there weren't any -- a description of

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1 any fraud-related services actually offered by
2 Intrust as stated in this document. Do you
3 remember that line of questioning?
4 **A. Yes.**
5 Q. If you would look at page 4124, and the second
6 paragraph there beginning with Intrust Bank, do
7 you see that?
8 **A. Yes.**
9 Q. Could you read that first sentence?
10 **A. Intrust Bank uses enhanced authentication**
11 **factors beyond your user ID and password to help**
12 **prevent fraud as a result of phishing and**
13 **spoofing.**
14 Q. Okay. And do you believe that to be a service
15 to assist with fraud prevention and detection
16 that Intrust offers?
17 **A. Yes.**
18 Q. And then if you would look at 4127. And then
19 you will see, it's a section titled Intrust Bank
20 Credit Card. Do you see that?
21 **A. Yes.**
22 Q. And then there's a tab that is highlighted for
23 online shopping security. Do you see that?
24 **A. Yes.**
25 Q. And there's the discussion of a Verified by Visa

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1 product?
2 **A. Yes.**
3 Q. And then a MasterCard SecureCode product, do you
4 see that description?
5 **A. Yes.**
6 Q. The sentence following the MasterCard SecureCode
7 section, could you read that first sentence for
8 us?
9 **A. Intrust Bank is providing these security**
10 **features to you at no charge. Feel safe and**
11 **secure when shopping online with your Intrust**
12 **credit or debit cards.**
13 Q. Okay. And the Verified by Visa item provides
14 that Verified by Visa protects your existing
15 Visa credit card or debit card with a personal
16 password giving you reassurance that only you
17 can use your Visa card online. Do you see that?
18 **A. Yes.**
19 Q. And is that a service that's offered by Intrust?
20 **A. Yes.**
21 Q. And would the same be true of the MasterCard
22 service that is identified there?
23 **A. Yes.**
24 **MR. NORTON:** Those are all the
25 questions that I have. Thank you,

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1 Ms. Elliott.
2
3 RECROSS EXAMINATION
4 **BY MR. NGUYEN:**
5 Q. I had a couple follow-up questions.
6 Ms. Elliott, you can stay on page 4127 of
7 Exhibit 29. So the Verified by Visa and
8 MasterCard SecureCode services that are listed
9 on this page, are those provided by Visa and
10 MasterCard?
11 **A. I believe that they are, but I can't answer**
12 **defiantly on that.**
13 Q. So you don't know for a fact that those are
14 services actually provided by your company as
15 opposed to by Visa and MasterCard?
16 **A. I believe they're by Visa and MasterCard, but**
17 **that's to the best of my knowledge.**
18 Q. Right. And -- because they are even described
19 with the Visa and MasterCard brands?
20 **A. Right.**
21 Q. In addition, turn back to page 4124, which you
22 were just directed to, and the paragraph which
23 says Intrust Bank uses enhanced authentication
24 factors beyond your user ID and password to help
25 prevent fraud as a result of phishing and

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1 spoofing, do you see that?
2 **A. Yes.**
3 Q. Do you -- is it a fair statement that customers
4 of banks these days expect their banks to
5 maintain the security of their online accounts?
6 **A. Yes, I think that -- I do believe that consumers**
7 **expect that kind of protection.**
8 Q. Right. Before they would enroll, for example,
9 in online banking, they want to make sure the
10 online banking system your bank provides is
11 secure?
12 **A. Yes.**
13 Q. All right. So your maintaining the security
14 through ID authentication of those online bank
15 accounts is not a separate fraud detection
16 service, is it?
17 **A. No.**
18 Q. It's part of providing online banking?
19 **A. Correct.**
20 Q. And it's not a separate fraud prevention
21 service, is it?
22 **A. It prevents fraud.**
23 Q. It's just something that your customers expect
24 that of online banking now?
25 **A. Yes.**

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Q. And they expect that when they log into their online bank account that you would take measures to authenticate their identity?
A. Yes.
MR. NGUYEN: Okay. Thank you.
MR. NORTON: No further questions. Thank you for your time, Ms. Elliott.
THE REPORTER: Read and sign?
MR. NORTON: Yes.
(Whereupon, the deposition was concluded at 4:33 p.m.)

I, LISA ELLIOTT, the witness herein, have read the transcript of my testimony, and the same is true and correct to the best of my knowledge, with the exception of the changes noted on a separate page, together with notation of the reasons for making such corrections.

_____
LISA ELLIOTT

STATE OF KANSAS)
SEDGWICK COUNTY) ss:

Subscribed and sworn to before me, the undersigned authority, this the _____ day of _____, 2014.

_____
Notary Public, _____ County
State of Kansas

My appointment expires:
_____

Nancy L. Rambo, R.P.R., C.S.R.

(CASE: Intrust Financial Corporation -vs- nTrust Corp., TAKEN 3/25/14)

C E R T I F I C A T E

STATE OF KANSAS)
SEDGWICK COUNTY) ss:

I, Nancy L. Rambo, do hereby certify the foregoing deposition was stenographically recorded by me as stated in the caption. The deponent was duly sworn to tell the truth, the whole truth, and nothing but the truth. Colloquies, statements, questions and answers thereto were reduced to typewriting under my direction and supervision, and the deposition is a true and correct record of the testimony/evidence given by the deponent.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in the action.

WITNESS my hand and official seal at Wichita, Sedgwick County, Kansas, this 7th day of April, 2014.

_____
NANCY L. RAMBO, R.P.R., C.S.R.
Registered Professional Reporter
Certified Shorthand Reporter

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In The Matter Of:

Intrust Financial Corporation v

nTrust Corp.

KIMBERLY KLOCEK

March 25, 2014

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Intrust Financial Corporation,
Opposer,
vs.
nTrust Corp.,
Applicant.

Opposition No. 91204456
Application Serial No. 85/250992
Mark: NTRUST

Deposition of KIMBERLY KLOCEK, taken by the Opposer, before me, Nancy L. Rambo, a Certified Shorthand Reporter, within and for the State of Kansas, at 1551 North Waterfront Parkway, Suite 100, Wichita, Sedgwick County, Kansas, commencing at 4:45 p.m. on the 25th day of March, 2014.

A P P E A R A N C E S

Opposer, Intrust Financial Corporation, appears by its attorneys, Michael J. Norton and Sharon Rye, Foulston Siefkin LLP, 1551 North Waterfront Parkway, Suite 100, Wichita, Kansas 67206-4466. Also present was Michael Mayans.

Applicant, nTrust Corp., appears by its attorney, Jimmy Nguyen, Davis Wright Tremaine LLP,

A P P E A R A N C E S (Cont.)

865 South Figueroa Street, Suite 2400, Los Angeles, California 90017-2566. Also present was Rob MacGregor.

INDEX OF EXAMINATION

KIMBERLY KLOCEK

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by Mr. Norton....4				
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INDEX OF EXHIBITS

EXHIBIT	FIRST REFERENCED
Number 8	6
Number 74	12
Number 75	10

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KIMBERLY KLOCEK,
having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION
BY MR. NORTON:

Q. Could you please state your name.
A. Kimberly Klocek.
MR. NGUYEN: Before you ask questions --
MR. NORTON: Sure.
MR. NGUYEN: -- I just want to repeat the objection I sent to you by e-mail just to preserve for the record that we are cross-examining today this witness under protest because she was not disclosed in the initial disclosures, and we reserve a right to evaluate what, if any, motion to strike any or all of her testimony we might make after the testimony.
MR. NORTON: Okay. And I'd like to add to the record that she was disclosed in our interrogatory answers as well as our pretrial disclosures. All right. Are we ready?

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1 **MR. NGUYEN:** Sure.
2 **BY MR. NORTON:**
3 Q. Could you -- I'm sorry, could you state your
4 name?
5 **A. Kimberly Klocek.**
6 Q. Ms. Klocek, are you currently employed?
7 **A. Yes.**
8 Q. And where are you employed?
9 **A. Intrust Bank.**
10 Q. What is your position at Intrust Bank?
11 **A. I am the senior manager of information reporting**
12 **and business intelligence.**
13 Q. Okay. And what does that mean?
14 **A. It basically means that we prepare reports for**
15 **the rest of the bank.**
16 Q. How long have you been employed at Intrust?
17 **A. I have been there a little over 23 years.**
18 Q. And how long have you held your current
19 position?
20 **A. I don't know that I can answer that exactly.**
21 **It -- we changed titles a few years ago, and so**
22 **I've been in this position for many years.**
23 Q. Okay. More than five or six years?
24 **A. Yes.**
25 Q. Does one of your job duties and responsibilities

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1 include matters related to the general ledger
2 for Intrust Bank?
3 **A. Yes.**
4 Q. And could you give us just a brief description
5 of what you do related to the general ledger?
6 **A. We can generate reports for general ledger**
7 **information for anybody who requests it.**
8 Q. And as part of your duties at Intrust, do you
9 generate those reports?
10 **A. Yes.**
11 Q. I would like for you to take a look at the big
12 notebook in front of you and look at Exhibit
13 Number 8. Can you tell us what that document
14 is?
15 **A. This is a report that's generated by our vendor**
16 **with general ledger information.**
17 Q. And what general ledger information is included?
18 **A. This is showing the total advertising expense**
19 **and total business promotion expense.**
20 Q. And how would a specific expense be coded or
21 labeled as an advertising expense?
22 **A. Whenever invoices are paid by the bank, they are**
23 **posted to certain general ledger accounts that**
24 **would include the advertising and business**
25 **promotion expenses.**

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1 Q. Okay. And is there a specific code or other
2 identifier for those types of expenses?
3 **A. They would be posted to certain general ledger**
4 **accounts and responsibility centers that roll up**
5 **into this total.**
6 Q. Okay. And is this report that is identified in
7 Exhibit 8, is this an ordinary business record
8 of Intrust Bank?
9 **A. Yes.**
10 Q. And do you work with this type of document, this
11 general ledger document day to day?
12 **A. Yes.**
13 Q. And is this a document that you rely on as part
14 of your job duties?
15 **A. Yes.**
16 Q. And if we could just take a real quick look, the
17 date at the top, it states, detail statement of
18 earnings for December 2012; is that correct?
19 **A. Yes.**
20 Q. So what months would be included within the
21 report that is on the very first page that is
22 3962 at the bottom?
23 **A. This would include year-to-date information for**
24 **2012, and it also shows monthly columns for just**
25 **the month of December.**

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1 Q. Okay. So the -- on the far right, there's a
2 year-to-date section. Do you see that?
3 **A. Yes.**
4 Q. And the first item identified under the
5 year-to-date section is actual, followed by
6 budget, followed by prior year. Do you see
7 that?
8 **A. Yes.**
9 Q. And on the actual, I notice towards the bottom
10 there are two numbers that are underlined, one
11 for the total advertising expense row and one
12 for the total business promotion row. Do you
13 see that?
14 **A. Yes.**
15 Q. What would be -- from your standpoint as far as
16 the information that is coded or under the
17 account for advertising expenses, does the 2
18 point -- what does the 2.6 million dollars
19 represent?
20 **A. The 2.6 million would represent any expenses**
21 **that were recorded in 2012, and any accruals for**
22 **invoices that hadn't been paid would also be**
23 **included in that.**
24 Q. Okay. And those would be items that were coded
25 under the ledger account number for advertising

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1 expense?
2 **A. Yes, there are several general ledger accounts**
3 **that roll up into total advertising expense, any**
4 **type of advertising.**
5 Q. Okay. And then the second row there, the total
6 business promotion, the 2.293 million dollar
7 figure, how is that -- how does that come to be
8 on this report?
9 **A. Included in total business promotion would be**
10 **several general ledger accounts that roll up**
11 **into that as well, and it happens the same way,**
12 **there would be invoices that would be coded as**
13 **business promotion expense with a certain**
14 **general ledger account that would be posted to**
15 **accounts that roll up into that total.**
16 Q. And would the same be true for the following
17 pages that are, if you look to the top, there
18 for December of different years?
19 **A. Yes.**
20 Q. And are all of the documents that are -- the
21 pages that are shown in Exhibit 8, are those
22 ordinary business records of Intrust Bank?
23 **A. Yes.**
24 Q. And are they kept in the ordinary business -- or
25 the ordinary day-to-day business of Intrust?

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1 **A. Yes.**
2 Q. Let's take a look now at Exhibit --
3 **MR. NORTON:** Which number is the
4 revenue?
5 **MS. RYE:** Looks like 30 -- 75.
6 **MR. NORTON:** 75.
7 **BY MR. NORTON:**
8 Q. Let's look at Exhibit 75, all the way back to
9 the end of the notebook. Okay. Do you have
10 that document in front of you?
11 **A. Yeah.**
12 Q. Could you tell us what Exhibit Number 75 is?
13 **A. This is a page also from a system report**
14 **generated by our general ledger vendor, and it**
15 **is showing the total income for, in this case**
16 **the year 2012 and December 2012.**
17 Q. Okay. And down towards the bottom you'll see
18 that there is a figure that is underlined?
19 **A. Yes.**
20 Q. And is this -- again, this is part of the
21 general ledger maintained by Intrust Bank?
22 **A. Yes.**
23 Q. And the figure that it shows there as total
24 income, how does that number come about and end
25 up in this report?

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1 **A. Any income that the bank records on their**
2 **general ledger would be included in this total.**
3 Q. So any income generated by the bank is shown on
4 this general ledger that is Exhibit 75?
5 **A. Yes.**
6 Q. Okay. And that would be for -- at least the
7 first page, 3957, would be for the year 2012,
8 ending in 2012?
9 **A. Yes, the number that's underlined is for all of**
10 **2012.**
11 Q. Okay. And that's under the year-to-date actual
12 column?
13 **A. Yes.**
14 Q. And then if you flip through those next few
15 pages, you'll see that -- the similar document
16 just for different years?
17 **A. Yes.**
18 Q. The -- this general ledger report showing total
19 income, is this a document that is generated by
20 Intrust in the ordinary course of its business?
21 **A. Yes.**
22 Q. And is this a document that -- is this
23 information that you use as part of your job
24 responsibilities and duties?
25 **A. Yes.**

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1 Q. And would the same be true for the other pages
2 shown on Exhibit 75?
3 **A. Yes.**
4 Q. And then if we back up a couple of pages.
5 **MS. RYE:** 74.
6 **MR. NORTON:** 74.
7 **BY MR. NORTON:**
8 Q. To Exhibit 74. Can you tell us what this
9 document is?
10 **A. This is a document that I generated that shows**
11 **the number of customer records that we have by**
12 **month back to June of 2010.**
13 Q. Okay. And so approximately when did you
14 generate this document?
15 **A. I believe it was in the last quarter of 2013.**
16 Q. Okay. And how did you go about -- well, does
17 Intrust in its ordinary course of business keep
18 track of the number of customers that it has?
19 **A. Yes, we do reporting on that.**
20 Q. Okay. And how did you obtain the numbers that
21 are shown in this Exhibit 74?
22 **A. Our vendor actually loads data into tables that**
23 **we're able to extract data from, and in that**
24 **information they have customer records, and we**
25 **are able to go out and, excuse me, we are able**

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1 **to go out and pull the number of customer**
2 **records from that data.**
3 Q. And you're able to directly access that
4 information?
5 **A. Yes.**
6 Q. And does Intrust rely on the customer count
7 information that it obtains and the method that
8 you just described?
9 **A. Yes.**
10 Q. And if we look -- just so we're clear, let's
11 just look at the very last one, August 31st of
12 2013, and the second column is number of
13 customer records. Do you see that?
14 **A. Yes.**
15 Q. And the 2000 -- August 2013 number is 227,377;
16 is that right?
17 **A. Yes.**
18 Q. Okay. So that number, does that include the
19 total number of customer -- customers that
20 Intrust had during the month of August 2013?
21 **A. As of August 31st, that is the number of**
22 **customers that we had, yes.**
23 Q. And any fluctuations shown, is that simply
24 because we are either losing or adding
25 customers?

Page 14

1 **A. Yes.**
2 Q. And, again, just by way of example, in July
3 31st, 2013, the customer count was 229,534
4 customers; is that right?
5 **A. Yes.**
6 Q. And then the number following in August would be
7 approximately 2,000 less; is that correct?
8 **A. Correct.**
9 Q. Now, number of customer records, is this figure
10 shown in the second column accounts or
11 customers?
12 **A. That's the number of customer records, and it**
13 **doesn't necessarily mean that we lost 2,000**
14 **customers; it means that those 2,000 records are**
15 **no longer on the system, which they may have --**
16 **they may have fallen off the system.**
17 Q. And why would a -- why would a customer account
18 fall off the system?
19 **A. If they have no active accounts.**
20 Q. And is that just pursuant to a policy by
21 Intrust?
22 **A. Yes. All of these customer records here have**
23 **active accounts.**
24 Q. Okay. So the figure that we're seeing in the
25 second column is the number of active customer

Page 15

1 accounts; is that right?
2 **A. The second column is the number of customers**
3 **with active accounts, yes.**
4 Q. Oh, I see. So the number is not necessarily
5 based on the number of accounts; it's the number
6 of customers who have accounts?
7 **A. Correct.**
8 Q. And do you know what the time period is before a
9 customer is no longer considered active and
10 rolls off of this customer account?
11 **A. I don't.**
12 Q. The second -- or, I'm sorry, the third column
13 entitled Number of Customer Records, Excluding
14 Safe Box Only Customers, what is that number,
15 the number in those rows show -- in that column
16 showing us?
17 **A. Those are showing the number of customers that**
18 **we have that have something other than safe box.**
19 Q. So, again, looking at August 31st of 2013, the
20 number in the first column -- or second column,
21 227,377, that's the total number of active
22 customers, including those who only have safe
23 deposit boxes?
24 **A. Correct.**
25 Q. And the third column, the 221,978 figure, that

Page 16

1 is the total number of active customers
2 excluding those who only have safe box deposits;
3 is that correct?
4 **A. Safe deposit box, yes.**
5 Q. Other than excluding the safe-box-only
6 customers, are there any other types of active
7 customers that are excluded from that second
8 column?
9 **A. No.**
10 Q. And the information that is shown on this report
11 as far as customer accounts, is that information
12 that is ordinarily -- that is kept in the
13 ordinary business of Intrust Bank?
14 **A. Yes.**
15 Q. And is the information concerning the number of
16 customers something that you rely on as part of
17 your job duties and responsibilities?
18 **A. Yes.**
19 Q. And Intrust relies on the customer account
20 records that are shown in this Exhibit 74?
21 **A. Yes.**
22 **MR. NORTON:** Okay. Thank you,
23 ma'am. I have no further questions.
24 //
25 //

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1 **CROSS-EXAMINATION**
2 **BY MR. NGUYEN:**
3 Q. Ms. Klocek, let's turn to Exhibit 74, I just
4 want to get clarification about what this
5 represents or not. So you just testified that
6 it is the number of customers who have an active
7 account of some type with Intrust Bank, not the
8 number of accounts?
9 **A. Correct.**
10 Q. Is that individual consumer customers or
11 business customers or both?
12 **A. Both.**
13 Q. So do you have any knowledge as to what
14 percentage of the numbers reflected on Exhibit
15 4 (sic) are consumer customers versus business
16 customers?
17 **A. Not off the top of my head, no.**
18 Q. Based on any other data you reviewed during the
19 course of your work for Intrust, do you have any
20 sense of the breakdown between number of
21 consumer customers and business customers?
22 **A. I wouldn't feel comfortable saying.**
23 Q. And from the records that are reflected on
24 Exhibit 74, you -- this does not tell us how
25 many of Intrust Bank customers are enrolled in

Page 18

1 personal online banking; is that correct?
2 **A. That's correct.**
3 Q. And it doesn't tell us how many are enrolled in
4 online bill pay services?
5 **A. Correct.**
6 Q. And it doesn't tell us how many are enrolled
7 with the mobile banking application that your
8 bank offers?
9 **A. Correct.**
10 Q. Do these customer records -- strike that. Are
11 you familiar with the NestEgg services that your
12 company offers, NestEgg U?
13 **A. I'm familiar with it.**
14 Q. Okay. Are there customers for NestEgg U as
15 well?
16 **A. There are customers for NestEgg U.**
17 Q. Are they reflected in Exhibit 74's numbers?
18 **A. I don't believe they are, no.**
19 Q. Okay. What about, you offer another service, I
20 believe it's called deposits or Depozips, with a
21 Z. Does that ring a bell?
22 **A. No.**
23 Q. Okay. Let me see if we can cut to this. Are
24 the customers that are counted in Exhibit 74
25 only individuals and businesses that have an

Page 19

1 account with Intrust Bank and not customers of
2 any other type of brand -- any service offered
3 by your company under some other brand?
4 **A. They are all customers of Intrust Bank.**
5 Q. And from Exhibit 74, you can't tell us
6 geographically where these customers are
7 located; is that correct?
8 **A. That's correct.**
9 Q. Were you ever asked to search for records to
10 reflect where customers are geographically
11 located?
12 **A. For this deposition?**
13 Q. Just at any time?
14 **A. We do a lot of reporting, it's possible that**
15 **we've done reporting by geographic location but**
16 **not for this.**
17 Q. From your past reports you have pulled, do you
18 have any sense of the geographic breakdown of
19 customers of Intrust Bank?
20 **A. I know that we have customers in nearly every**
21 **state, I know we do some international business,**
22 **but I don't have any idea about percentages or**
23 **counts.**
24 Q. Okay. Do you know if the bank has any data
25 about which customer accounts that it still has

Page 20

1 existed as of 1993 when the bank changed its
2 name to its current name?
3 **A. I'm not following the question.**
4 Q. In 1993, the bank became known as Intrust Bank;
5 is that correct?
6 **A. Correct.**
7 Q. So is -- do you have any knowledge as to how
8 many customers that are reflected on Exhibit 74
9 had an account with the financial institution
10 that predated the name change in 1993?
11 **A. I wouldn't know the percentage of them, no.**
12 **MR. NGUYEN:** Okay. I don't think I
13 have any more questions.
14 **MR. NORTON:** Great. Thank you for
15 your time.
16 **THE WITNESS:** Okay.
17 **MR. NORTON:** And by the way, before
18 I forget, not for you, before I forget, I'd
19 like to designate her deposition as
20 confidential as well as Lisa Elliott's.
21 **MR. NGUYEN:** The entire transcript?
22 **MR. NORTON:** Well, because we talked
23 so much about all that, I think it's easier
24 to do it that way.
25 **MR. NGUYEN:** Okay. We can talk

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about how to deal with that. I mean, if you want to designate them as confidential for now, that's fine.

MR. NORTON: Okay. Yeah, and I would. And we can talk about it later but I think it will be easier.

THE REPORTER: Read and sign?

MR. NORTON: Yes. Read and sign.

(Whereupon, the deposition was concluded at 5:03 p.m.)

I, KIMBERLY KLOCEK, the witness herein, have read the transcript of my testimony, and the same is true and correct to the best of my knowledge, with the exception of the changes noted on a separate page, together with notation of the reasons for making such corrections.

_____
KIMBERLY KLOCEK

STATE OF KANSAS)
SEDGWICK COUNTY) ss:

Subscribed and sworn to before me, the undersigned authority, this the _____ day of _____, 2014.

_____
Notary Public, _____ County
State of Kansas

My appointment expires:
_____

Nancy L. Rambo, R.P.R., C.S.R.

(CASE: Intrust Financial Corporation -vs- nTrust Corp., TAKEN 3/25/14)

C E R T I F I C A T E

STATE OF KANSAS)
SEDGWICK COUNTY) ss:

I, Nancy L. Rambo, do hereby certify the foregoing deposition was stenographically recorded by me as stated in the caption. The deponent was duly sworn to tell the truth, the whole truth, and nothing but the truth. Colloquies, statements, questions and answers thereto were reduced to typewriting under my direction and supervision, and the deposition is a true and correct record of the testimony/evidence given by the deponent.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in the action.

WITNESS my hand and official seal at Wichita, Sedgwick County, Kansas, this 7th day of April, 2014.

_____
NANCY L. RAMBO, R.P.R., C.S.R.
Registered Professional Reporter
Certified Shorthand Reporter

Costs:

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Intrust Financial Corporation,	
Opposer,	
vs.	Opposition No. 91204456
nTrust Corp.,	
Applicant,	Application Serial No.: 85/250992

TRIAL DEPOSITION OF ROBERT SCOTT MACGREGOR,

on Tuesday, March 17th, 2015, commencing at

9:10 A.M., at 865 South Figueroa Street,

Suite 1400, Los Angeles, California, before

Marie Wilson, CSR No. 13480.

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---oOo---

LOS ANGELES, CALIFORNIA; TUESDAY, MARCH 17TH, 2015
9:10 A.M.

ROBERT SCOTT MACGREGOR
having first been duly sworn, testified as follows:
---oOo---
EXAMINATION
BY MR. NGUYEN:
Q. Could you please state and spell your full name?
A. Robert Scott MacGregor, R-o-b-e-r-t S-c-o-t-t M-a-c-g-r-e-g-o-r.
Q. Mr. MacGregor, do you work for nTrust Corporate?
A. Yes.
Q. What is your position?
A. I'm the founder and CEO.
Q. Can you describe generally for us what your duties are as founder and CEO of the company?
A. As the title suggests, I suppose I was the person who started the company, so I was responsible for defining the business model, the marketing plans, the -- essentially the business case for financing it, and the going-forward basis. Now that I have some staff, I oversee

strategy and results essentially.
Q. Did you also have responsibility for dealing with what type of regulatory licensing your company needs to operate?
A. Yes. Ultimately, I don't -- I don't pretend to be counsel in all of these regions but I'm responsible for making decisions on that.
Q. Okay. When was nTrust founded?
A. nTrust as a concept began in late 2009, 2010. The company started getting incorporated in 2010, and nTrust as a brand really was at the end of 2010.
Q. Okay. We'll talk some more about what kind of business nTrust is in, but before we get into that, could you give me a little background about your educational and professional history before nTrust?
A. Sure. I'm a technology lawyer recovering, in remission, I guess. I went to -- I'm Canadian, I was raised in Canada and the UK. I did my high school education in Ontario and undergraduate arts degree from the University of Western Ontario.
I did my law degree at Dalhousie University in Nova Scotia, Canada. I went into private practice in 1999 at Stewart, McKelvey, Sterling,

Scales, which is a firm in Halifax in Nova Scotia.
I practiced there for a few years in private practice before moving back to Toronto where I became in-house counsel at a technology firm called "Alias Wave Front" at the time, became -- I continued to work there as counsel and eventually senior counsel until the company was bought by Auto Dusk.
I continued with Auto Dusk as senior legal counsel for about a year, and then moved to a public company Work Brain Corp. in Toronto where I was placed president and general counsel, and I worked there until that company was bought by N4, which was about two years later -- I'm sorry I don't have the precise dates, but I can get them if they are important -- and then I moved to Vancouver where I opened a -- my own practice, technology-based practice, for a few years.
Q. Okay. Great. That is sufficient.
So let's talk about the nTrust business. Can you describe for us generally what type of business the company operates?
A. Sure. I mean, it's ultimately a technology business but we are a money services business. We enable a number of services that were initially

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1 targeted at the remittance market -- sorry,
2 remittance in the way that I'm using it is sort of
3 international peer-to-peer transaction where
4 overseas workers send money back home.
5 So the business was born of this idea that
6 the Internet had recreated all of these other
7 industries, and I had a Filipino nanny at the time
8 and I was aware that, you know, she didn't have
9 banking in Canada and she was sending money back
10 home to the Philippines, and so nTrust was born
11 from this idea that the Internet should be able to
12 re-wire that market the way it did the movie
13 industry or the entertainment industry, book
14 distribution, and that -- you know, from this, sort
15 of, impulse that there has to be a better way than
16 that.
17 Q. When did you get your idea to start the
18 business that became nTrust?
19 A. Like I said, I don't -- it's very difficult
20 to put an exact date on when that idea became fully
21 formed. It was sort of the end of 2009, 2010 when
22 I really started getting serious about why couldn't
23 you create essentially a digital Western Union.
24 Q. And was the idea for the business focused
25 on enabling an Internet means of remittance as you

1 described it?
2 A. Yeah, it really was as simple as why isn't
3 Western Union online, why do people have to go down
4 to the corner store in the dead of night when
5 everything else can be done over your phone or on
6 the Internet, that was really the seed of the
7 organization.
8 Q. And you mentioned your Filipino nanny. Was
9 part of your idea for the business trying to
10 provide an easier money transmission method for
11 overseas workers?
12 A. Yes.
13 Q. Did you investigate what the scope of that
14 issue was for overseas workers?
15 A. Yes, well, I was sort of aware of the issue
16 just because of our nanny and I was aware of, kind
17 of, what she paid to send these small amounts of
18 money home, and, you know, it was a combination of
19 an emotional reaction and a business opportunity
20 that here people with -- there is an enormous
21 diaspora so called of oversea workers that send
22 money back to the Philippines, something on the
23 order of $60,000,000,000 flow into the Philippines
24 from overseas as remittance every year.
25 So this was a business opportunity in my

1 mind to take that business online, remove all of
2 the costs associated with the physical agents and
3 service a need.
4 Q. And what was in your understanding the
5 typical cost of sending money from, let's say,
6 another country back to the Philippines from
7 overseas workers?
8 A. That's a difficult question to answer,
9 honestly. The world bank runs the annual, sort of,
10 assessments of this, something they call the five-
11 by-five program, and the idea was that they felt --
12 the world bank felt that if they could get the
13 average remittance cost down to about five percent
14 of the amount remitted within five years, that that
15 would be a significant stimulated or economic
16 growth in these countries.
17 Some providers do better than that, but
18 some banks are as high as 21 or 22 percent, some
19 MSBs are four or five. It depends on the corridor,
20 so-called corridor.
21 Q. You used the acronym MSB. Does that refer
22 to Money Service Business?
23 A. Yes.
24 Q. And so your idea for the business was to
25 create an easier version for an overseas worker to

1 send money, for example, back to the Philippines;
2 right?
3 A. That's right.
4 Q. Through the Internet?
5 A. Correct.
6 Q. For a lower charge than what physical
7 agents such as a Western Union might charge?
8 A. Correct.
9 Q. All right. Let's talk about the name for
10 the business and the nTrust mark. Who selected the
11 mark nTrust for your company?
12 A. I selected it. The mark nTrust was
13 actually -- the word nTrust rather was something I
14 considered a couple of years before for another
15 business that I was contemplating, and so it was
16 already rolling around in the back of my mind. It
17 was sort of a privacy consulting business when
18 privacy was all the rage.
19 Q. And how is that spelled so we can --
20 A. N-t-r-u-s-t, capital T.
21 Q. So you already had the idea for that term
22 floating around in your head. And why did you
23 decide to use it for the name of the money service
24 business you started?
25 A. Well, I had a few ideas, that was one of

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them. The -- I ended up using it -- I wish I could tell you I hired a large market research firm and did a bunch of background research, but the truth is it was a digital business and I needed the domain name, so I started from domain name searches, tried to find names that connoted trust that were top level domains, ideally dot-com but I would have probably settled for a dot-net or even a dot-org that were short and conveyed the business model.

Q. Okay. And did you find nTrust.com as a domain name was available?

A. It wasn't available, but I contacted the registrant, the current registrant, who had, sort of, a holdings page on it and negotiated for it.

Q. Is there any other reasons you liked the term "nTrust" for the name of your business?

A. Absolutely. nTrust was my first choice because N, the idea of N was to, sort of, connote the Internet or the net sort of like iPad or iPod at the time, and Trust, we knew it was going to be an online service, it was going to deal with money and it was going to be a new brand so that trust was going to be at the core of being able to make this a success, so it was actually my first choice

for domains.

Q. To your knowledge, is the term "nTrust" a word in the English language?

A. No.

Q. Were you intending it to be a -- used as a word in the English language?

A. No. It's intended to be a play on the word "trust" and Internet.

Q. And now how does your business depict the word "nTrust" when it is used? For example, I know Web site or on marketing materials.

A. I'm actually pretty diligent about this, the team would think too diligent maybe. The first letter N is always a small letter, the T is capitalized and the remainder of the word is in lower case. It was to emphasize the trust, not the N, so we actually went so far as to go to war with my internal marketing team about whether or not the email addresses should be capital T or not, which is not a convention, but I usually won those battles.

Q. So it's important for you that in your use of your nTrust mark, that the T is capitalized?

A. Absolutely.

Q. When you chose the mark nTrust for the name

of your business, were you aware of Intrust bank or the company known as Intrust Financial Corporation?

A. No.

Q. In this case, Intrust Financial Corporation is alleging a number of trademarks, I think it's about 12 to oppose your application. Are you familiar with that list or I can point you to a list --

A. I have seen the list. I haven't committed it to memory.

Q. Sure. Why don't you turn to Exhibit 201.

First of all, are you familiar with what Exhibit 201 is?

A. It's the U.S. Trademark application for nTrust.

Q. Right. The rest of the file wrapper; is that correct?

A. Yes.

Q. If you turn to exhibit -- or page 12, N12 in that document, there is part of a Letter of Protest Memorandum that is in the trademark offices file for your application, per letter of protest from Intrust Financial Corporation, and it lists a number of trademark registrations that are being asserted against your application.

Have you seen that list before?

A. Yes.

Q. When you chose the mark nTrust for your business, were you aware of any of the trademark registrations from Intrust Financial Corporation that are listed on page N12?

A. No.

MR. NGUYEN: Are we just agreeing that once they're referenced by a witness, they are admitted into evidence?

MR. NORTON: Yeah, I think that's --

MR. NGUYEN: That's fine.

Okay. So counsel for Intrust Financial Corporation and I had agreed at prior depositions for his client's witnesses that any time a witness has referenced one of the exhibits that we have in front of the witness, that it will be admitted into evidence.

MR. NORTON: I guess I should say --

MR. NGUYEN: Unless there is an objection to admissibility.

MR. NORTON: Right.

BY MR. NGUYEN:

Q. In selecting the mark nTrust for your business, were you intending to trade on the value

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of any trademarks of Intrust Bank?
A. No. I wasn't aware of them.
Q. Did you have any intention in trying to lead consumers in the United States to believe that your company was associated with Intrust Bank?
A. No.
Q. Is there any value in your mind to having your company associated with Intrust Bank or its trademarks?
A. No.
Q. Have you applied for registration -- or strike that. Let me back up.
Why do you think there is no value in having your company associated with Intrust Bank or its trademarks?
A. Well, to begin with, our services aren't in the U.S. I don't think having your trademark associated with any third party is a good idea. Our brand is distinct and intended to be distinct, and we're targeting completely different people with different services.
Q. Okay. Are you intending at some point to have your business launch services in the United States?
A. Yes.

Q. Have you applied for registration of the nTrust mark in other countries?
A. Yes.
Q. Can you tell us where?
A. Canada and the Philippines and in the European Union.
Q. And has the mark been registered in those other territories?
A. Yes, all three.
Q. When you applied for registration in those three territories, did you receive any opposition from any other companies to the application?
A. No.
Q. All right. Let's focus on the trademark application by your company that is at issue in this case. In Exhibit 201 I'm going to refer you to page N8, which is part of the file wrapper and just has a section called "Goods and Services" which list the services and classes that you applied for.
Have you seen this description of services and classes before?
A. Yes.
Q. Were you involved in writing the identification of services for your trademark

application?
A. Yes. I think I wrote the first draft.
Q. So you can speak to your company's intended service items that are described in the application?
A. Yes.
Q. So before we get into the specific elements of the application's items, can you give us a general description of how your company's business model works, at least right now in other countries?
A. Okay. I usually start -- my elevator pitch is essentially that it's a drop-box for money, that you create what we call a cloud account at nTrust, and then you can upload funds from a variety of means depending on what country you're in. It could be a credit card, it could be directly from a bank account, it could through you-cash venture deposit, it could be over the counter, and those funds are uploaded into your nTrust cloud. You think of that as your drop.
Other people in the system do the same thing, so each of our clients has a cloud account, and then you can move money between clouds instantly, and so the idea is give you a -- I'll give you the basics, and then we can talk about the

secondary services.
So the idea is I'm in Vancouver, my mother is back in Manila, I can use my Canadian credit card to upload funds directly to my cloud, I can move it to my mother's cloud, she can receive the funds either in pesos or in Canadian dollars and then can withdraw those funds either again over the counter at some partners, she can load a prepaid nTrust credit card and -- or, I'm sorry, a prepaid card and withdraw that cash from an ATM or use it to purchase things on the ground.
So, essentially, you move money up into your cloud from one cloud to another cloud and then out.
Q. So let's -- and the transmission of funds into one person's cloud -- or from the sender's cloud to the recipient's clouds is instantaneous; is that correct?
A. Yes, because it's simply a journal entry. We maintain floats in the countries in which we operate, so it appears to have, quote, unquote, "moved" from Canada to the Philippines instantly in the sense that it's available to the Filipino recipient instantly but funds aren't obviously sent on an individual basis.

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Q. And does your company charge a fee to either the sender or the recipient for the transfer of money through the clouds?
A. That depends. It depends on the country and it depends on the nature of the transaction, so for peer-to-peer transactions -- I'll deal with the country first. So in countries like the Philippines, which we call Class A countries, they have fractured banking systems. It's very difficult to even move money within the country, so they have something that we call domestic remittance in the Philippines where you have people who move from the provinces into the city to make money, then they send money back home to the provinces all within the Philippines but there is three separate bank networks (unintelligible) --
THE REPORTER: Can you slow down, please?
BY MR. NGUYEN:
Q. So you were saying?
A. There is three separate bank networks in the Philippines, so sending funds from one place to another is difficult, even within the banking system, and there is a huge proportion of the population in the Philippines that is completely unbanked.

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So as a result, they -- one of the more popular methods is they will take the cash down to a pawn shop and they will give the cash to a pawn shop who will charge them 12 percent and then the recipient picks it up at another pawn shop.
So the reason I'm telling you all of that is because there is an opportunity for what we call domestic remittance, a fee-based service within the Philippines.
So one Philippines customer sending to another Philippines customer, cloud to cloud, does generate a fee, so that is in Class A countries where there is an opportunity. It's difficult already to do that.
In places like Canada, which we call Class B country for the purpose of this discussion, we have a very evolved and mature banking --
Q. Keep slowing down.
A. It's quite inexpensive and fairly fast to move money in Canada, certainly between banks, so there is no business opportunity to charge for that sort of service. So in Class B countries, there is no fee in a cloud-to-cloud transfer, and in Class A there are, and there are fees between countries.
Q. Okay. So, for example, if you were a

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nTrust user sending money from Canada to the Philippines, the sender would be charged some percentage of the transaction as a fee?
A. It's not a percentage. It's a flat fee.
Q. Flat fee. Okay. But it's -- your service is designed to be a less expensive way of doing that than, for example, wire transferring money through Western Union?
A. The intention is to get it to zero. We generate fees in other parts of the business, and the idea is the actual transmission of funds is intended to be zero.
Q. You mentioned that, for example, in the Philippines there are many unbanked people, meaning they don't have bank accounts, that what you mean?
A. Yes, that's correct.
Q. Is part of the idea for your business to provide a means of transferring money for either senders or receivers who do not have bank accounts?
A. I would go beyond that. It wasn't a part of the idea for the company, it was the idea for the company. The -- the company's -- the idea of the company has grown since then, but it was the reason the company was created.
Q. Describe for me why it was the reason the

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company was created.
A. Well, my father used to say it's expensive to be poor, and when you don't have -- when you don't have a bank account, you are left with whatever options the market will give you, so that is why it can cost upwards of 10, 12 percent to send money with Western Union because there are no other choices, which is why the world bank intervened. It was perceived as predatory.
And so this is where the most significant opportunity lay in my mind when you have a country, a whole subcontinent, where most of the population is unbanked but they all have mobile phones, they all have smart phones.
Q. So, for example, you mentioned the diaspora of Filipinos and also people from other countries that go overseas to work?
A. Certainly.
Q. Is that because there are better job opportunities for them to make more money outside of the Philippines, for example?
A. Yes.
Q. And then they will send money back home to their families in the Philippines?
A. That's right.

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Q. In relatively small increments or large increments?
A. I think the circumventional wisdom in the money transmitter world is an average transmission of somewhere between $50 and $200.
Q. Right. And more traditional means of transmission would charge 10 to 12 percent of that?
A. Again, I don't want to paint the entire industry, there are some really great services out there, but it is more expensive than you would do than moving money between banks in the United States.
Q. So an overseas worker would lose a potentially significant chunk of the money they are sending back to the family by having to pay the transfer fee?
A. Exactly.
Q. And your company is designed to provide a technology method for transferring that money particularly overseas for a much less fee?
A. Yeah, and the technology was it is a delivery platform, obviously, but it's also pretty core to the business model. The way to get those fees down was to not have agents involved, to not have physical locations involved so I didn't have

collections risks and agencies' fees and, sort of, retail establishments that had to carry as overhead. So the technology wasn't an enabler but it is also the driver that gets the price where it needs to be.
Q. Describe for me how older transmission methods used, for example, physical agents or retail establishments whereas your company does not.
A. Western Union is probably the prototypical example. You would go to an agent with cash, it didn't have to be cash, but you could go with cash, you would fill out a transmission form, they would check your identification, KYC, know your client, check your ID and take the cash, and then Western Union would through its system distribute that cash through an agent on the receiving end.
Q. And your business model eliminates the need for a physical agent?
A. That's the intent.
Q. And that helps reduce the amount you need to charge for the service?
A. That's right.
Q. You mentioned peer-to-peer at one point. Can you describe for me your understanding of a

peer-to-peer money transfer?
A. Well, peer-to-peer I don't think has a very strong definition to be totally candid. The way I interpret peer-to-peer is, first of all, individual to individual. It's not a commercial entity to a customer or a customer buying from a merchant. It's between individuals, and the notion of peer in my mind connotes some existing relationship, it also means individual to individual, it's used, sort of, interchangeably with that in the industry.
Q. Have you also heard of the phrase person-to-person?
A. Yes.
Q. Is that a more accurate description?
A. Yes, I think that's more accurate, and it's exactly what it reads on the tin. It's -- you're not transmitting between commercial entities or with a commercial entity, it's between individuals, and it could be -- a remittance is a huge category of that, obviously, where you're sending to people with whom you have a social relationship and for social reasons to support your family, for example, but there is also peer-to-peer payment systems where I'm buying something from you on Craigslist or Ebay.

Q. Okay. So a person-to-person payment might involve, for example, you sending, you know, money to your mother as a birthday gift?
A. Yes.
Q. And with person-to-person payment services, have they moved to the Internet or online world?
A. Well, I think the Internet created opportunities certainly, and, you know, if you look at -- I think the United States in particular, places like Venmo which were, you know, a mobile application essentially that allowed peer-to-peer small-value transactions to happen on your cell phone, so certainly the technology enabled all of these things to happen this quickly.
Q. So with person-to-person payment services that are online, does the center typically have to know the recipient's bank account information?
A. No.
Q. In your business model for nTrust, does a sender have to know the bank account information for the recipient of funds?
A. No.
Q. Let's review again, because you mentioned it but I want to make sure we have a good list of them, what are the different ways I as a sending

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1 user of nTrust can fund the money that I'm going to
2 transfer to someone?
3 A. Okay. Well, you could I suppose have
4 received it from someone else.
5 Q. Okay. And it's in my cloud.
6 A. Yes, so someone else has transferred it to
7 you within nTrust, you could use your credit card.
8 Q. Okay.
9 A. You could use a U-cash voucher, I'm not
10 sure if that is prevalent in the U.S. or not, it's
11 essentially a digital voucher. We have completed
12 integration with Canada Post where you can go to
13 the Canadian post office and give cash over the
14 counter and that is credited into your nTrust
15 cloud, we have a series of integrations pending for
16 other services, but in Canada our biggest is what's
17 called "Interact" in Canada, I-n-t-e-r-a-c-t --
18 Q. Okay.
19 A. -- which is a -- it's basically a clearing
20 system for debit transactions.
21 Q. Okay. And then --
22 A. For me -- and one last -- we have done
23 integrations into most of the Canadian banks, so
24 you can log into your online banking system and
25 select us as a payee.

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1 Q. So one of the methods for funding the money
2 to be transferred could be from some of the bank
3 accounts?
4 A. Yes.
5 Q. But many of the other methods are not
6 related to a bank account?
7 A. That's right.
8 Q. What about on the receiving end, if I'm a
9 recipient of funds into my nTrust cloud, what are
10 the different ways in which I can actually receive
11 or take out the funds?
12 A. You can, of course, have it withdrawn to
13 your bank account, you can go and pick up the
14 cash. We've done an integration with a Philippines
15 partner where you can go and just pick up cash.
16 You have to remember that in the remittance
17 transaction -- to answer your question, and then
18 I'll give it some color, the -- so you can go pick
19 up cash, you can also load your nTrust prepaid
20 card, and once the money is on the card, you can
21 either go and buy things with it or you can
22 withdraw cash through an ATM network, a local ATM
23 network.
24 So what I wanted to say was that in a
25 remittance transaction, it's important to remember

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1 that there is two very, very different participants
2 in a transaction like that. You have typically a
3 better educated, more technically savvy, generally
4 speaking, banked sender and a generally older, less
5 technically savvy, often unbanked recipient, so
6 having ways to get money out of the cloud that
7 didn't involve a bank account was central to the
8 ability to provide remittance service.
9 Q. So, for example, if I was -- this might be
10 a situation where the child of a Philippine family
11 as a young adult works overseas to send money back
12 to their parents who are -- you believe are less --
13 maybe less technologically savvy and not have a
14 bank account in the Philippines?
15 A. That's right, they might not have
16 persistent access to a data network, they might not
17 have the latest smart phone, so the recipient end
18 had to be very, very simple, and the most common
19 demographic for a Philippines remittance from
20 Canada is generally a woman comes to Canada, often
21 in health care industry, sometimes child care, and
22 sends money back to her family when her children
23 are living with her parents.
24 Q. And it was important for your business
25 model for the -- particularly the receiving end for

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1 it to not be tied to someone having a bank account?
2 A. Correct.
3 Q. So we've talked of some of the ways in
4 which your business model works from an individual
5 person to an individual person sending money. Does
6 your business also provide a model for payment to
7 merchants?
8 A. Yes.
9 Q. How does it do that?
10 A. What we recognize -- and stop me if this
11 gets too far afield, but when we looked at the
12 business model, we realized that our customer base
13 was, sort of, the very wide but very thin, quote,
14 unquote, "bottom" of the market. People who, you
15 know, didn't have enormous balances in their bank
16 accounts, didn't have enormous income, may not have
17 a bank account at all and were living in this cash
18 world and so we were providing them an alternative
19 to cash.
20 So when we looked to how would we approach
21 merchant customers, we took the same view. We said
22 what kind of merchants -- what we call micro-
23 merchants -- are too small to justify having a
24 merchant ID or too small to justify, you know, a
25 Visa implementation at point of sale are too small

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and they deal in cash -- generally deal in cash, places like small restaurants, the food truck industry, you know, I have a dog-walking service, the demographic that you would in the United States probably associate it with Square.
Q. Square meaning the mobile application?
A. Yes, Square, capital S. So when we looked at the business that way, we realized that the way to add value to the nTrust system was to provide local small merchants with a way to get paid by people who had funds in the cloud.
So we are approaching and continue to approach those merchants. Typically, we started in Vancouver because that is where we got, you know, sales presence, and that is the play if you like.
The way it happens within the system is that the merchant effectively just has another cloud account, it's a different category of account, it has different capabilities, but I walk up to the local taco truck and I have my app open on my phone as the taco purchaser and the person behind the till has the app open on their phone, and I essentially just push the value of my taco, it appears as paid on the merchant's app and those funds are credited between clouds, between the

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individual's cloud and the merchant's cloud within the nTrust system.
Q. Got it. So that is a form of an electronic payment system?
A. Yeah, it's more of a payment processing than, you know -- I wouldn't consider that peer-to-peer but --
Q. Right.
A. Again --
Q. So it's, sort of, person-to-merchant?
A. Yes.
Q. And so we've talked about generally how your business model works. Through what channels does the nTrust business operate?
A. Through what channels?
Q. You mentioned mobile application.
A. It's entirely online. It's -- the Web site was the first distribution channel if you like. It was viewable on a mobile app but we've since launched dedicated native applications on IOS and Android. We have no store front or anything like that if that's what you mean.
Q. So it's purely either on your Web site online or through mobile app?
A. That's right.

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Q. So we've talked generally about how your company operates. In what countries today does your company offer its services?
A. It's Canada and the Philippines.
Q. And is your company currently offering services in the United States?
A. No.
Q. Do you intend to do so in the future?
A. Yes.
Q. Are the services that you intend to provide in the United States similar to what you've described as the business model for nTrust in other countries?
A. I think similar is a fair way to put it. It will depend entirely on the market and the regulatory constraints.
Q. Okay. Let's talk just for a moment about regulatory constraints. In the countries in which your business operates, does nTrust need any type of license from a government or regulatory agency?
A. Yes.
Q. Okay. What kind of license do you need?
A. Well, in Canada, you need a money services business license. In Canada that is issued federally, not provincially, and in the Philippines

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you have -- it's essentially the same thing. I don't believe they call it an MSB license, but that's what it is, and it's issued from the Securities and Exchange Commission in the Philippines and Canada is federal.
Q. Does nTrust currently have any licenses from any U.S. government agencies?
A. No.
Q. In connection with your planned operations in the U.S., have you investigated what type of licenses you will need in the United States to operate?
A. Yes. We haven't gone so far as to get opinions of counsel in every state we're interested in, but, generally speaking, we understand that we will need licenses.
Q. What kind of licenses will you need?
A. Some money services business category of licenses in the state's nomenclature similar as it is in Canada.
Q. What is your understanding of a money service business?
A. Money service business, well, it's obviously a creature of law, so my understanding is worth exactly what it's worth, but the common

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features of a money services business in my experience are that they can -- they are a sub-class of financial services provider, sometimes they are called the non-bank financial services. They typically involve things like check cashing, issuing travelers checks, providing prepaid services, sometimes they are carts, sometimes they are other facilities, money transmissions and foreign exchange, I think those are probably the core that you will find to be true in most jurisdictions.

Q. Okay. And you mentioned that they are sometimes called non-bank companies. Why is that?

A. Well, they are regulated very differently than banks. They are a heavily regulated sector obviously. I won't speak to the policy reasons why they have divided financial services up that way, but money services businesses are one of many, in Canada certainly, non-bank financial institutions, trust companies, insurance companies sometimes qualify, et. cetera.

Q. And from your understanding of your review of licensing requirements in the United States, does a company have to be a bank to be a money service business in the U.S.?

A. No. My understanding is you can't be a bank and be a money services business, but I'm not a U.S. lawyer.

Q. And so one of the service items you listed as falling within the classification of money service businesses is money transmitting --

A. Yes.

Q. -- or money transmitter services. Do you view nTrust Corporation as providing money transmitter services?

A. Yes, as well as prepaid.

Q. Let's talk about that for a moment. You mentioned that earlier, which is that the recipient in a person-to-person transfer through nTrust can receive funds on a prepaid card; is that correct?

A. Yes.

Q. Can you describe for me --

A. That is -- no, let me be more precise. They can receive funds to their cloud. They can load funds from their cloud on to their card. They can't have funds sent straight to their card.

Q. Got it.

Can you describe for me how that works, the prepaid cards.

A. You mean the customer experience

mechanics?

Q. Yes, please.

A. I'll have -- I would log into my nTrust cloud seeing that I have an in-bound -- it doesn't matter actually. There is funds in the cloud, and I want to, whatever, go to dinner, buy some groceries, withdraw cash because I don't have a bank account, and I just select my card as a transfer method and I move funds out of my cloud balance into my card balance, the card is loaded instantly and that is ready to use.

It's a Mastercard, it's a prepaid Mastercard, so that means I can go out to anywhere that accepts Mastercard and use funds that were in my nTrust cloud two seconds earlier.

Q. And just describe for us -- I know you're very familiar with it, but for our record, what is a, sort of, prepaid card, in this case prepaid Mastercard that you use?

A. Yeah, I mean, the fact that it's a Mastercard confuses matters because people will associate Mastercard with credit cards, but it's different. It runs on the same credit card, quote, unquote, "rails," which means they use the same Mastercard system, but the card is -- has to be

preloaded to be used, so there is no credit extended by anyone, the funds are on deposit, so there is no credit risk. So you load the card, and then it functions at that point like what we would normally consider a credit card.

Q. So you could load, for example, $100 on to a prepaid card and you'd have only $100 to spend using that card?

A. That's right, well, minus whatever fees.

Q. Okay. And now we've talked generally about money services businesses. Are you aware of -- give me examples of some companies that you're aware of that offer money service businesses in the United States that are not banks?

A. There's a lot. Google Wallet, Apple Pay, Western Union, Square, Venmo, there is many.

Q. How about PayPal?

A. PayPal, certainly.

Q. And in your experience with the technology world, has the advancement of online technology changed the systems by which money can be transferred?

A. No question. It is happening in real time even in the last few months with NFC technologies, Apple Pay obviously is taking advantage of the

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1 prevenance of NFC readers and phones and technology
2 has changed everything.
3 Q. Can you tell us what NFC?
4 A. Near Field Communications.
5 Q. And what does that mean?
6 A. Essentially, it's a short distance,
7 wireless protocol that will -- in this case would
8 be used -- you would have an NFC enabled telephone
9 that would be able to broadcast or receive that
10 type of signal, and you would have as a point of
11 sale an NFC enabled some form of hardware, and you
12 would essentially tap your phone or have your phone
13 nearby, and those things are communicated securely.
14 Q. Okay. Thank you for that explanation.
15 A. That's as technical as I can get.
16 Q. All right. So I just wanted to -- we
17 talked about this earlier but I just wanted to see
18 if we can get a cleaner answer to this. So if I'm
19 a user, either a sender or recipient, of the nTrust
20 service, do I need any bank account in order to use
21 the nTrust service?
22 A. No.
23 Q. Okay. Now, let's take a look at the
24 specific service items in your application. So if
25 you look at N8, which is in front of you in

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1 Exhibit 201, it lists the service items that are
2 claimed in your application.
3 A. Yes.
4 Q. And there is two classes in your
5 application, correct, Class 36 and 45?
6 A. Yes.
7 Q. Let's start with Class 36, I want to ask
8 you some questions about the service items. So the
9 service items are described as financial services
10 conducted via electronic communications networks,
11 namely, and then there is a list of items, I'm
12 going to go over the list after namely.
13 A. All right.
14 Q. The first is electronic funds transfer.
15 How is your company intending to offer electronic
16 funds transfer services in the U.S.?
17 A. That is what I suppose I characterized as a
18 cloud-to-cloud transfer, as I described earlier,
19 it's funds moving from one individual's cloud to
20 the other or from their cloud to a merchant's
21 cloud.
22 Q. Got it. So the different methods you
23 described?
24 A. Yes.
25 Q. And are you aware of other companies that

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1 offer electronic funds transfer services in the
2 United States that are not banks?
3 A. Yes.
4 Q. Which ones are you aware of?
5 A. Most of the ones I just listed; PayPal, I
6 believe Skrill operates actively, Square, Venmo,
7 Xoom with an X, X-o-o-m.
8 Q. What about Western Union?
9 A. Yes.
10 Q. Let's move to the next item, bill payment
11 services. Can you describe for us how your company
12 is intending to offer bill payment services in the
13 U.S. given, sort of, the business model you've
14 described?
15 A. The intention would be that you would log
16 in to your nTrust cloud, and you'd be able to
17 select bill payment as an option, and you would
18 select your payee from a list of utilities or what
19 have you, and then the funds would be taken from
20 your cloud and sent to and settled to your
21 utilities provider.
22 Q. So, for example, I could use money in my
23 nTrust cloud to pay my wireless phone bill --
24 A. That's right.
25 Q. -- for example or my electricity bill at

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1 home?
2 A. Exactly.
3 Q. Are you aware of other companies that offer
4 such bill payment services in the United States
5 that are not banks?
6 A. Yes.
7 Q. Can you give us some examples?
8 A. The two big gorillas are probably the
9 Mircosoft bill pay, I think it's just called MSN
10 bill pay and Quicken bill pay.
11 Q. Quicken, the accounting software?
12 A. Yes.
13 Q. Let's go to the next item, which is a long
14 description, cashless purchasing services for
15 merchants and consumers whereby purchase monies are
16 held in trust and sent to merchants upon sales to
17 consumers.
18 A. Yes.
19 Q. Given the business model you've described
20 for your company, can you tell us how nTrust
21 intends to offer that type of service in the
22 United States?
23 A. That's a long way of saying buy the taco.
24 Q. Okay.
25 A. But, essentially, it's that taco purchase

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that I used as an example a moment ago where money would move from my user cloud to a merchant cloud during the course of the transaction.
Q. Okay. And then the purchase money by the customer was held in trust and then -- by your company; is that correct?
A. Well, all of the money that is in anyone's cloud at any point in time is held in trust for them.
Q. And then after the merchant makes a sale to the customer, the money is sent to the merchant?
A. That's right.
Q. And are you aware of companies that offer such services in the United States that are not banks?
A. Yes.
Q. Can you give us examples?
A. Google Wallet, PayPal, Square.
Q. Are you familiar with a company named "Circle"?
A. Yes.
Q. And is that another example of this type of service from a non-bank?
A. Yes.
Q. Let's move to the next service item, stored

value card services. Can you describe for us how your company intends to provide stored value card services in the U.S.?
A. Right. Stored value card services is quite broad, but it would include -- the way we intend it would be as I described earlier, that we would have a reloadable prepaid card that would be loadable from the cloud and usable either as a means of withdrawing cash through ATM network or to purchase goods directly.
Q. And are you aware of companies that offer stored value card services in the U.S. that are not banks?
A. Yes, there is different categories of stored card services, but, you know, Starbucks, Verizon, Target, Walgreens, Walmart.
Q. So a lot of retailers?
A. Yes.
Q. What about the telecommunications world?
A. I'm not as familiar with the U.S. telecommunications environment.
Q. Okay. But, basically, there is many companies that are not banks that offer stored value cards?
A. Yeah, cards are either closed-looped cards,

something like a Starbucks card which they can essentially issue on their own and then there are different -- like I said, it's very difficult to in one statement summarize stored value cards, but there are certainly cards that are issued by retailers.
Q. Let's move on to electronic money issuance and transfer services. Can you describe for us how your company intends to offer such services in the U.S.?
A. Yes. Electronic money is -- it's a term of art in Europe, and this was in retrospect probably a belt-and-suspenders drafting moment for me because I was in the process of preparing our license application in Europe at the time, and electronic money in Europe is essentially a stored value category.
Money in my cloud in Europe would be considered electronic money in Europe, so that is a phrase that essentially means the same as the categories above but it's a term that I -- truthfully I expect to start migrating over to north America, so I was anticipating a problem.
Q. Okay. So electronic money meaning, sort of, a digital representation of money?

A. Electronic money in the sense that I had intended is the European definition of, so if I accepted money into my cloud, it would be I have issued electronic money in a sense that you have a claim on that money for me. If I had loaded a card with money, that would be considered electronic money.
Q. And your company would be providing issuance and transfer services for electronic money --
A. That's right.
Q. -- in the U.S. based on what you've described for us how the cloud transfers work?
A. Yes.
Q. And then, finally, the last item in Class 36 is direct deposit of funds into customer bank accounts.
A. Yes.
Q. Can you describe for us how you intend to offer such services in the United States?
A. It is the last chain in that customer experience I described, that if you had funds in your cloud and you didn't want to buy something with it, you didn't want to load a card and you didn't want to transfer it but you wanted it back,

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that you would need the ability to withdraw it into your bank account.
Q. And are you aware of companies that offer such services in the U.S. that are not banks?
A. Yes.
Q. Okay. Can you give us any examples?
A. Again, I think most of any wallet system would require that generally in the United States. Again, PayPal would do that, Google Wallet does that, Apple Pay I anticipate will do that, and that is, sort of, a part of their larger service.
There are companies that do direct deposit to your bank account as their entire service, payroll companies, an ADP, that would be a big part of their service.
Q. So, for example, people have their paychecks directly deposited into a bank account --
A. Right.
Q. -- there is companies that provide that service?
A. Yes.
Q. All right. Let's move to Class 45, and there is just one description of Class 45 which is providing financial fraud protection and prevention, I'm looking at page N8 again in

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Exhibit 201.
A. Yes.
Q. Can you describe for us how your company intends to offer such services in the United States?
A. Well, I break the answer down into the individual-user-customer category and the merchant-customer category. The individual user is -- I wouldn't categorize that as a service they would buy as a stand-alone service, it is a service available as part of the larger nTrust service.
We have notifications, for example, that if there is activity that you hadn't anticipated in your cloud, a large transaction that you may not have authorized, you want to be alerted by us, an email or something like that, and then there is all of the things that are happening below the surface.
We have a massive compliance and KYC engine that tracks things like suspicious behavior, anti-money laundering, we interface with our terrorist database and anti-fraud database, so in that sense it's protecting their data that way.
The organization is -- it's called PCIDSS Level 1 Certified, and that is the payment card

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industry DSS technical standard, so we are required to abide by a set of technical and operational standards that the card industry has laid out to be able to process and store credit card data.
And as a consequence of that certification, the organization it must encrypt to a certain standard. There is a whole series of physical and operational protocols to make sure that that security is in place. So would you sell that as a stand-alone service to an nTrust customer, no, but it is a part of the overall service and a critical and probably necessary part.
On the merchant side, it's much more obvious because we do credit card verification, we do identify verification, we do, again, all of the anti-money laundering checks in near real time, and that protection is much more immediate for a merchant because it reduces a charge-back risk that someone would have loaded their nTrust cloud, made a purchase from a merchant and then reverse that whole transaction.
Q. And that is important for you to convince merchants to be able to use the nTrust cloud system?
A. It's probably the most important thing we

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do. We spent two years developing the anti-fraud AML and compliance engine before we ever even started thinking about a Web site.
Q. And is that -- is your anti-fraud system something that you market or promote to merchants in order to try and get them to sign up with the service?
A. It's an element. I don't like to market it, but we need to be able to answer the question that -- you know, why -- why should I believe you that you are secure and that very good answer is a newcomer to the market to that question.
Q. Do you intend for nTrust to offer any banking services in the United States?
A. No.
Q. Do you intend for nTrust to become a bank?
A. No, absolutely not.
Q. For all of the service items listed in your Class 36 application, did you intend when you wrote this to cover any banking services?
A. No.
Q. What about your Class 45 description? Did you intend for that to cover any banking services?
A. No.
MR. NGUYEN: Do you want to take a break?

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MR. NORTON: It doesn't matter to me. It seems --
MR. NGUYEN: I'm thinking we'll be done, you know, by like noon.
(Off the record.)
MR. NGUYEN: Back on the record.
Q. All right. Mr. MacGregor, let's talk about who your target customers are for nTrust, and we'll start with your current operating countries and then go to the United States.
So just in general, can you describe for me in Canada and the Philippines who are your target -- let's start with the consumers.
A. Okay. There is categories, obviously, the remittance category, the sender is actually closer to our general category, and the receiver of a remittance transaction is a bit of a unique class because for the reasons I went into earlier, that they are a little bit older, typically less technically savvy, may not be technically connected, may be -- more likely to be unbanked.
Generally, as what will come as no surprise, our target skew is younger, they are more comfortable with sharing financial information and transacting financially online, which generally

skews younger. There isn't a obvious split between male and female. It's more or less fifty-fifty in our experience.
It's -- they are lower-value transactions typically. These aren't people spending $5,000 on something. I think the average transaction -- and I can verify this if necessary -- is $20, maybe slightly less than $20. It is -- you know, here is the money for mom's birthday present, here is the half of the dinner I didn't pay you last night. You know, it varies obviously when I say that, that is a pretty typical demographic profile.
And now that we've started becoming more aggressive in our merchant targeting, there is some overlap. It's okay of that category of demographics who frequents the merchants that we've integrated with, and so that is, sort of, the sweet spot.
On the merchant side, again, we refer to them as micro-merchants. They are generally not online, they are generally merchants that are local, sort of, community merchants. We have a lot of people who use us at the farmers' market and they have a dog-walking business and the taco truck, we have an affiliation with the food truck

industry in Vancouver. So these are micro-merchants that generally have a large, if not exclusively, cash-based business that we're transitioning online.
It's -- and that definition arose -- it was actually it was a taco truck, it wasn't -- I wasn't being glib. I was in Vancouver and I wanted a taco from this taco truck and it was cash only, and in Canada it's very unusual now to just carry cash, everything is on the interact system, so it's quite unusual.
So I thought, there is an opportunity, there is a sale he just lost, that if I can enable him to take payments from the nTrust, system that is a market that aligns with, sort of, our corporate philosophy as well, so is that sort of the information --
Q. That helps. So on the merchant side, it seems like the -- your target customer are, you know, small individual neighborhood businesses that don't accept credit cards, for example?
A. Right.
Q. And so this -- your company provides a system for them to make a sale when a customer doesn't have cash available?

A. Exactly.
Q. And then on the consumer side, you mentioned that the target customer is not surprise -- is young. Why do you say that's not surprising?
A. Well, I -- maybe it's no longer true, I am aging faster than I'd like to admit, but the truth is when I -- I won't get in anecdotes, but my parents' generation would never share banking information online, would never conceive of sharing financial information of any kind online.
My generation was, sort of, the I'd say the groundbreakers. I was very, very nervous the first time I made a purchase through a Web site, and the generations that have followed us lived their entire life full on broadcast all of the time, so the sale cycle to convince someone who is 18 or 20 to sign up for a money transfer service on their phone is very, very simple. To do that with someone who is 55 is quite difficult.
Q. Have you studied -- or strike that.
Have you evaluated what the average age is of your nTrust users on the consumer side?
A. I wouldn't say we studied it, but, certainly, we track the demographics of our

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customer base.
Q. Do you know what the average age is or --
A. The -- I couldn't tell you exact average. The range we target is somewhere -- is sort of 20 to 34.
Q. Okay. And do you find that the majority of your users on the consumer side are in that age range, 20 to 34?
A. Yes.
Q. How do you go about acquiring customers? Let's start with consumers. Actually, before we get to that, for the United States, I know you have not entered into the United States, but have you given thought as to what kinds of consumers and merchants your company intends to target in the United States?
A. I think it would be the existing demographics. It would be -- the service isn't intended to service them. They are the lowest drag, sort of, convertible demographic. It would be sensible that we would pursue our value proposition.
Q. So consumers in the 20 to 34 age range?
A. Yes.
Q. And micro-merchants, small neighborhood

merchants who typically don't accept credit cards?
A. Yes.
Q. You also mentioned the average transaction on the nTrust system is only about $20. Do you have any understanding as to the average amount of funds that might be available in a user's cloud at any one time?
A. I would be guessing.
Q. Okay. Is it in your experience looking at your user statistics that anyone -- any users have large amounts of money in their cloud, like let's say over $1,000?
A. No, no, that's -- it would be quite low. I would be reticent to put a figure on it, but it would be low and it's anticipated and that was expected that people will test the system by funding, transferring, withdrawing or funding, doing something else and withdrawing just to make sure that it works, and that user behavior will get more comfortable and trustworthy overtime.
Q. But it was not your business model for -- or anticipation that users would use nTrust clouds to hold significant amounts of money?
A. No. Managing the float was never a big part of the business model.

Q. And does your company pay interest to users on any funds that are held in their cloud?
A. No, we can't pay interest.
Q. And there is probably a reason why people would not want to hold a lot of money in their nTrust cloud?
A. I think there is market reasons. There is better places to put your money than in the nTrust cloud.
Q. All right. So let's talk about how you go about acquiring consumer customers.
A. Okay.
Q. How do you do that?
A. I think it's a multi-prong approach. We have, sort of, traditional brand channels of radio, we do transit advertisements, there is going to be some television spots in Canada this year, and then -- but most of the acquisition -- all of the acquisition for consumers happens online.
I think the biggest percentage of our marketing spend -- picturing the pie chart -- is pay-per-click social engine -- or, excuse me, search engine marketing, so place an ad on Google ad, place it on a search term and we get direct traffic that way.

Q. So most of your advertising is geared towards online ads?
A. We are -- like I said, we do brand advertising offline more as just kind of a trust mark play, but the acquisition happens all online, because if they are already online and searching for a self-filtering, it's a lower cost per acquisition.
Q. Has it been difficult for nTrust to acquire new consumer customers?
A. I would say it has been appropriately difficult.
Q. What do you mean by appropriately difficult?
A. We are a money service. We are asking people to trust us with their hard-earned money, and people are justifiably and correctly skeptically, and we are -- the fact that we're online only makes it doubly so, and so yes, it's expensive to acquire new customers. We don't expect it to stay as expensive as it is as the service develops some history, and people's experience with it are communicated into the market, but yes, it's expensive.
Q. Have you calculated what your average cost

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is per user acquisition or do you have any understanding of what that might be?
A. Yes, if you put two marketers in the room, you'll get two separate answers, but as the person responsible for the PNL, I have a fixed answer to that. The -- if you consider non-overhead marketing costs, if you exclude marketing salaries but you exclude all -- third party spend around, ad placement and pay-per-click, it is somewhere around $12 to $15 to get a new sign-up, that is not a customer, that is someone who signed up. A transacting customer is about nine or ten percent of that.
Q. You mean nine or ten percent of the people who sign up?
A. Correct.
Q. So it costs your company approximately $12 to $15 in marketing spend --
A. Right.
Q. -- out-of-pocket marketing spend to get a registered user but only about ten percent of the users then engage in some transaction?
A. Right.
Q. In your experience, do consumers -- are they more careful in selecting their financial

service businesses?
A. Relative to other services?
Q. Yes.
A. Absolutely. It involves their money. They -- from the very beginning of the organization, the entire word "nTrust" was intended to address what was always expected to be the No. 1 barrier to success, which was to establishing the trustworthiness of the organization.
So people -- anyone who is being asked to put their money at risk, online especially, is going to be very, very skeptical.
Q. Do you have any sense as to why only nine to ten percent of registered users actually engage in a transaction on nTrust?
A. Well, it depends on who you ask. You get a lot of people objecting to the word "only." Nine or ten percent is considered a very good conversion rate in some sectors.
Q. Okay. Does that reflect in your experience that users are cautious about making money transfers?
A. I think there is no question about that.
Q. Do you believe that consumers will be careful about confirming the identity of the

company they are using before they do a money transfer?
MR. NORTON: Objection, no foundation. Go ahead.
THE WITNESS: I would -- yes, I would expect and be surprised if it was not the case that people would be very -- there is a reason that the FINTRAC oversight, for example, requires you to put a whole bunch of contact information, you know, front and center on a Web site, because almost by definition as a user -- I'm only speaking as a user of these services now -- if an organization looks like it's hiding, then they probably have a reason to hide, and the regulators are very clear that you need to provide a wide open channel of contact, you need to provide corporate entity information, your address, phone number, et cetera, and it's for that reason, it's consumer protection.
BY MR. NGUYEN:
Q. So you mentioned FINTRAC. That's a Canadian regulator?
A. Yes.
Q. Have you examined the regulations or requirements for what kind of company disclosure you would have to provide in the United States?

A. I have not, but I would be stunned if that wasn't a requirement.
Q. In your experience, money service businesses have to take significant measures to disclose their company identity to consumers?
A. Yes.
Q. So how do you do that on your Web site now?
A. It's pretty straightforward. We have a contact section, we have an About Us section, it also exists -- I believe it exists in the terms and conditions but I'm not a hundred percent sure -- there are several places on the Web site. You can figure out who we are, our FINTRAC registration number is there, you can go to FINTRAC and look us up and make sure we are legitimate.
Q. And does your company Web site have a security page talking about its security levels?
A. They just changed the Web site. It certainly did. Yes, it will have security information, whether it's a stand-alone page or not. Now I don't know.
Q. Why did your company have a security page on its Web site?
A. Well, I think security was -- when we first designed the Web site, before we even had a

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service, we were designing the wire frames for the Web site, sort of, the navigational structure of the Web site, which page is linked to which other pages, and from the very beginning we knew that the security page was going to be a critical one.

It's the only page actually I helped write, and we maybe over-disclosed our security process, but we needed to make people comfortable that we were a trustworthy and secure organization.

Q. Do you have any understanding as to how many Web site users visit that page compared to other pages on your Web site?

A. I wouldn't be able to pin a number to it, but it's a highly-trafficked page.

Q. You mentioned earlier that you do a lot of online advertising to acquire customers and consumers. Does the target age demographic for consumers affect your advertising strategy?

A. Yes, depending on the tool and the channel, you can be more or less precise about who you target. Facebook is particularly good in allowing you to target specific demographics. In the offline media placements, we look to things like ESPN which we know has a target demographic that is in our range. Like any advertising span, you go

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where your customers are.

Q. So do you focus on media platforms that have a younger demographic audience?

A. We -- the platforms but we target the younger ones the -- I don't think Facebook can say it's a younger audience anymore, but we don't target the 65-and-up category.

Q. So, for example, you will use online advertising or social media advertising tools to target younger users that are on that platform such as Facebook?

A. Yes.

Q. And you mentioned that -- we talked about your mobile application. In your experience, are the transactions that have been on the intrasystem more on the Web site or on the mobile application?

A. It's still more on the Web site. The Web site has some features that have not been transitioned to mobile yet; account set up and some deposit options. Just by virtue of the technology, it's more limiting.

Q. Have you seen any change in that proportion of Web site to mobile?

A. Mobile is definitely growing, and we anticipate to be essentially -- at least a mobile

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first, if not, a mobile-only company within a few years. Mobile technologies just offer you other capabilities, everything from GO locations to the gyroscope and camera and all of these other things that you just can't get if you're sitting in front of a laptop.

Q. So for the future, you expect your company's business will be done predominantly on a mobile application by users?

A. Yes.

Q. So for the United States, are you planning to have any physical branches for your company, like a bank branch or a retail location?

A. No.

Q. What about any type of physical cart sector?

A. No.

Q. Are the channels of marketing you intend to use in the United States similar to what you've used in other countries?

A. Yes. I would hope that the social media side would be larger in the U.S. because the brand would have some recognition and traction already.

Q. And earlier I asked you if you were intending to offer any banking services in the

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United States, and the answer is no; is that correct?

A. Yes.

Q. What about any online debit card or banking card services, are you intending to offer any of those in the United States?

A. No.

Q. Are you intending to offer any merchant services such as credit card and debit card services?

A. Credit card and debit card services, no.

Q. Okay. What about wealth management services?

A. No.

Q. Are you intending to offer management of trust and investment accounts?

A. No.

Q. Are you intending to offer any non-commercial banking service?

A. No.

Q. What about an upgraded checking account service?

A. No.

Q. For the United States, have you given thought as to where your intended geographic market

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will be for the services once you enter the United States?
A. Yes, absolutely.
Q. What are your intended markets in the U.S.?
A. Again, you go where your customers are. The -- I would anticipate entry into the United States with focus on the remittance value proposition and that narrows it down pretty quickly, because the money service business licenses are granted on a state-by-state basis.
There is no, sort of, big bang. We're just in the United States. We would do this very deliberately on a state-by-state calendar.
In no particular order, I would say California, New York, Alaska because of the shipping industry diaspora, Florida, Illinois and maybe New Jersey.
Q. Would you consider -- or are you considering moving to other states beyond that at some point in time?
A. It would have to be justified. The compliance costs and the overhead of doing that would have to be outweighed by the market opportunity.

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Q. So for each of the states in which you would intend to operate in the United States, would you need to receive a money service business license?
A. That's my understanding.
Q. And then with that comes compliance costs?
A. Yes.
Q. As well as the cost of obtaining the license?
A. Yes.
Q. And that is why you need to be selective in the states in which you would operate in the U.S.?
A. I would rather spend my money on marketing than lawyers.
Q. Are you intending to target consumers or merchants in Kansas?
A. No.
Q. What about in Oklahoma?
A. No.
Q. What about in Arkansas?
A. No.
Q. When you enter the United States, are you intending to focus your advertising of your services in those target states that you listed?
A. Of course.

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Q. Are you intending to advertise in other states?
A. No.
Q. Because it doesn't make sense for your business?
A. I can't take the customers until I'm licensed.
Q. So, for example, there would be no reason for you to advertise in Kansas if you don't have a money service business license in Kansas?
A. That's right.
Q. Okay. Now, let's talk about the Intrust Bank Company and its trademarks. So you're aware that Intrust Bank is claiming that your nTrust mark will be confusingly similar with a number of its trademarks --
A. Yes.
Q. -- is that correct?
Are you aware of other companies that offer financial services in the United States that use a mark similar to Intrust or Intrust Bank's marks?
A. Yes.
Q. Okay. How did you become familiar with some?
A. I Googled it. I just started typing the

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variance of Intrust into search engines, and the words "financial services," and I just spent some time in front of the search engines.
Q. Okay. And did you do that after this case was filed?
A. Yes.
Q. And why were you doing that?
A. Because I wanted to understand whether there was a basis for their allegation.
Q. Okay. And did you find other companies that you thought used marks similar to nTrust in financial services?
A. Yes.
Q. Okay. And did you visit their Web sites?
A. Yes.
Q. What did you do after you visited their Web sites?
A. I screen captured several of them or downloaded, you know, a PDF. I think there was a PDF or two that I found. I downloaded that, I packaged it up and zipped it and forwarded it to counsel.
Q. And was that for your -- with your intent to have them produced in the case?
A. Yes.

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Q. Let's turn to Exhibit 202 in your binder. Can you describe for me what Exhibit 202 is?
A. It appears to be the index of the zip file that I forwarded with all of the documents and screen captures.
Q. And these are files that you saved or downloaded from different companies' Web sites?
A. That's right.
Q. And if you look starting at Exhibits 203 to 218, and we'll go through those in a second, are exhibits 203 to 218 the Web site downloads or electronic printouts that you generated?
A. Yes, it appears to be.
Q. So on Exhibit 202, the index, the files all have a date modified column on the far right side that says 4/24/2014. Did you do these searches on these printouts on April 24th, 2014?
A. Yes.
Q. So all of the Web site printouts that are referenced on Exhibit 202 would have been reflective of those Web sites as of April 24th, 2014 --
A. Yes.
Q. -- is that correct?

All right. So if you turn to Exhibit 203, can you tell us what this is?
A. This is a screen capture it appears of the Entrust Financial, E-n-t-r-u-s-t, Financial, LLC. It appears to be the home page.
Q. And you thought that was a mark similar to Intrust or Intrust Bank's marks?
A. Yes.
Q. And Exhibit 204, is that another page from the Entrust Financial Web site?
A. Yes.
Q. The same thing with Exhibit 205, is that also from the Entrust Financial Web site?
A. Yes. I'm not sure if that is a Web page or if that's a document.
Q. It refers to as a newsletter. Do you remember seeing it as a newsletter?
A. Yes.
Q. This was from the Web site --
A. Yes.
Q. -- of Entrust Financial?
And you also printed it on April 24th, 2014?
A. I didn't print it but I captured it.
Q. What about Exhibit 206, is that also a

newsletter from the Entrust Financial Web site?
A. Yes.
Q. And did you also capture that on April 24th, 2014?
A. Yes.
Q. Exhibit 207, what is this?
A. This is the -- a badly formatted Web page from InTrust, I-n-s-t-r-u-s-t, Global Investments, LLC. It appears to be a About Us page.
Q. Got it. And you also captured this Web page on April 24th, 2014; correct?
A. Yes.
Q. And it's because you thought the mark for this company had similarities to Intrust Bank's marks?
A. Yes.
Q. Exhibit 208, can you tell us what Exhibit 208 is?
A. 208 is a N-t-r-u-s-t Wealth Management newsletter for April 2014 that I downloaded from Ntrust Wealth Management's Web site.
Q. Okay. And you did that because you also thought this company's mark was similar to Intrust Bank's mark?
A. Yes.

Q. Exhibit 209, can you tell us what that is?
A. This is a Web page from Alliance Entrust, E-n-t-r-u-s-t. This is the client services page of their Web site.
Q. And did you -- you printed this also out on April 24th, 2014?
A. I captured it on April 24th.
Q. Okay. Exhibit 210, can you tell us what Exhibit 210 is?
A. 210 is -- it appears to be a specific Web page from Entrust, E-n-s-t-r-u-s-t, Financial Credit Union.
Q. Okay. Exhibit 211, can you tell us what that is?
A. This is a Web page from a company Nelnet, N-e-l-n-e-t, Inc., that I captured on April 24th that describes a service mark that they are using N-t-r-u-s-t.
Q. Got it. Turn to Exhibit 212. Can you tell me what that is?
A. This is a capture of a Web page from Ntrust Wealth Management, N-t-r-u-s-t, and it is their charter.
Q. Tell us what Exhibit 213 is.
A. This is a screen capture of a Web page from

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the Entrust Group, E-n-t-r-u-s-t, Group.
Q. Okay. And what about Exhibit 214?
A. This is a capture of the Entrust Capital Web page, E-n-t-r-u-s-t. Actually, I believe they call themselves Entrust Investor Services.
Q. It describes investment management services; is that right?
A. Yes.
Q. What about Exhibit 215?
A. This is a printout of the Intrust Global Investments, LLC, I-n-t-r-u-s-t, a Web page describing their services.
Q. Okay. And those services appear to be investment and financial advisory services?
A. That's right.
Q. Exhibit 216, can you describe for us what this is?
A. This is a screen capture of a Web page from an organization called MNtrust, M-n-t-r-u-s-t.
Q. And you captured this on April 24th, 2014?
A. That's correct.
Q. And this was another company you saw providing financial services?
A. Yes.
Q. Let's turn to Exhibit 217.

Can you tell us what that is?
A. This is a company Web site, it appears to be the home page of Ntrust, N-t-r-u-s-t, Financial, LLC.
Q. And this was another company you saw providing financial services with the mark that used the word "Ntrust"?
A. Yes.
Q. And Exhibit 218, can you tell us what that is?
A. This is a printout of a Yelp.com Web page which is -- represents the results of a search that has resulted in a commercial listing for Intrust, I-n-t-r-u-s-t, Mortgage Services.
Q. Okay. And you also captured this on April 24th, 2004?
A. Yes.
Q. So Exhibits 203 to 218 reflect other companies that you saw using a mark which you thought was similar to Intrust Bank's mark?
A. Yes.
Q. But also provided some type of financial service, at least as reflected by the Web pages or materials?
A. Yes.

Q. Based upon your review of these Web pages, did you draw any conclusions about what the marketplace was for use of marks like Intrust or Intrust Financial Services?
MR. NORTON: Objection, foundation.
BY MR. NGUYEN:
Q. Describe for me what your reaction was.
A. That there were loads of them. It was very, very crowded.
Q. All right. Are you aware of any instance of any customer of nTrust, either a consumer or a merchant, being confused between your company's nTrust mark and Intrust Bank or its marks?
A. No. We don't have any customers in the U.S.
Q. Okay. Are you aware of any other instance of anyone else possibly having some confusion between Intrust Bank's marks and your company?
A. Yes.
Q. Can you tell us what that is?
A. We use -- for our prepaid card service, we have to have those cards manufactured obviously, and the company that we use, FIS, is our card manufacturer.
I received an email -- I don't know the

exact date -- I received an email that -- it came to my attention because my director of operations said, "FIS says they cannot produce our cards anymore." I said, "What are they talking about?" that -- and they referenced a, quote, unquote, "trademark dispute," which of course I knew immediately it was this because it was the only one we had.
So after looking into it, what appears to have happened was our account manager had misplaced some card artwork which had been uploaded to the FIS system, so by card artwork, we were preparing to print new plastic cards and so our department had prepared very strict, sort of, rules around exactly what can be on a card, what must be on it, where, so we had uploaded these files to the FIS FTP server, and for some reason that still leaves me to be honest -- the person that was involved in the conversation with I believe it was Wayne Chaton(verbatim) who was the individual who uploaded it in our design department.
These files seemed to get lost, and what appeared to have happened is someone at FIS said, "Hey, no one knows who belongs to these files. Does anyone know?" and I believe what happened --

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and I'm sure there is documents to be more specific -- is that it got forwarded to the Intrust Bank account manager at FIS, and then that was escalated to Intrust Bank, and then that is when FIS, sort of, threw up its hands and said we don't want to get in the middle of a trademark dispute.

I responded and said, "I'm happy to put them in contact with counsel, but these are Canadian cards for distribution to our Canadian customers under our Canadian trademark with a Canadian license, what's the problem?" and, honestly, I never heard back, and then it seemed to get resolved at the operations level and that was the last I heard of it.

But it was a supplier that essentially didn't know whose file it was and they threw it up within their organization and said, "Does anyone know?"

Q. So describe for us what is FIS?

A. FIS is a lot of things. What they are to us is a card manufacturer, so they produce the physical plastic, they -- you know, with the pin technology and they encode the cards and they distribute the cards.

Q. So they are a supplier of services, or in

this case cards, for financial institutions; is that correct?

A. Yes.

Q. And they provide services to your company?

A. Yes.

Q. And to many other financial institutions?

A. Yes.

Q. And they are not a customer of nTrust?

A. No.

Q. Neither potential merchant customer or certainly not a consumer customer?

A. No.

Q. And after this incident came to your attention, do you even know for a fact that anyone at FIS was actually confused between your company and Intrust Bank?

MR. NORTON: Objection, speculation.

BY MR. NGUYEN:

Q. Do you know either way?

A. No. All I know is that they couldn't figure out who the files belonged to.

Q. And then you sent an email about this; is that correct?

A. Yes.

Q. And then that was an email to someone at

FIS; is that correct?

A. I believe I either sent it to a woman named "Debbie" at FIS or to "Angela," who is my D.O. who then sent it on to Debbie.

Q. D.O. means what?

A. Director of Operations.

Q. And after you sent that email, the situation appeared to be resolved from your perspective?

A. Yeah, I had an update meeting a week or so later with the management team. They said, "Don't worry about it. It's all resolved."

Q. Did you consider this to be a significant concern or problem?

A. No, it didn't really have an effect.

Q. Did it cause any problems for your company?

A. Just as I described, a very short-term, kind of, question that had to be resolved.

Q. Okay. But it was fairly quickly resolved?

A. Yes.

Q. So other than that situation, are you aware of any other instance of any person thinking there was any relationship between Intrust Bank and your company?

A. No.

Q. And that situation with FIS was a question of not knowing where an artwork file went?

A. That's my understanding.

MR. NGUYEN: I think I'm actually done.

MR. NORTON: Do you want to take a short break?

MR. NGUYEN: Yeah.

(Off the record.)

EXAMINATION

BY MR. NORTON:

Q. Mr. MacGregor. My name is Michael Norton. We have met before. I'm the attorney for Intrust Financial or Intrust Bank.

What -- you've used the phrase banking service several times today. What is a banking service?

A. Again, I think it's an interpretation of a law. In my mind, a banking service is anything that requires a bank license to do.

Q. Any other --

A. Well, I mean, I think you'd need 20 years of experience to be able to -- that I don't have to answer the U.S. interpretation of what a bank is required -- or what a bank is entitled to do that

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others are not, but my general sense in Canadian law and in the U.K. I have looked at a little bit more directly is that a bank is required to have a bank license -- or an entity is required to have a bank license if it takes interest-bearing deposits. It seems to be the main common theme.
Q. What experience do you have with banking in the United States?
A. I have none.
Q. All right. Let's take a look at the notebook that you and Mr. Nguyen were discussing earlier. On the first page of that notebook is a trial exhibits list. Do you see that?
A. Yes, sir.
Q. And beginning with Exhibit No. 203 and then ending with 218 are Web pages from a variety of businesses that you discussed; is that correct?
A. Yes.
Q. All right. So you discussed a total of 16 Web pages for businesses this morning; correct?
A. I think a couple of them were newsletters that I downloaded, but yes, 16 items.
Q. The first four that are listed and that you discussed, Exhibits 203 to 206, are all for the same company, Entrust, with an E, Financial is;

that correct?
A. Yes.
Q. Which takes us down to instead of 16 distinct businesses, we're now talking about 12 distinct businesses; is that correct?
A. Yes.
Q. Okay. The Exhibit No. 207 is InTrustGlobal.com. Do you see that?
A. Yes.
Q. And then Exhibit 215 is also InTrustGlobal.com. Do you see that?
A. Yes.
Q. So there is a duplicate there which brings us down to 11 distinct business; is that correct?
A. I didn't consolidate them all when I sent them, I just -- it was a full list.
Q. Sure. And then if we look at Exhibit 208 is Ntrust Wealth Management. Do you see that?
A. Yes.
Q. And 212 is also Ntrust Wealth Management. Do you see that?
A. I do.
Q. Which takes us down to 10 distinct businesses that are represented by Exhibits 203 to 218; correct?

A. Yes.
Q. Of those 10 businesses, how many offer services that are similar to your company, nTrust?
A. I would have to go and review them. I was just looking for marks that were used that were in the financial services space generally.
Q. And do you know how many of those companies offer prepaid cards?
A. I don't.
Q. Do you know how many offer credit cards?
A. I don't.
Q. Do you know how many offer electronic funds transfers?
A. I wouldn't be able to put a number, no.
Q. Do you know how many of those 10 remaining companies offer services similar to Intrust Bank?
A. I don't know the number, no.
Q. All right. Let's mark that.
(Whereupon, nTrust Usage Fees was marked Exhibit 219 for identification.)
BY MR. NORTON:
Q. I'm going to hand you what's been marked as Exhibit 219. Do you recognize that document?
A. It appears to be a printout from the old Web site.

Q. When did the Web site change?
A. Or maybe --
Q. In the upper right.
A. It's a printout from our Web site.
Q. From the current nTrust Web site?
MR. NGUYEN: I have just one quick question, has this document been produced in discovery? Because I don't see a bates number.
MR. NORTON: No, it hasn't and the reason that it hasn't is because nTrust recently, very recently, changed their Web site.
MR. NGUYEN: I just wanted clarify whether --
MR. NORTON: No.
MR. NGUYEN: This is dated March 11th, 2015. 015.
MR. NORTON: It was discovered by me right before I flew here, so --
THE WITNESS: Just to be clear, sir, the Web site is in, sort of, a constant state of evolution. There wasn't any big, you know, release --
MR. NORTON: I didn't mean to imply that you changed it for this or anything like that.
MR. NGUYEN: I'm just going to lodge an

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1 objection to the introduction of the document, it's
2 past the discovery period.
3 BY MR. NORTON:
4 Q. Mr. MacGregor, when's the last time the
5 nTrust Web site changed?
6 A. I don't know. It happens routinely.
7 Q. What do you mean by routinely?
8 A. We have a marketing team that is always
9 updating the Web site and optimizing. They do
10 almost nothing except that.
11 Q. And would you agree that Exhibit No. 219
12 represents the Web site -- Web address nTrust.com,
13 slash, fees as it currently exists?
14 A. It appears to be. It's -- the bottom left
15 has the URL that has nTrust.com, slash, fees.
16 Q. The date at the top is March 11, 2015?
17 A. That's what it says.
18 Q. All right. And if you could take a quick
19 look and then tell me what this page shows.
20 MR. NGUYEN: I'm just going to interpose a
21 continuing objection to the line of questions of
22 this. If you want to ask him generally about
23 these, that's fine, but this document not that I
24 have -- just because it's -- you know, not been
25 produced in discovery.

1 THE WITNESS: Other than the bottom half of
2 the second page, which appears to be oddly
3 formatted hyperlinks, the content of the page is
4 cards fees in -- denominated in pesos, so I assume
5 this is the -- no, this is just card fees it
6 appears.
7 BY MR. NORTON:
8 Q. And based on your recollection, does nTrust
9 offer physical cards?
10 A. Yes.
11 Q. Is there a fee for physical cards?
12 A. These are -- just to be clear, what classic
13 refers to on this page is the physical plastic card
14 and light is the virtual card.
15 Q. Okay. Then let's talk about that just real
16 quick. What's a classic card?
17 A. A classic card is what you would consider
18 in the United States a prepaid card. It's a
19 physical piece of plastic with the encoded
20 mag-strip, and the light is the virtual card.
21 Q. And does nTrust charge fees for issuance of
22 a physical card?
23 A. I think it depends on the region. I'm
24 trying to figure out what -- drop down islands --
25 I'm trying to figure out what fees are represented

1 here.
2 Q. Well, that is all right. We can just talk
3 about your knowledge without having to refer
4 directly to this document, and unless you need to,
5 okay?
6 A. All right.
7 Q. All right. First, what regions does nTrust
8 offer services?
9 A. Canada and the Philippines.
10 Q. Any others?
11 A. Not -- no, not deliberately. We allow
12 people to sign up from almost anywhere. It's --
13 with a few exceptions, and that is mostly for anti-
14 fraud purposes, so if you get a drop down that
15 includes Syria, for example -- that's a bad example
16 perhaps -- but there are some -- there are a lot of
17 countries that are on the FAT watchlist and things
18 that -- if we just excluded them from the option,
19 then we wouldn't know where those people are coming
20 from. So we allow people to sign up with what we
21 hope is the most truthful information, and then we
22 screen on that basis.
23 Q. If a person signs up and identifies
24 themself as from Mexico, would they be allowed to
25 have an nTrust account?

1 A. I believe they can get an account but they
2 have no options.
3 MR. NORTON: All right. Let's talk about
4 the classic card. I'm going to have several of
5 these, so if you want to have a continuing --
6 MR. NGUYEN: That's fine. I guess what I
7 was going to ask is -- because I know you printed
8 some from an earlier version of the site that were
9 produced in discovery. Is there a reason you need
10 to use these --
11 MR. NORTON: Yes, because the way that the
12 products are described, it changes as well. It
13 seems like the focus of the business is somewhat
14 fluid. I mean, it's all of the same products but
15 language sometimes changes.
16 This will be 220.
17 (Whereupon, nTrust Cloud Money Prepaid
18 Mastercard Printout was marked Exhibit 220 for
19 identification.)
20 MR. NGUYEN: I'll object also that
21 Exhibit 220 was not produced in discovery.
22 BY MR. NORTON:
23 Q. Mr. MacGregor, I'm going to hand you a copy
24 of Exhibit 220. Can you tell us what that is?
25 A. It appears to be a printout from March 11,

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2015, from the classic cards page of the nTrust Web site.
Q. On the front of the page, there is what appears to be an image of a card. Do you see that?
A. Yes.
Q. Is the image that is shown on the front page of Exhibit 220 consistent with the type of physical cards that nTrust offers?
A. Yes and no. It appears to be the Canadian denominated card. The peso denominated card is white and it's vertical, I believe. Well, I know it's vertical, but I think it's white or silver.
Q. Does nTrust intend to offer physical cards in the United States?
A. If the market demands it. It will depend. It's a much more crowded market in the United States.
Q. All right.
A. It's unquestionably our most expensive service to offer in terms of production and management of the card programs. I wouldn't be rushing to do it.
Q. And you currently offer cards in Canada; is that right?
A. That's correct.

Q. And you currently offer cards in the Philippines; is that right?
A. That's right.
Q. Any other regions or areas where you offer physical cards?
A. We have a GVP, a pounds sterling denominated card. To my knowledge, they have not been issued to anyone other than Canadians as travel cards.
Q. And is the -- what is the light card that you mentioned?
A. The light card is what the industry refers to as a virtual card. It is -- there is no card. It is a -- it's a 16-digit number plus an expiry date. It's a virtual card. It's a number with all of the associated information that can be generated essentially in real time and then used for online purchases.
So if I wanted to make an Ebay purchase or purchase from a Web site that I didn't trust, I wouldn't want to disclose my, quote, unquote, "real" credit card number, I could generate a virtual number for that transaction only, and then I wouldn't have to be concerned about the security on the other end.

Q. And do you intend to offer the cloud light card in the United States?
A. We would want to, yes. It's a good product.
Q. Does the cloud light card allow point-of-sale transactions?
A. No.
Q. Are you able to make point-of-sale transactions with a light card?
A. I don't think so, no.
Q. If you would take a look at Exhibit 219, you'll see towards the bottom there is cloud money card. Is that different from the light card?
A. Well, there is two columns there, classic and light.
Q. I see. And notice on the right-hand side under Light, it says that the fee for point-of-sale transaction fees is zero or free; is that right?
A. Yes.
Q. Would this -- after having looked at this document, does it help refresh your memory as to whether you offer -- or whether point-of-sale transactions can be made with --
A. It doesn't refresh my memory, but it tells me the marketing team needs to update the Web site,

because that should be a dash and not the word "free."
Q. How about international point-of-sale transactions?
A. The same comment.
Q. All right. The classic card, does it allow point-of-sale transactions?
A. Yes, it does.
Q. How about international point-of-sale transactions?
A. Yes.
Q. The classic card will allow ATM withdrawals?
A. Yes.
Q. How about international ATM withdrawals?
A. Yes.
Q. The cloud light product, is a user able to make purchases online?
A. Yes, that's what it's intended for.
Q. Using a classic card, can a user make purchases online?
A. Yes.
Q. Does a classic card include a Mastercard logo on it?
A. Yes, it does.

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Q. Why is that?
A. It's issued by Mastercard.
Q. Is Mastercard a bank?
A. No.
Q. What is Mastercard?
A. It's a card association.
Q. Are the physical cards backed by a bank?
A. Yes.
Q. Which bank?
A. I believe the Canadian cards that we do -- our Canadian card program is through -- I believe it's Transact. I'm not sure.
Q. How about the Filipino cards?
A. That's through a security bank in the Philippines. In Europe, there is a -- card there is a whole series of players in a co-branded card issuance. There is an issuing financial institution, there is a program management function, and it's done -- it's just much more complex in Europe than I believe it is in the U.S.
Q. And is the cloud money card light backed by a bank?
A. Yes.
Q. Which is the same bank or different?
A. It's the same bank. I can find it for you.

Q. When does nTrust currently plan to launch in the U.S.?
A. It would depend entirely on the regulatory process, and, truthfully, the outcome of this process.
Q. Do you currently have an estimated date, go-live date?
A. No.
Q. Are you concerned that your customers and prospective customers will confuse your company with Intrust Bank?
A. No.
Q. Are you concerned that your customers or prospective customers will confuse your company with a bank?
A. No.
Q. Does nTrust make any efforts to tell its customers that it's not a bank?
A. I believe it does say that in the terms and conditions.
Q. And why?
A. Because the funds that are in the balance are not covered by insurance, the federal insurance that is required for depository accounts in Canada.
Q. Any other reason why you include that

we're-not-a-bank language in your terms and conditions?
A. No.
Q. Is there any other place where nTrust tells its customers or prospective customers that it's not a bank?
A. I don't -- I haven't seen every piece of marketing material generated by the organization, but it's not a key message that we push.
Q. Does your Web site have an FAQ or frequently-asked-questions section?
A. Yes.
Q. And what's the purpose of the frequently-asked-questions section?
A. To answer frequently asked questions.
Q. Okay.
A. To anticipate questions, give people comfort.
(Whereupon, nTrust FAQs was marked Exhibit 221 for identification.)
BY MR. NORTON:
Q. All right. Mr. MacGregor, you've been handed Exhibit 221.
MR. NGUYEN: For the record, I'm objecting to the introduction of 221 as not produced before

today's deposition.
BY MR. NORTON:
Q. And in the upper, right-hand corner you'll see there is a date. Do you see that?
A. Yes.
Q. March 11th, 2015?
A. Yes.
Q. And down in the bottom, left is a Web address HTTPS, colon, slash, slash, WWW, dot, nTrust.com, slash, FAQS. Do you see that?
A. Yes.
Q. And if you count the number of frequently asked questions, there are seven.
Do you see that?
A. Yes.
Q. What is the second one listed?
A. It says, "Is nTrust a bank?"
Q. Why on earth -- I'll strike that.
Why does nTrust identify is nTrust a bank, question mark, as one of the seven frequently asked questions?
MR. NGUYEN: I'll object to the question based on the inadmissibility of the document.
THE WITNESS: I know why this is in here. Candidly, banks are not well-loved, and we don't

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want to be lumped in with that sentiment, and we want to make it clear that it's -- you know, you're not about to have the same experience that you had before, you don't have to change anything about your life, you don't have to, you know, have to keep all of your savings with us or something, there is not a major commitment required to become a customer of nTrust.

BY MR. NORTON:

Q. If you're not concerned that your customers or prospective customers will think you're a bank, why do you need to include is nTrust a bank in your frequently asked questions?

A. I think I just answered that. We wanted to distance ourselves. This is why you'll prefer nTrust, we're not like a bank.

Q. You're not like a post office or postal service either, though; correct?

A. We're a financial institution. I don't -- obviously we deal with money, I'm not going to try and be cute with you, sir. It's -- so when people see I've got to load money into the cloud, I want to make it clear that we're not -- this is not a big ask of you, this is a low-effort, low-risk opportunity.

Q. So I just want to make sure I'm clear. You have no concern whatsoever that your customers and prospective may think that nTrust, your company, is a bank?

A. Why would I be concerned about that? I have no -- if they think I'm a bank, they are going to learn that I'm not. It's not going to impact how I market them or the service. I'm not sure why that is -- would make me concerned.

Q. I didn't ask you why it would make you concerned. I asked you whether you're concerned in any way that your customers may think you're a bank.

A. There would have to be some negative repercussion for me to have concern, and I don't have any concerns.

Q. Does nTrust compare any of its services to banks?

A. Yes.

Q. Okay. Which services does it compare to banks?

A. We compare -- we contrast ourselves with banks, we contrast ourselves with, sort of, the financial institutions that you've experienced before, we contrast ourselves with other money

services business, it's just a marketing practice, that you've been -- you can do some of these things with Western Union, it's true, you can send a wire with your bank, sure, but here is why you shouldn't, here is why you should prefer us, so we do contrast ourselves with banks and other MSPs and -- MSBs and other ways of moving money between individuals or merchants, but that is not to say that, you know, we think people are confused with the fact.

Q. Okay. And you kind of morphed into contrasting yourself with a bank, so my question is do you compare yourself, any of your services, with banks?

MR. NGUYEN: Objection, vague as to compare.

THE WITNESS: Yes, I'm not sure --

BY MR. NORTON:

Q. How about with regard to security? Do you compare the security that your service has with bank security?

A. I think we say things like so banks are required to adhere to a certain encryption standard, for example, for data, and we overachieve that.

So we tell people that we're -- I can't remember what the exact language is, but, essentially, that it's the same standard or better than institutions you already trust.

Q. And I think -- does the phrase "bank level security," does that refresh your recollection?

A. Yes, I know that phrase well. It's been used by Mint for many years, and that phrase, that specific phrase, was discussed, because -- in fact, that phrase has been the study of some analysis as to why Mint was successful.

Mint, as you probably know, was bought by Intuit, and it's a finance sort of tool, and so bank level security, they had done a lot of research that that created a sense that banks -- no one denies that banks are heavily regulated, and appropriately so, and so the idea was if it's good enough for banks, then it would be good for enough for this, so I recall that phrase very clearly.

Q. And does nTrust with an N, your company, use the phrase "bank level security"?

A. It certainly did. I don't know if it's currently on the Web site. It's been used. I think it's bank level encryption, maybe security.

Q. So it sounds like in some instances,

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1 interest is comparing itself to bank level security
2 and in other instances you're trying to separate
3 yourself from banks, for example, the FAQ section?
4 A. I don't think --
5 MR. NGUYEN: Objection. Is there a
6 question?
7 THE WITNESS: We're not comparing -- well,
8 I suppose we're comparing ourselves to the same
9 security standard. The reference was in reference
10 to the PCI standard that we're required to commit
11 to that level, and the idea I think is obvious to
12 everyone is that everyone knows banks are heavily
13 regulated and secure institutions, and it's a good
14 thing to be able to say we're as secure as a bank,
15 the data is as secure as a bank.
16 If I had said our facility is as secure as
17 Fort Knox, I'm not comparing myself to Fort Knox,
18 I'm saying that it's a security standard that you
19 should respect.
20 BY MR. NORTON:
21 Q. You identified your target customers as
22 those who are unbanked; is that right?
23 A. That's a category of the customers, yes.
24 Q. Are there other categories?
25 A. Well, the unbanked is typically a

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1 remittance category. I think I went through the
2 sort of traget groups earlier.
3 Q. Do you know whether banking institutions
4 also target those who are unbanked?
5 MR. NGUYEN: Objection, lacks foundation.
6 Go ahead if you can answer.
7 THE WITNESS: I know they talk about it a
8 lot, I know it makes a lot of annual reports, but
9 judging by the actual prices, I don't think they
10 take it very seriously.
11 BY MR. NORTON:
12 Q. What do you mean by that?
13 A. Because it's the most -- the bank pricing
14 that I've been exposed to is pretty predatory.
15 Q. Do you not like banks, Mr. MacGregor?
16 A. I definitely don't like the way banks treat
17 that segment.
18 MR. NORTON: We're going to be jumping
19 around a little bit, because you've covered a lot.
20 MR. NGUYEN: No problem.
21 BY MR. NORTON:
22 Q. Mr. MacGregor, I'm handing you Exhibit
23 No. 222.
24 (Whereupon, nTrust Terms of Use was marked
25 Exhibit 222 for identification.)

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1 MR. NGUYEN: I'm objecting to the
2 introduction of the exhibit as not produced before
3 today's deposition.
4 BY MR. NORTON:
5 Q. And if you look at the top there, it's
6 entitled "Terms of Use." Do you see that?
7 A. Yes.
8 Q. And it says, "Last updated 18 June, 2014,"
9 do you see that?
10 A. Yes.
11 Q. Did you have any involvement in drafting --
12 well, are these the terms of use for nTrust with an
13 N?
14 A. Without being able to compare it, I will --
15 I don't know, but if it's a printout from the Web
16 site, then yes.
17 Q. If you look on the bottom left, it
18 identifies the Web site as nTrust.com, slash,
19 terms?
20 A. Yes.
21 Q. Did you have any involvement in drafting
22 nTrust terms of use?
23 A. I think I probably -- I was involved in the
24 question of the first version. There is a staff
25 lawyer now that will have continued to either

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1 re-draft them or re-write them.
2 Q. Would you walk me through the -- well, does
3 nTrust offer a bill-pay service?
4 A. Yes, it does.
5 Q. And you discussed that some with Mr. Nguyen
6 earlier today?
7 A. Yes.
8 Q. Could you just walk me through the process
9 of how someone with an nTrust account uses that
10 account to pay a bill?
11 A. Yes. You mean the specific sort of
12 interactions --
13 Q. Yes, the customer experience.
14 A. I'd have to -- the latest version of the
15 apps, for instance, but in principle, you go to
16 your account page, you select bill pay and then you
17 drop down from a selection of payees, and then
18 there is some sort of reference ID, whether it's
19 typically an account number I suspect, you enter
20 the amount to pay and then submit.
21 Q. What if -- can a user identify new payees
22 that aren't on a drop-down list or otherwise in the
23 system?
24 A. No.
25 Q. What types of payees are in nTrust's bill

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pay system?
A. It's a service that we subscribe through, so it's credit card companies and utilities mostly, it's hundreds and hundreds in the Philippines but it's standard utilities -- like bills, not like a recurring bill, it's not a one-off, you know, pay, pay John Smith once and not setting up a pay, and the list is provided to us.
If we get enough, if they provide the service to more than one FI, if we get enough requests for a particular one, we submit that to them, but we can't tell them to add anyone because they have to do an integration of their own.
Q. What is the name of the service?
A. There is two. There is one in Canada and one in the Philippines. I don't know them.
Q. If you could, walk me through the person-to-person or peer-to-peer process if one of your customers wants to send money to someone who is not already an nTrust customer.
A. You, generally speaking, can't. You can effectively notify someone that there is money waiting for them in nTrust but they can't come and get it unless they come and set up an nTrust account.

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There is work underway in the Philippines to do a direct send, sort of, a -- more of like a proffer remittance transaction, but I don't believe that is available.
Q. Okay. Well, how does the person receiving the funds get notification that it's out there waiting on them?
A. Email. You can -- so when you create your nTrust account, we have what you call your neighborhood, which you can think of as your contact list or your friends list, and you can invite people to join and sign up for an nTrust account, and if I send -- it doesn't happen really but it is possible. If I try to send you money and you don't have an nTrust account, you will receive an email saying, hey, so-and-so is trying to send you money in nTrust, come and set up an account and pick it up, and then if they don't, then that transaction eventually zeros out.
Q. Why do you say that they don't do that very often?
A. Because it's much easier to, kind of, invite your whole friends list when you set up your account than to send money and hope someone is going to come and set up an account. It's much

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more sensible to say, hey, I want to send you this money, use nTrust, sign up the nTrust and then I'll send it.
Q. But either way the receiver to actually receive the funds has to have signed up with nTrust?
A. Yeah, that is a money-laundering constraint. We are supposed to KYC customers on both ends of the transactions.
Q. Are there any interest products that allow for ATM withdrawal?
A. The prepaid card.
Q. You mentioned earlier that most of your marketing is online, but there is some offline marketing; is that right?
A. Yes.
Q. Tell me what type of offline marketing you do.
A. There is a fair bit of radio. We do some sort of promotions with local radio stations. It hasn't been a huge amount of spend but there is budget for television marketing, local cable shows mostly in Canada but that hasn't started yet, we do transit advertisements, so posters in the train station or bus stops.

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Q. How about advertising through YouTube videos?
A. I don't think we've advertised through YouTube videos, but we put all of our videos on YouTube. It really isn't considered an advertising channel.
Q. Does nTrust operate in the banking world?
I'm going to grab some more water.
MR. NGUYEN: Objection, vague and ambiguous as to banking world.
MR. NORTON: Let me rephrase the question.
Q. Mr. MacGregor, have you ever used the phrase "banking world"?
A. I'm sure I have.
Q. When you think banking world, what does that mean to you?
A. I would say banks operate in the financial services world and I operate in the financial services world.
Q. Does nTrust operate in the banking world?
A. No.
Q. Have you ever given an interview where you stated that if you want to operate in the banking world, you have to understand the rules, does that ring a bell?

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A. Possibly. I give interviews a lot.
Q. Does nTrust advertise on Facebook?
A. Yes --
Q. And how about LinkedIn -- I'm sorry.
A. -- we used to.
Q. How about LinkedIn?
A. I don't know.
Q. What type of advertising does nTrust do on Facebook?
A. They have a Facebook page, and there was a time, although that time ended, where they did pay-per-click advertising on Facebook, targeted ads.
Q. Any other social media sites that nTrust advertises on?
A. I don't know. I'm not sure I agree with the word "advertises," but we have a -- I believe it's an Instagram account, I believe there is a Twitter account but I can't keep track of them all to be honest.
Q. What's the purpose of those again?
A. Twitter is more, sort of, customer support. Facebook starts off that way, too, often times. I don't deny that people are exposed to the brand on these channels, but our social media

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experience so far has been mostly that people use it as a way to get in contact with us.
Q. So are you saying that social media sites such as Facebook and Twitter and Instagram are not a part of your marketing strategy?
A. No, I'm not saying that.
Q. Are those types of sites a part of nTrust marketing strategy?
A. Anything that gets the brand in front of customers is, of course, marketing.
Q. Are those sites, then, a part of nTrust marketing strategy?
MR. NGUYEN: Objection, asked and answered.
THE WITNESS: No, I want to be precise. I'm not trying to be cute. The Facebook -- when I buy an ad on Facebook, that is most clearly part of the marketing strategy. I've never been a big believer in brand advertising, just throwing the brand everywhere and that is part of your marketing strategy.
I will -- I don't object to having a Facebook page, I don't object to having a Twitter feed, but I do not -- as the founder, I do not consider it a core part of the marketing strategy, although I acknowledge that it gets the brand out.

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BY MR. NORTON:
Q. And you just said you acknowledge that it's not a part of the core marketing strategy. Do you agree that usage of these social media sites is a part of your marketing strategy, even if it's not the core marketing strategy?
A. I believe it has the effect of getting the brand out.
Q. I'm going to hand you what's been marked as Exhibit 223.
(Whereupon, Financial Post Article "This 'Cloud Money' Startup Knows What it Takes to Succeed" was marked Exhibit 223 for identification.)
MR. NGUYEN: I'm going to object to the introduction of this document and line of questioning also as not produced before today's deposition.
BY MR. NORTON:
Q. And I'm showing you this document, Mr. MacGregor, because I hope it will refresh your memory as to an interview that you had given earlier.
A. I never read it.
Q. Do you remember -- well, first of all, if

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you look toward the middle of the page, it says, "This 'Cloud Money' Startup Knows What it Takes to Succeed." Do you see that?
A. Yes.
Q. And it appears to be an article by someone named "Tony Juanless." Do you see that?
A. Yes.
Q. And then the -- at least according to the face of the article, it's from December 28th, 2014. Do you see that?
A. Yes.
Q. Do you recall giving an interview to Tony Juanless?
A. I think so.
Q. Were you aware that the -- strike that.
Have you read this article before?
A. No. This is the first I've seen it.
Q. Okay. We'll come back to that in just a second.
A. Is it good?
Q. Yeah, it is.
Mr. MacGregor, do you have a LinkedIn account personally?
A. I don't think I do anymore, no.
Q. Did you know that nTrust maintains a

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LinkedIn account?
A. Yes. I knew it -- to be honest, I knew it had a LinkedIn account, I didn't know if it updated and maintained the page.
Q. Who at nTrust is responsible for social media sites such as LinkedIn?
A. One of the copywriters, and then it's overseen, kind of, at a strategic level, I suppose, by the director of operations.
Q. Who is that?
A. Angela Biener is the CEO.
THE REPORTER: Say the name.
THE WITNESS: B-i-e-n-e-r.
(Whereupon, LinkedIn nTrust Web Page was marked Exhibit 224 for identification.)
BY MR. NORTON:
Q. And if you look at the top of the page on the right-hand side, it's dated March 11, 2015.
Do you see that?
A. Yes.
MR. NGUYEN: I'm going to object to the introduction of Exhibit 224 and any questions about it based on the non-production of documents before today's deposition.
///

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BY MR. NORTON:
Q. Down at the bottom left of the Web address is LinkedIn.com, slash, company, slash, nTrust.
Do you see that?
A. Yes.
Q. Have you viewed the nTrust LinkedIn page before?
A. No.
Q. If you would, under section under Recent Updates, the first paragraph is, "nTrust, our founder, Robert MacGregor sat down with the National Post to chat about interest origins, what it took to become PCI compliant and how to strike a balance between risk and entrepreneurship. Check out below."
Did I read that correctly?
A. Yes.
Q. And then the article is titled, "This 'Cloud Money' Startup Knows What It Takes to Succeed." Did I read that correctly?
A. Yes.
Q. Okay. Let's go back to the earlier exhibit that I seem to have misplaced. If you would look on the second page of the Exhibit 223, towards the top you'll see there is a quote that has been

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attributed to you. Do you see that? And you can take as much time as you want to read that.
A. Yes.
Q. After having an opportunity to read that quote, does it refresh your recollection as to whether you used the phrase "If you want to operate in the world of banking, you have to understand the rules"?
A. Yes. Sorry, did I give you the -- did I say earlier -- if I did, I would like to correct -- that I've never used that phrase? I have no question I've used that phrase.
Q. I think what you actually -- I think what you actually said was it wouldn't surprise me or maybe.
So you do, in fact, use the phrase "If you want to operate in the world of banking, you have to understand the rules"?
A. Yes. I don't have any reason to think he is misquoting me.
Q. On the last page of the article, there is another quote that is attributed -- I'm sorry, the second to last page. Hang on for just one second.
Mr. MacGregor, this LinkedIn exhibit goes on for several pages, but if you look on the

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bottom, it says three of six.
MR. NGUYEN: Back on --
MR. NORTON: The article, yeah.
Q. And at the top there is another paragraph quoted -- a quote that is attributed to you.
Do you see that?
A. Yes.
Q. Take as much time as you want to read that quote.
A. Yes.
Q. Have you used the phrase "You have to deal with banks if you want to move money, they are the gatekeepers" before?
A. That is the quote attributed to me here?
Q. And have you said that before?
A. Again, I have no reason to think he has misquoted me.
Q. What does it mean to say that if you want to move money, you have to deal with banks?
A. Well, this was obviously a Canadian interview, so I wasn't talking about the remittance business and I haven't read it, but this is about entrepreneurship and risk as I recall.
And in Canada, there is no question where you had the Canadian card, which is issued through

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our card provider, and banks have a regulatory threshold. This was my -- maybe it's captured in the article, I don't know, but my thesis was banks have a regulatory threshold that is very, very high, and if we're going to play with banks, we need to be able to satisfy them that are a threshold as high, and it doesn't mean that we are a bank but it means -- you know, I think it would be disingenuous to sit here and say we're going to have an effective money services business that in no way has anything to do with any bank ever, I think that would be ridiculous.

Could you create a money transfer service that doesn't involve banks, absolutely, but I think if you're going to have, you know, a real service offering, you're going to have to interact with banks at some level at some point, and so I think the point of the article was wait, you know -- a money services business, our regulatory threshold was actually frankly relatively low, arguably too low. We didn't even have to KYC customers for transfers of less than $1,000 for instance, but we had built this regulatory infrastructure that required us to KYC people.

We behaved as though we were regulated at a

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higher standard, so I don't doubt that he has not misquoted me here, and I stand by the statement that if you had to deal with banks, you have to be a grownup.

Q. Earlier you had said that consumers will use extra care when purchasing products and services like nTrust. Do you call that?

A. Yes, use extra care when dealing with their money online.

Q. And what evidence do you have to support that statement?

A. The cost of acquisition.

Q. What does that mean?

A. We're not launching Instagram where there is no risk to your personal information, no risk to your personal funds, where there is no risk at all really, and so when you're asking someone to put their money in the hands of someone else, then I can't point you to a -- you know, a scientific study, but I think I can say with a straight face that that is something people take seriously.

Q. And is that your personal belief?

A. It's absolutely my personal belief.

Q. Beyond your personal belief, do you have any evidence that supports that statement?

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A. That people take care when putting their money online?

Q. Yes.

A. No, I don't have any studies if that is what the question is.

Q. Do you intend to use nTrust.com as a Web site for products offered in the United States?

A. It would be my first choice if that was possible.

Q. Do you know what licenses you have to get in the United States to do the type of business you want to do?

A. I know the minimum licenses that I will need in terms of money services business. I don't have counsel's opinion yet on all of the individual operating licenses and business registration and all of that.

Q. I understand. I'm just asking for a summary of the types of licenses that you believe you will need to conduct business in the United States.

A. Again, it will depend on the scope of services. We will need at least an MSB license and local operating licenses to transmit money beyond basic money transmitter services, card services and

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what have you, I will take the advice of counsel.

Q. Who is responsible for the Web content of the nTrust Web site?

A. Who writes it or -- we have a copywriter. In terms of the content production, there is a copywriter and a graphic designer, and they report to, sort of, the head of product design, and then ultimately -- historically, it would have been me, it would have been the senior -- at least the top two senior management would have looked at it before it went live. It's a pretty small -- it's a startup environment. There is not a very --

Q. On your Web site with the variety of articles and whatnot, you sometimes include tags with specific words related to the content of the article.

A. A hash tag?

Q. No, not a hash tag, just certain words pulled out of an article that would allow users to click on that word and pull up other articles or other Web page.

A. I don't know specifically. That's pretty typical.

Q. Who is -- do you know who is responsible for identifying those tag words?

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A. No.
Q. Have you -- has nTrust ever used terrorist financing as a tag word for any of its Web pages?
A. I don't know. We do -- I don't know.
(Whereupon, nTrust Three Easy Steps was marked Exhibit 225 for identification.)
MR. NORTON: I sorry, I for some reason just printed two of those.
MR. NGUYEN: This is going to be Exhibit 225? I'm going to object to Exhibit 225 and any questions about it based on non-production before today's deposition.
BY MR. NORTON:
Q. Mr. MacGregor, have you had an opportunity to look at Exhibit 225?
A. Yes.
Q. Can you tell me what it is?
A. It's a Web page. I don't know from where. I mean, it's from the nTrust.com Web site, but I don't know what all of that means.
Q. And you were pointing to the Web address at the bottom?
A. Yes. I'm not sure where on the Web site it is. It appears to have been printed out March 12th, 2015, it says, "New Web site helps nTrust

members send money home in three easy steps," and it's dated January 24th, 2014.
Q. Do you have any reason to believe that this is not a page from the nTrust Web site?
A. I have no reason to believe it's not.
Q. And if we look towards the bottom third of that page, you'll see there are phrases or words that are called out?
A. Yes, those are hyperlinks to other -- okay.
Q. On the second row, first phrase, there is terrorist financing. Do you see that?
A. No. Oh, down here, okay, yes.
Q. Can you tell me why one of the links or words that are called out would be terrorist financing?
MR. NGUYEN: Objection, lacks foundation.
THE WITNESS: Well, I do know that the phrase "anti-money laundering terrorist financing" gets used all of the time as a block phrase in the organization.
I would speculate that if you clicked on that link, it would take you to the security page to talk about (unintelligible) --
THE REPORTER: Slow down.
THE WITNESS: I suspect if you clicked on

that link, it would take you to the security page that talks about anti-money laundering and anti-terrorist financing, not terrorist financing. I can only assume it was some copywriter that just did that.
BY MR. NORTON:
Q. Is there anything in this article related to anti-terrorist financing or fraud protection that you saw?
MR. NGUYEN: Objection, lacks foundation.
THE WITNESS: No, but there is nothing in there that relates to virtual currencies either. This may be a search-engine marketing or search-engine optimization tactic to -- when you search in the site, it takes you to certain -- I'm speculating.
No, there is nothing in there that talks about anti-terrorist financing or, happily, about terrorist financing.
BY MR. NORTON:
Q. And would it be fair to say nTrust isn't marketing itself for terrorist --
A. No, of course not.
MR. NORTON: Off the record.
(Off the record.)

BY MR. NORTON:
Q. Mr. MacGregor, does nTrust market to or assist in terrorist financing in any way?
A. Absolutely uncategorically not.
MR. NORTON: I think those are all of the questions that I have.
MR. NGUYEN: I just have a few follow-up questions.

EXAMINATION
BY MR. NGUYEN:
Q. Mr. MacGregor, you were asked about whether or not you have given interviews where you referred to operating within the world of banking.
Do you recall that?
A. Yes.
Q. And you stated -- is it true that nTrust, your company, interacts with banks?
A. Absolutely.
Q. Can you describe for us how your company interacts with banks?
A. Well, we partner with banks through our card program providers, they issue the prepaid cards, we interact with banks in the sense that we allow deposits directly from bank accounts, we

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1 interact with banks on credit card acquiring,
2 because we get acquiring accounts to accept credit
3 card deposits. We interact with banks all of the
4 time.
5 Q. But you do not consider your business to be
6 a bank?
7 A. No.
8 Q. Or to offer banking services as you
9 understand them?
10 A. Correct.
11 Q. Okay. But because of the nature of your
12 business in helping move money, you have to operate
13 within the world that banks operate?
14 A. Yes.
15 Q. Is that what you mean by operating within
16 the world of banking?
17 A. Yes.
18 Q. And that is true of other companies that
19 aren't banks, for example, retailers who have
20 prepaid cards?
21 A. Yes.
22 Q. So Walmart has a prepaid card. It has to
23 interact with a bank to issue the card?
24 A. It depends on the nature of the card, but
25 yes.

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1 Q. So it's a very common thing for companies
2 that are not banks to interact with banks; is that
3 correct?
4 A. We're a financial services organization and
5 we operate in that world clearly and that world is
6 people are centrally with banks often.
7 Q. You were also asked questions earlier --
8 strike that.
9 And so when retailers have prepaid cards
10 issued by banks, it's still the retailer that is
11 selling the card to consumers; is that correct?
12 A. Yes. The retailer is responsible for --
13 let me correct myself. I do not know how it works
14 in the United States. My experience is that the
15 bank -- there is an issuing bank but it is the
16 co-branded card owner that markets and is
17 responsible for the card.
18 Q. It could be a retailer for example --
19 A. Yes.
20 Q. -- such as a Walgreens pharmacy store?
21 A. It could be anything but yes.
22 Q. So you were also asked questions by
23 Mr. Norton about statements on your Web site
24 telling consumers that nTrust is not a bank?
25 A. Yes.

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1 Q. In your mind, is there any value for you to
2 actually have consumers think you are a bank?
3 A. No.
4 Q. Do you want consumers to actually know that
5 you're not a bank?
6 A. Yes.
7 Q. Do you view that as a marketing benefit for
8 you to tell consumers your company is not a bank?
9 A. Like if you can -- I can produce dozens of
10 Web pages where that's exactly -- in fact, we had a
11 whole marketing campaign at one point where we were
12 toying with the idea of calling us the anti-bank,
13 and, in fact, I just noticed a similar phrase in
14 this article.
15 Q. And why is it that you think your company
16 benefits from being viewed as not a bank or anti-
17 bank?
18 A. Particularly in the remittance world and in
19 the post-2009 world, there is a lot of resentment
20 towards banks, and I think that banks are still not
21 viewed in a wonderful light in most parts of the
22 world, and particularly if you've been told you
23 can't have a bank account, so there is some benefit
24 to distancing yourself from those negative
25 feelings --

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1 Q. So, for example, if you're a consumer who
2 needs remittance services, you're a typically
3 overseas worker from another country; is that
4 correct?
5 A. Yes, if you're a sender.
6 Q. And you do not have a lot of money; is that
7 right?
8 A. Definitely.
9 Q. And you're sending small amounts of money
10 back to someone in your home country?
11 A. Yes.
12 Q. And those people may have a hard time in
13 their respective countries getting bank accounts;
14 is that right?
15 A. That's right.
16 Q. Because they are immigrants or in a foreign
17 country or poor in a home country?
18 A. Yes.
19 Q. And, therefore, that is why in your
20 opinion -- or in your experience, the consumers of
21 remittance services may have bad feelings towards
22 banks because they can't get bank accounts?
23 A. Yes.
24 Q. So --
25 MR. NORTON: I'll just lodge an objection

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that it's speculative and foundation.
BY MR. NGUYEN:
Q. Is that anti-bank feeling a reason why you have on your Web site FAQs, a question and answer, about whether nTrust is a bank?
MR. NORTON: I'm going to object, leading, foundation and speculation with regard to what other users or prospective users think.
BY MR. NGUYEN:
Q. Let me ask it this way, Mr. MacGregor, why do you have in your FAQs on your Web site an explanation of why your company is not a bank?
A. I know what you want me to say but I want to say the truth, which is that it does two things simultaneously, it is a marketing benefit to distance ourselves from banks and it does help us to draw a contrast between what we do and what their experiences have been with banks.
It is also important from a regulatory perspective to make it clear that we are not a bank. Your funds are not going to be covered by the FDIC or the equivalent of. I think it does both things simultaneously. I think it will be disingenuous for me to sit here and say it's all about marketing. It is about both.

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BY MR. NGUYEN:
Q. Why is it important for you from a regulatory perspective to make clear publicly that your company is not a bank?
A. Because being a bank triggers (unintelligible) --
THE REPORTER: Say that again.
THE WITNESS: Being a bank triggers regulatory requirements, we are not licensed as a bank, we don't want to give the impression that we're licensed as a bank, we don't want to tell people we're a bank and attract the eyers of the regulator.
BY MR. NGUYEN:
Q. One other question that Mr. Norton asked you about is the basis for your belief that consumers exercise care in selecting financial services, particularly online, and you mentioned cost of acquisition. Is that based upon your own knowledge of your company's cost of customer acquisition?
A. Well, we just went through a process with our marketing team to sign off on a budget for this year, and that's why those numbers are on the -- CPA are on top of the mind, and they struggled

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because all of the CPA data that they could find out there to figure out whether our cost for acquisition numbers were rational were things like Facebook, things that were not financially related, and as an organization, we looked at those numbers and we thought it's not a reasonable expectation that we should be able to acquire someone for pennies where -- it's a bigger ask in terms of the personal information we expect them to provide, and then, ultimately, if we can convert them to a user customer to put their funds at risk.
I do not have a scientific study that says people are more cautious about signing up for financial services than they are for Instagram, I don't.
MR. NORTON: I'm going to lodge an objection to hearsay and foundation, speculation.
BY MR. NGUYEN:
Q. But you do know, Mr. MacGregor, that what your average cost per user acquisition is; right?
A. Yes.
Q. I believe earlier you told us it was $12 to $15?
A. $12 to $15 times .9 percent, so it's closer to $150, $60, $70 for an actual user.

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Q. You mean divided by?
A. Divided by.
Q. And why are you saying divided by .9 percent?
A. Because I think that the number you just quoted, the financial number you just quoted, was to get someone to sign up at nTrust. They are not a customer until they are using us.
Q. So it's $12 to $15 to get someone registered as a user?
A. Yes.
Q. But only nine to ten percent of registered users engage in a transaction?
A. Correct.
Q. And based upon that, would you say that at least for your company, there is a relatively high cost for customer acquisition?
A. Relative to non-financial data, which is the only data that we can get around CPA.
MR. NORTON: I'm going to object to speculation, foundation, hearsay.
MR. NGUYEN: I think that's all of the questions I have.
MR. NORTON: That's all of the questions I have.

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(Off the record.)
MR. NGUYEN: We've completed the trial deposition of Mr. MacGregor. Counsel for Intrust Financial Corporation and I have agreed that the original of the transcript will be delivered to me, and I will maintain custody of the original and provide a copy to Mr. MacGregor for his review and report any corrections that he might have to the transcript.
MR. NORTON: And could you send me an e-tran to the mnorton@foulston.com email address.
(Whereupon, the deposition was concluded at 11:50 A.M.)
---oOo---

I, ROBERT SCOTT MACGREGOR, declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
Executed on_____, 2015, at_____, California.

_____
ROBERT SCOTT MACGREGOR

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)

I, MARIE WILSON, CSR No. 13480, do hereby certify:
That the foregoing deposition of_____ was taken before me at the time and place therein set forth, at which time the witness was put under oath by me; that the testimony of the witness and all objections made at the time of the examination were recorded stenographically by me, were thereafter transcribed under my direction and supervision, and that the foregoing is a true record of same.
I further certify that I am neither counsel for nor related to any party to said action, nor in any way interested in the outcome thereof.
IN WITNESS WHEREOF, I have subscribed my name this_____ day of_____2015.

_____
MARIE WILSON, CSR NO. 13480

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March 17th, 2015

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In The Matter Of:

Intrust Financial Corporation v
nTrust Corp.

THOMAS MORRISON
March 26, 2014

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Intrust Financial Corporation,
Opposer,
vs.
nTrust Corp.,
Applicant.

Opposition No. 91204456
Application Serial No. 85/250992
Mark: NTRUST

Deposition of THOMAS MORRISON, taken by the Opposer, before me, Nancy L. Rambo, a Certified Shorthand Reporter, within and for the State of Kansas, at 1551 North Waterfront Parkway, Suite 100, Wichita, Sedgwick County, Kansas, commencing at 1:36 p.m. on the 26th day of March, 2014.

A P P E A R A N C E S

Opposer, Intrust Financial Corporation, appears by its attorneys, Michael J. Norton and Sharon Rye, Foulston Siefkin LLP, 1551 North Waterfront Parkway, Suite 100, Wichita, Kansas 67206-4466. Also present was Michael Mayans.

Applicant, nTrust Corp., appears by its attorney, Jimmy Nguyen, Davis Wright Tremaine LLP,

A P P E A R A N C E S (Cont.)

865 South Figueroa Street, Suite 2400, Los Angeles, California 90017-2566. Also present was Rob MacGregor.

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THOMAS MORRISON,
having been first duly sworn, was
examined and testified as follows:

DIRECT EXAMINATION
BY MR. NORTON:

Q. Would you please state your name.
A. Thomas Morrison.
Q. And where are you employed?
A. Intrust Bank.
Q. How long have you been employed at Intrust Bank?
A. 14 and a half years, almost 15.
Q. And where did you work before starting at Intrust?
A. Wichita Collegiate School.
Q. What'd you do for the school?
A. Computer science teacher.
Q. Okay. And what is your current position at Intrust?
A. Current position is division director for the payments technology and operations division.
Q. And how long have you held that position?
A. Seven months, eight months.
Q. And what was your position prior to the division director of payments?

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1 **A. Prior to that, I was senior manager for bank**
2 **operations.**
3 Q. And how long did you hold the senior manager of
4 bank operations position?
5 **A. About two years.**
6 Q. And what was your position prior to that?
7 **A. Prior to that, it was director of e-commerce.**
8 Q. Okay. For how long were you director of
9 e-commerce?
10 **A. Nine years.**
11 Q. And prior to that position, what was your
12 position or title?
13 **A. Help desk manager.**
14 Q. All right. What -- what's your educational
15 background?
16 **A. My undergraduate, I have an undergraduate**
17 **degree, BA, in economics from the University of**
18 **Chicago, and I have a law degree from the**
19 **University of North Carolina, Chapel Hill.**
20 Q. All right. In your current position as division
21 director of payments, what are your day-to-day
22 duties and obligations?
23 **A. Day-to-day duties include management of the**
24 **operations departments of the bank, which would**
25 **include the card operations teams, deposit**

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1 **operations, wealth operations. In addition, I**
2 **have responsibility for the technology areas of**
3 **the bank, which would include the IT groups that**
4 **manage all of the technologies in-house. I'm**
5 **also responsible for the teams that manage the**
6 **technologies with our vendors and our core**
7 **processors. And I also manage the teams that**
8 **are responsible for our Internet technologies**
9 **and our Internet products.**
10 Q. And the position that you held before that, is
11 it a senior management -- senior manager
12 position --
13 **A. Correct.**
14 Q. -- were your job duties any different under that
15 title?
16 **A. No. The only real difference with the division**
17 **director title was I was given direct**
18 **responsibility for the in-house technology**
19 **teams, but I already had all the other**
20 **departments.**
21 Q. Okay. And, I'm sorry, what did you say your
22 position was prior to the senior manager
23 position?
24 **A. Prior to the senior manager position, it was**
25 **director of e-commerce.**

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1 Q. Okay. And what were your duties as director of
2 e-commerce?
3 **A. Director of e-commerce duties included the**
4 **oversight of all of our online banking and**
5 **Internet initiatives. In fact, as the position**
6 **was first described to me many years ago when I**
7 **was asked to take it on, it was described as the**
8 **branch manager for our online channels and our**
9 **online presence. That group -- I also, in**
10 **addition to the product initiatives and the**
11 **product management, I also managed directly the**
12 **IT -- the Internet department. So that would be**
13 **our web developers, that would be the people**
14 **responsible for managing our online banking**
15 **infrastructure in-house.**
16 Q. Okay. And as part of your job, are you required
17 to be familiar with the types of services that
18 Intrust offers?
19 **A. I am.**
20 Q. What type of online banking services does
21 Intrust offer?
22 **A. Intrust currently offers online banking products**
23 **for both our consumer customers and our**
24 **commercial customers. There are sort of**
25 **sub-products that we list within those headings,**

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1 **so within the consumer space, we have, you know,**
2 **balance reporting, we have bill pay**
3 **capabilities, we have mobile banking**
4 **capabilities, we have funds transfer**
5 **capabilities. Within the commercial space, we**
6 **have balance reporting capabilities, funds**
7 **transfer capabilities, ACH capabilities, wire**
8 **capabilities.**
9 Q. Okay. What is ACH?
10 **A. ACH stands for Automated Clearing House.**
11 Q. Okay. What does that mean to a layperson?
12 **A. It is an electronic transfer mechanism that an**
13 **originator can create an ACH formatted file,**
14 **transmit the file through Intrust Bank, we send**
15 **those instructions to the Federal Reserve, who**
16 **then in turn settles the various credit or debit**
17 **transaction to another financial institution.**
18 Q. Again, from a layman's standpoint, what type of
19 services or products would a consumer use that
20 involve ACH?
21 **A. The most frequent consumer experience with ACH**
22 **is on the receiving side. Most customers who**
23 **have what is often referred to as direct**
24 **deposit, those funds are actually transferred**
25 **via ACH. A lot of folks may also have**

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1 **experience with PayPal transactions. PayPal**
2 **uses the ACH network to settle a lot of their**
3 **transactions.**
4 Q. And is the ACH network, as you've described, a
5 financial -- are those financial services
6 conducted via electronic communication networks?
7 **A. Yes, they are.**
8 Q. All right. Do you, as part of your job,
9 research or investigate products and services
10 being offered by other financial institutions?
11 **A. I do.**
12 Q. Okay. Could you tell us what you do in that
13 regard?
14 **A. For a number of years, I've participated in,**
15 **starting with user groups, with peer financial**
16 **institutions to understand what e-commerce**
17 **products they might be offering. I've also**
18 **participated in industry sessions and seminars**
19 **about the industry and in particular about how**
20 **emerging payments might be viewed and consumed**
21 **by customers. I've also attended numerous**
22 **groups, user groups put on by some of the**
23 **payment networks.**
24 Q. You said -- you used the term e-commerce, what
25 is that?

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1 **A. E-commerce is frankly one of those**
2 **in-the-business, in-the-industry terms that have**
3 **been around for 10 to 15 years. It -- for,**
4 **especially for financial institutions, it is**
5 **often used to describe how we as a bank interact**
6 **with our customers using online or electronic**
7 **channels.**
8 Q. I think you used the phrase emerging payment?
9 **A. Emerging payment.**
10 Q. What is that?
11 **A. Again, another term of art that maybe has been**
12 **around for awhile, the banking industry in**
13 **particular has been looking at what are some of**
14 **the different ways that customers in the future**
15 **might be using to interact with their money,**
16 **move their money, perform transactions; what**
17 **might be a payment today, how would that compare**
18 **to an emerging payment two years, five years,**
19 **ten years down the road.**
20 Q. In your experience, has there been a trend with
21 regard to online banking over the last ten
22 years?
23 **MR. NGUYEN:** Objection to form,
24 vague, ambiguous.
25 **BY MR. NORTON:**

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1 Q. Let me ask the question again. In your
2 experience over the past ten years, have you
3 noticed any trends related to services offered
4 by financial institutions?
5 **A. I have.**
6 Q. Tell us about those.
7 **A. Sure. The -- you know, what we used to do for**
8 **customers and what we used to offer for**
9 **customers in the banking world ten years ago has**
10 **changed dramatically. What customers used to do**
11 **in a branch, they are now doing through online**
12 **banking. And whether that's checking their**
13 **balance, whether that's moving money between**
14 **accounts, whether that's sending money to family**
15 **members around the country, around the world,**
16 **things that used to be done physical and in**
17 **person are now being done online.**
18 Q. And do you have any duties or responsibilities
19 related to how Intrust Bank addresses those
20 trends?
21 **A. Yes, that is, frankly, part of what the**
22 **e-commerce role is all about. Again, as I said,**
23 **when I was first hired for the job, the**
24 **president of the bank at the time said, I want**
25 **you to be the manager of our e-commerce**

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1 **presence, of our electronic branch, our**
2 **electronic bank.**
3 Q. And how is Intrust going about adjusting to the
4 trends that you've described?
5 **A. We've put significant investment into our online**
6 **banking technology. More recently, we've put**
7 **significant investment into our mobile banking**
8 **technology. And specifically under the mobile**
9 **banking technology, we've put a lot of**
10 **investment into the mobile deposit and remote**
11 **deposit capture technologies.**
12 Q. And, again, from a layman's standpoint, what
13 does that mean?
14 **A. The -- the mobile deposit, remote deposit**
15 **capture technologies, that is the ability for**
16 **customers to use their mobile banking device,**
17 **their smartphone, and take a picture of a check**
18 **and deposit that check without having to go into**
19 **a bank or to a branch.**
20 Q. We talked just a bit earlier about financial
21 services conducted via electronic communications
22 networks. Can you describe for me services that
23 Intrust offers under that description?
24 **A. Yes. We provide numerous services that would**
25 **travel electronic transaction networks. As I**

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1 **mentioned earlier, we do a lot of transactions**
2 **with ACH, and the Automated Clearing House**
3 **network is an electronic transfer network. We**
4 **do transactions using the wire system, the**
5 **Federal Reserve wire system. We do transactions**
6 **involving international wires using the SWIFT**
7 **network. We also do transactions with the**
8 **various card or plastic rails, such as Visa,**
9 **NYCE, MasterCard, et cetera.**
10 Q. How about the bill pay service that Intrust
11 offers?
12 **A. We have a bill pay service as well that is an**
13 **electronic transfer mechanism.**
14 Q. Does the bill pay operate through -- or
15 conducted via electronic communications
16 networks?
17 **A. Yes, it is.**
18 Q. Okay. Could you describe for us real quick how
19 that works?
20 **A. Certainly. The -- our core provider, which is a**
21 **company called FIS, Fidelity Information**
22 **Systems, they run the payment engine for our**
23 **bill pay network, and the way -- and, frankly,**
24 **FIS provides services for multiple banks in the**
25 **country. And FIS' bill pay engine allows our**

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1 **customers to input payment instructions, and**
2 **then the FIS system processes those transactions**
3 **according to the instructions given by the**
4 **customer.**
5 Q. All right. Let's take a look at Exhibit Number
6 53 in the notebook in front of you.
7 **A. Full book. Here, wait a second, cross threaded.**
8 Q. Yeah, they've been flipped quite a few times.
9 **A. Okay, almost there. Okay. Exhibit 53?**
10 Q. Yes. Do you recognize this document?
11 **A. Yes, I do.**
12 Q. What is it?
13 **A. It is a printed copy of an Excel spreadsheet**
14 **that we have prepared to track the performance**
15 **of our e-commerce products.**
16 Q. And there are two pages there. Is there any --
17 as to what these -- what the information covers,
18 is there any difference?
19 **A. The second page that has the 2013 header on it**
20 **is sort of an evolution of the spreadsheet. We**
21 **started tracking more data elements over time**
22 **after the initial 2012 inception of the**
23 **spreadsheet.**
24 Q. Were you involved in the decision to use a
25 spreadsheet like this?

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1 **A. Yes.**
2 Q. How did that come about?
3 **A. I -- as I was transitioning out of the**
4 **e-commerce role, I wanted -- I still owned the**
5 **department, as it were, and I wanted the ability**
6 **to track the success of our online products, and**
7 **so I created the first spreadsheet version that**
8 **you see the 2012 myself; and then subsequent to**
9 **me preparing the first few months, I then handed**
10 **it over to my successor to be in charge of**
11 **maintaining the data going forward.**
12 Q. And who is your successor?
13 **A. Mark Lebbin.**
14 Q. And does Mr. Lebbin report to you?
15 **A. Yes, he does.**
16 Q. And you directed him to continue this
17 spreadsheet?
18 **A. Yes, I did.**
19 Q. The information that is contained within the
20 spreadsheet -- well, I guess I should back up.
21 How do you use the spreadsheet that is shown in
22 Exhibit 53?
23 **A. We use this spreadsheet to track, as I said, the**
24 **success of our products, and by success, I mean**
25 **what are the adoption rates of our clients and**

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1 **customers, how many customers are using the**
2 **various components of our e-commerce offering.**
3 **We're also looking for any trends from a**
4 **transactional level. And, finally, we were also**
5 **looking for any elements, especially in the**
6 **mobile deposit space, that as we rolled that**
7 **product out -- it was a very new product, it's**
8 **frankly quite new to the industry, so we just**
9 **wanted to make sure that we could track the**
10 **behaviors to see if we needed to make any**
11 **adjustments to the product that might -- because**
12 **the volume might indicate the customers were**
13 **having problems, you know, the rejection rates**
14 **were high, things like that.**
15 Q. Now, is this spreadsheet something that Intrust
16 now generates in the ordinary course of its
17 business?
18 **A. Yes, it is.**
19 Q. Where does the information shown on Exhibit 53
20 come from?
21 **A. Most of the data comes from system reports**
22 **generated by our online banking technology.**
23 **Some of the data comes from what's called our**
24 **business intelligence center or our data**
25 **warehouse. This data is also, though, provided**

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1 **and hosted by our core data provider, FIS.**
2 Q. Okay. Let's take a look at the second page, the
3 2013 spreadsheet. And what I would like to do
4 is look at the December column, and is that
5 December 2013?
6 **A. Yes, it is.**
7 Q. And then just have you go through that column
8 and explain to us what is being shown? And I
9 think the way to do it, so that we keep our
10 record as clear as we can, is to start with the
11 description or identifier in the first column
12 and then go by row as we explain the different
13 numbers.
14 **A. Certainly.**
15 Q. If it is necessary to compare a specific figure
16 to another item, let us know that as well.
17 **A. Certainly.**
18 Q. All right. So let's take a look at the first
19 line of the 2013 spreadsheet and that is
20 consumer customers. What -- what is that?
21 **A. So the total number of consumer customers, CIS**
22 **records, are -- is a reporting of the number of**
23 **CIS, customer information system, it's the**
24 **number of customers that are on our core banking**
25 **system. And the value there reported is that**

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1 **85,934.**
2 Q. And are these just consumer customers?
3 **A. Correct, it is not recording commercials or**
4 **businesses.**
5 Q. And what other qualifications are there for --
6 to identify which customers are included?
7 **A. There's a field setting within every customer**
8 **record that we create, and we set the flag for**
9 **that customer record about whether this is an**
10 **individual, whether this is some other type of**
11 **legal entity, business, et cetera.**
12 Q. Okay. And with regard to the 85,000 number in
13 December 2013, who all is included in that?
14 **A. That would be myself as a customer of Intrust**
15 **Bank, any individual that we have information**
16 **on, personal information; and in particular, if**
17 **we would have a husband and wife that both**
18 **banked with us, we would have two CIS records,**
19 **one for each individual.**
20 Q. And so that number isn't by number of accounts,
21 it's by individuals?
22 **A. That is correct.**
23 Q. Okay.
24 **A. Those are supposed to -- it should match to the**
25 **number of individuals that do business from a**

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1 **consumer perspective with Intrust Bank.**
2 Q. And then the next line is CIS e-statements
3 equals Y, what is that row?
4 **A. That is a reporting, again, from the customer**
5 **information system that says for our C -- our**
6 **customer records, how many customers have turned**
7 **off their paper statements and signed up for**
8 **electronic statements. And the mechanism of a**
9 **customer doing that results in a Y flag being**
10 **set in the field in that customer record.**
11 Q. Okay. So the 49.25 percent number in the
12 December column is the percentage of your
13 individual customers who are receiving
14 e-statements as opposed to paper statements with
15 their accounts?
16 **A. That is correct.**
17 Q. Okay. Let's go ahead and jump down just a
18 little bit to total number of consumer DDA
19 accounts, what is that?
20 **A. That number is the number of actual checking**
21 **account, savings account, the -- the term that's**
22 **used often in the banking industry is the DDA**
23 **accounts, demand deposit accounts, that the**
24 **85,934 customers listed above have tied to those**
25 **customer records. So I as an individual, I have**

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1 **one customer record, but I might have three,**
2 **four, five, whatever it is, account records.**
3 Q. And then the following entry's related to
4 e-statements, and, again, that is simply
5 customers or accounts that receive their
6 statements via e-mail?
7 **A. That's at the account level.**
8 Q. Okay. All right. Let's look at the Consumer
9 e-Banking section. First of all, what is
10 Consumer e-Banking?
11 **A. Consumer e-Banking is the product name that FIS**
12 **has assigned to the technology they provide us**
13 **for Internet banking for our consumers.**
14 Q. Is it the same thing as online banking?
15 **A. From -- from our perspective, yes.**
16 Q. The first row is active customers, last 90 days,
17 what is that?
18 **A. That is a number -- the 43,139, that number is**
19 **reporting from the CIS records that have signed**
20 **up for online banking, for CeB, how many of them**
21 **have used the product by logging into it within**
22 **the last 90 days.**
23 Q. And the number below that is percentage of total
24 number of customers at FIS, what does that mean?
25 **A. That number is calculated by taking the 43,139**

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1 and dividing it by the total number of
2 customers, CIS records up above, the 85,934.
3 And the value, the 50.20 percent, is often what
4 we call the penetration rate. And the concept
5 of the penetration rate is as a measure of our
6 success, out of the total number of customers
7 that might be able to use our products, how many
8 of them are actually actively using it on a
9 frequent basis.
10 Q. And what is the inactive customers row?
11 A. The inactive customers are the CIS records again
12 who signed up for online banking once upon a
13 time, but they have not logged in in the last 90
14 days.
15 Q. Okay. And then the total number of customers?
16 A. That -- that is the complete number, that is
17 active plus inactive.
18 Q. Ah. Locked customers, what is that row?
19 A. Locked customers are customers who have tried to
20 log in and have probably fat fingered a password
21 or something to that effect and so their
22 credentials are locked and they're now unable to
23 log in.
24 Q. Number of logins row, what is that?
25 A. The number of logins is the total number of

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1 login attempts in that particular month by all
2 of the active customers.
3 Q. And in December 2013, how many logins were made?
4 A. The number of logins in December of 2013 was
5 457,845.
6 Q. And then the next row is number of successful
7 logins, what is that?
8 A. That is the number of customers who after they
9 entered their user name and password went all
10 the way into the product to view and transact
11 business with us.
12 Q. And how many was that in December of 2013?
13 A. That was 435,731.
14 Q. And number of failed logins?
15 A. That's -- the 22,114, that is the difference
16 between the total number of logins and the
17 number of successful logins.
18 Q. And then the next row is number of internal
19 transfers, what is that?
20 A. That is the number of electronic transactions
21 initiated by our customers in the month of
22 December that would be a movement of money from
23 one Intrust account to another Intrust account.
24 Q. And then the total dollar amount of internal
25 transfers, what is that?

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1 A. That is the amount in U.S. dollars that is
2 represented by the 34,769 number of transfers.
3 Q. And what is the stop pays?
4 A. Stop pays are the number of instructions given
5 to us by our customers to place a stop payment
6 on a check.
7 Q. And then the redirect to check ordering, what is
8 that?
9 A. The redirect to check ordering is the number of
10 times a customer used online banking to order
11 new or replacement paper checks.
12 Q. The next section is Consumer e-Banking, dash,
13 bill pay, what is that?
14 A. This set of information is specifics about our
15 bill pay product that customers access through
16 consumer online banking.
17 Q. Are persons who use bill pay with a mobile
18 device included within the figures shown under
19 Consumer e-Banking bill pay, or is that a
20 completely separate set?
21 A. Yeah, it is a separate set. You have to first
22 be enrolled through this number of Consumer
23 e-Banking, and then if you are enrolled in
24 Consumer e-Banking bill pay and you also have
25 mobile banking, you may choose to access bill

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1 pay through your mobile device.
2 Q. But the first item, row under Consumer e-Banking
3 bill pay is active number of bill pay users,
4 what is that?
5 A. That is the number of customers in the month of
6 December who actually initiated a bill pay
7 transaction.
8 Q. Is it possible that a person who acti -- who
9 activated a bill pay transaction in November of
10 2013 would not be included in the December 2013?
11 A. Yes.
12 Q. And why is that?
13 A. It is possible that the customer did not have a
14 bill pay transaction that they wished to
15 initiate in the month of December.
16 Q. Are bill payments made -- strike that. If a
17 customer makes a bill payment through the mobile
18 application, is it included in this active
19 number of bill pay users?
20 A. Yes.
21 Q. Number -- the next row is number of deleted bill
22 pay users, what is that?
23 A. That is the number of customers that contacted
24 us and said they no longer wished to use the
25 bill pay service.

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1 Q. Just above that there is a blank row, at least
2 in that very first column, but there are
3 percentages there, and in December, the
4 percentage is 15.08 percent. Do you see that?
5 **A. I do.**
6 Q. What is that?
7 **A. That is the percentage of active bill pay**
8 **customers compared to the active number of**
9 **customers. So that should be the 12,957 divided**
10 **by the 43,113. Actually, no, strike that, I**
11 **apologize, that's not correct. I believe that**
12 **what they've done is they've taken the 12,957**
13 **and divided that by the total number of CIS**
14 **records, the 85,934.**
15 Q. Do you know why there's not a description on the
16 column in that row?
17 **A. I think it's because that as this sheet evolved**
18 **and we started adding more content and more**
19 **metrics, when Mark was making it, he was -- some**
20 **of the -- some of the calculations he did were**
21 **for his own edification, not necessarily because**
22 **it was part of the standardized scorecard.**
23 Q. And then as of December, was the percentage of
24 active bill pay users against total consumer
25 customers, was that part of your -- the standard

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1 document that was generated each month?
2 **A. Yes.**
3 Q. The next row that we'll talk about is number of
4 electronic payments, what is that?
5 **A. The number of electronic payments, the 44,268**
6 **are the number of ACH transactions that FIS**
7 **produced out of their bill pay engine as a**
8 **result of our customer instructions.**
9 Q. So for the month of December, how many bill
10 payments were made?
11 **A. The total bill payments made in the month of**
12 **December is the combi -- it's the addition of**
13 **the number of check payments and the number of**
14 **electronic payments.**
15 Q. Okay, I see. So there is a distinction between
16 electronic payments and check payments?
17 **A. That is correct.**
18 Q. What is the different -- from a layman's
19 standpoint, what's the difference between an
20 electronic bill payment and a check bill
21 payment?
22 **A. For the electronic bill payment, when the**
23 **customer has given the payment instructions to**
24 **FIS, to us at the bank, the FIS as part of their**
25 **network runs the payment instructions from the**

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1 **customer up against their database of known**
2 **payees. And so for a number of known payees,**
3 **best examples are like utility companies,**
4 **cellular telephone companies, those individuals**
5 **have contacted FIS and have said, we will give**
6 **you account information so that you can send us**
7 **the payment electronically via the ACH network.**
8 **For customers -- for payees, excuse me, that do**
9 **not provide FIS with their electronic payment**
10 **instructions, FIS sends a printed paper check.**
11 Q. Okay. So if we look at the number of check
12 payments and the number of electronic payments
13 and add those together, that will be the total
14 number of payments made by Intrust customers
15 using bill pay during a given month?
16 **A. Correct.**
17 Q. Okay. So with regard to the electronic payment,
18 is that made entirely through an electronic
19 communications network?
20 **A. Yes.**
21 Q. There's never a paper check or other note that's
22 issued related to those types of payments?
23 **A. No, there's not.**
24 Q. And when you say the customer enters his
25 information, is that through the Intrust

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1 website?
2 **A. It is through our Intrust online banking**
3 **product.**
4 Q. And do you use that product?
5 **A. I do.**
6 Q. From a consumer standpoint, how does that
7 product work from the logon until you completed
8 the payment?
9 **MR. NGUYEN:** Objection as to form,
10 vague and ambiguous.
11 **BY MR. NORTON:**
12 Q. You can go ahead.
13 **A. The customer would first log into Intrust online**
14 **banking with their user name and password. We**
15 **do security checks based upon whether or not the**
16 **customer's ever used that PC before. If they**
17 **have and we identify that PC as one they've used**
18 **before, they then are presented with a summary**
19 **page of all of their accounts at Intrust. If**
20 **they don't -- if they are logging in from a PC**
21 **they've not used before, we then do step-up**
22 **authentication where we'll either ask them for**
23 **some other information, other questions that**
24 **only they would know, or we can send them a**
25 **security text message with a code that they can**

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1 **use to log in.**
2 Q. After the customer's logged in, what happens
3 next?
4 **A. Once they log in, they are given a choice to --**
5 **there's a button that says pay and transfer.**
6 **And when the customer clicks that button, they**
7 **are given a selection of the electronic**
8 **transaction mechanisms available to them, one of**
9 **which is the bill pay product. And I think -- I**
10 **think the language, it actually says pay bills.**
11 Q. Okay. And have you personally paid a utility
12 bill?
13 **A. Yes, I have.**
14 Q. Who's the provider that you paid?
15 **A. I've paid two utility bills on a regular basis,**
16 **one is Westar -- or, well, it was Westar, now**
17 **it's -- well, I guess it is still Westar, and**
18 **then the other one is Kansas Natural Gas.**
19 Q. And --
20 **A. Or Kansas Gas Company.**
21 Q. And when you are using the bill pay system as a
22 user or customer, do you have to identify who
23 the payee is?
24 **A. When I did my initial configuration of that**
25 **payee, I had to take the information from my**

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1 **bill from the utility company and I had to enter**
2 **my utility company account and I had to put in**
3 **information about where the utility company said**
4 **they wanted direct payment. And then once I**
5 **started to put that information in, the system**
6 **will say to the customer, we see, in this case**
7 **Westar, and we see that you have entered this**
8 **address information; we have this information on**
9 **file for that company, is it the same company?**
10 **And that's the point of checking to say do we**
11 **have enough information to send via ACH, or are**
12 **we going to have to send a paper check.**
13 Q. When you say ACH, that's purely electronic?
14 **A. That's correct, that's the Automated Clearing**
15 **House network.**
16 Q. And what's the process if the payee you want to
17 pay is not -- does not pop up as identified by
18 the bill pay system?
19 **A. So if the payee is not recognized, is not one of**
20 **the system's -- or one of the payees on file,**
21 **I'm given an opportunity to put in name for the**
22 **payee, a mailing address for the payee, any**
23 **account information for the payee, and telephone**
24 **information, telephone contact information for**
25 **the payee.**

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1 Q. And then does the payee under that circumstance
2 receive an electronic payment or a physical
3 check payment?
4 **A. Those payees receive a physical check payment at**
5 **the address that I provide.**
6 Q. Can the bill pay -- can Intrust online bill pay
7 be used to pay individuals or send individuals
8 money?
9 **A. Yes, it can be.**
10 Q. Is it the same process that you just -- as
11 you've just described?
12 **A. Yes.**
13 Q. Although in fairness, the individuals will most
14 likely be getting paper?
15 **A. That is correct.**
16 Q. And if we look at the number of electronic
17 payments, what was that figure in December of
18 2013?
19 **A. The number of electronic payments in December of**
20 **2013 was 44,268.**
21 Q. And if -- is there a way based on the data here
22 to calculate what the total number of electronic
23 payments was for 2013 as a whole?
24 **A. Yes.**
25 Q. And how would you go about doing that?

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1 **A. If you would add the values for each of the**
2 **months, January, February, March, April, May,**
3 **June, July, August, September, October,**
4 **November, and December, on this sheet, you would**
5 **have the total number of electronic payments for**
6 **2013.**
7 Q. Okay. Then the next figure is the total dollar
8 amount of electronic payments, and what is that
9 in December of 2013?
10 **A. So for the 44,268 electronic payments in the**
11 **month of December, the total dollar value for**
12 **all of those payments was $14,716,270.46.**
13 Q. And how would you go about determining the total
14 amount of dollars for the entire year of 2013?
15 **A. If you were to add the values for each of the**
16 **months on this spreadsheet, January, February,**
17 **March, April, May, June, July, August,**
18 **September, October, November, and December, you**
19 **would have the total dollars of electronic**
20 **payments in 2013.**
21 Q. What was the number of check payments made
22 through the online bill payment system in
23 December of 2013?
24 **A. The number of check payments in December of 2013**
25 **was 11,976.**

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1 Q. Okay. And then what was the total dollar amount
2 of check payments in December of 2013?
3 **A. The total dollar amount of check payments in**
4 **December of 2013 was $4,343,459.04.**
5 Q. The next row is total number of bills presented,
6 what is that?
7 **A. The bill pay product has an opportunity for**
8 **customers to receive their bills electronically**
9 **via our Intrust online banking product. So, for**
10 **example, I have a credit card bill from American**
11 **Express, and instead of me receiving that bill**
12 **in the mail, I've used our bill pay product to**
13 **have that American Express bill presented to me**
14 **via Intrust online banking.**
15 Q. And then the next row is percentage of check
16 payments, and what is that?
17 **A. That is a percentage of the number of check**
18 **payments in the month of December 2013 as**
19 **compared to the total number of bill payments in**
20 **that month.**
21 Q. Okay. And then the next row is percentage of
22 electronic payments, what is that?
23 **A. That is the other half of the equation, that**
24 **78.71 percent is the number of payments in**
25 **December 2013 that went out via ACH compared to**

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1 **the total number of payments initiated in the**
2 **month.**
3 Q. So of the total number of online bill payments
4 made by Intrust customers in December 2013,
5 78.71 percent was purely electronic?
6 **A. That is correct.**
7 Q. Okay. The next section is consumer mobile
8 banking, what is consumer mobile banking?
9 **A. Consumer mobile banking is our mobile banking**
10 **product. The underlying technology is also**
11 **provided by FIS. The actual product was**
12 **originally -- the technology was developed by a**
13 **company called mFoundry, and actually FIS**
14 **acquired mFoundry last year.**
15 Q. Okay. From the consumer standpoint or Intrust
16 customer standpoint, what is mobile banking?
17 **A. From the consumer customer standpoint, it is an**
18 **application that allows customers to view their**
19 **account balances, they are able to make**
20 **electronic transfers between their Intrust**
21 **accounts, and they are also able to make bill**
22 **payments just like they would through Intrust**
23 **online banking through a PC. One other quick**
24 **feature, there's also the mobile check deposit**
25 **feature that I mentioned earlier.**

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1 Q. Very good, and we'll talk about that here in a
2 bit. The total dollars that we've discussed
3 with regard to bill pay, do those dollars
4 include the mobile banking -- mobile banking
5 initiated bill payments?
6 **A. Yes, they do.**
7 Q. Under the consumer mobile banking section, the
8 first row is mobile banking customers, open
9 paren, BIC universe, what is that?
10 **A. So the mobile banking customers, BIC universe,**
11 **BIC stands for our business intelligence center.**
12 **The parenthetical is indicating the source of**
13 **the data, and so what that is saying is that**
14 **the -- according to our data warehouse, we have**
15 **for the month of December 2013 19,098 customers**
16 **who have signed up for mobile banking.**
17 Q. Okay. And a customer would have to actively
18 sign up for that product or service?
19 **A. That is correct.**
20 Q. The next -- well, I guess I should clarify, is
21 the 19,000 figure the total who signed up in
22 December or the total signed up as of that
23 month?
24 **A. That is actually a measure of the total of**
25 **customers -- total number of customers who have**

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1 **mobile banking as of December 2013.**
2 Q. The next row is percent of all consumers CIS
3 that have mobile, what is that?
4 **A. So that number is the 22.22 percent, it is**
5 **calculated by dividing 19,098 by the total**
6 **number of CIS records in the very top row, the**
7 **85,934.**
8 Q. The next row is customer penetration rate,
9 percent of active CeB users, what is that?
10 **A. So that is a penetration rate where we are**
11 **comparing the 19,098 to the number of active CeB**
12 **customers, the 43,139.**
13 Q. The next item is consumer mobile banking device,
14 MBAT, what is that?
15 **A. The consumer mobile banking devices are the**
16 **total number of devices being used by the 19,098**
17 **customers to access our Intrust mobile banking**
18 **product.**
19 Q. Okay. So those are the number of devices where
20 a customer has accessed Intrust's online banking
21 application?
22 **A. Their -- their mobile product --**
23 Q. Mobile, okay.
24 **A. -- that is correct.**
25 Q. I want to back up just a second to the item

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1 above that, the percentage of active CeB users.
2 **A. Yes.**
3 Q. How is active user defined?
4 **A. Active user is defined as described up above**
5 **under the Consumer e-Banking header on the**
6 **left-hand side where it says active customers,**
7 **parenthetical, last 90 days.**
8 Q. So would an active customer be one who has
9 logged in through the mobile application within
10 the last 90 days?
11 **A. Actually, what we are saying is active is we are**
12 **comparing the total number of mobile customers**
13 **to the active CeB customer.**
14 Q. I see.
15 **A. So the active applies to the denominator, not**
16 **the numerator.**
17 Q. I see. If we scroll down to the next row, it's
18 Android phone device installs, Google store
19 stats, what is that?
20 **A. That is the -- of the 22,434 devices, that**
21 **number is saying that we have 14,684 downloads**
22 **from the Google app store.**
23 Q. And is that a cumulative total, or is that per
24 month?
25 **A. That is total, that is a cumulative total.**

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1 Q. The next column is iPhone app downloads, Apple
2 Store stats, what is that?
3 **A. That is the number of times that the Intrust**
4 **mobile banking app has been downloaded from the**
5 **Apple Store as of December 2013.**
6 Q. In that very top column under the consumer
7 mobile banking and mobile banking customers
8 column, do you take into account whether a user
9 is actively using that product?
10 **A. We do not at this point because we do not have**
11 **good enough data to be able to track the**
12 **activity.**
13 Q. Okay. Let's look at the next section, the
14 mobile deposit section, what is the mobile
15 deposit?
16 **A. The mobile deposit product is the one I**
17 **mentioned earlier where a customer is able to**
18 **use their Intrust mobile banking product to take**
19 **a picture of a check and then deposit that check**
20 **into their Intrust account.**
21 Q. Are -- by the way, are all the figures shown on
22 this spreadsheet related to consumer customers?
23 **A. Yes, they are.**
24 Q. All right.
25 **A. Well, no, excuse me, my apologies, that is not**

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1 **quite correct. There is a business e-banking**
2 **line coming up that does apply to our business**
3 **online banking product.**
4 Q. And other than that one business e-banking line,
5 do any of the other figures relate to business
6 customers or accounts?
7 **A. The -- all the other data elements relate to our**
8 **consumer customers and our consumer products.**
9 Q. Excuse me. Backing up to mobile deposit, the
10 first row under that section is mobile deposits
11 approved, what is that?
12 **A. The -- the value there is 2,980 for December of**
13 **2013, that is the number of deposits initiated**
14 **by our customers that were approved for credit**
15 **to their accounts at Intrust.**
16 Q. And is that figure solely for the month of
17 December 2013, or is it cumulative?
18 **A. It is solely for the month of December 2013.**
19 Q. Could we add the other months to determine what
20 the total number of approved deposits, mobile
21 deposits were in 2013?
22 **A. Yes.**
23 Q. The next item is mobile deposits declined, what
24 is that?
25 **A. That is -- that number is 213 for December of**

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1 **2013, that is the number of deposits attempted**
2 **by our customers that we rejected.**
3 Q. And why would a deposit be rejected?
4 **A. There are a multiple reject reasons; some of the**
5 **most common ones are if an individual tried to**
6 **deposit a check that required two signatures or**
7 **two parties. Sometimes also we have limits**
8 **placed for risk management purposes, and if a**
9 **customer attempts to deposit an item that is**
10 **over that limit, we might reject the deposit.**
11 Q. The total mobile deposits, what is that?
12 **A. That value of 3,100 -- excuse me, 3,193 is the**
13 **addition of the mobile deposits approved and the**
14 **mobile deposits declined.**
15 Q. And the next item is the -- excuse me, the next
16 item is the mobile deposit approval rate, what
17 is that?
18 **A. That value for December of 2013 is 93 percent;**
19 **that is dividing the number of mobile deposits**
20 **approved, 2,980, by the total mobile deposits,**
21 **3,193.**
22 Q. So 93 percent of attempted mobile deposits were
23 approved; is that correct?
24 **A. In the month of December 2013, that is correct.**
25 Q. The next item is number of customers with

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1 approved deposits, what is that?
2 **A. That is the number of customers using their**
3 **mobile online banking product who in December of**
4 **2013 successfully made a deposit to their**
5 **Intrust account.**
6 Q. I see. So the mobile deposits approved is the
7 number of individual deposits, and the number of
8 customers with approved deposits is simply that,
9 the number of customers --
10 **A. Correct.**
11 Q. -- during that month?
12 **A. So to say -- correct. To say it the other way,**
13 **we had 1,300 customers who successfully made**
14 **2,980 deposits in total.**
15 Q. The next item is number of customers with
16 declined deposits, what is that?
17 **A. That value is 166 for December of 2013; that is**
18 **the number of customers who had a deposit**
19 **declined in December of 2013.**
20 Q. And then we have the total number of customers
21 submitting deposits, what is that?
22 **A. That is the total number of customers who**
23 **attempted to submit a deposit in December of**
24 **2013.**
25 Q. And the percentage of number of customers at

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1 FIS, what is that?
2 **A. That is comparing the total number of customers**
3 **submitting deposits to that CIS record value,**
4 **the 85,934 in the very top of that column.**
5 Q. Based on your experience and research and
6 analysis that you described earlier, is there a
7 trend related to mobile deposits in the consumer
8 side of the business?
9 **A. Yes, there is.**
10 **MR. NGUYEN:** Object to the form of
11 the question.
12 **BY MR. NORTON:**
13 Q. Go ahead.
14 **A. Yes, yes, there is a trend.**
15 Q. And what is that trend?
16 **A. The adoption rate, the penetration rate for**
17 **mobile deposit is increasing.**
18 Q. Let's look at -- let's drop down a couple to
19 average amount -- I'm sorry, let's look at
20 average number of deposits per customer
21 approved, what is that?
22 **A. That value for December of 2013 is 2.29, and it**
23 **is a calculation of the number of deposits**
24 **approved for an individual -- per customer, so**
25 **the number of deposits per the 1,300 customers**

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1 **who actually had a deposit approved.**
2 Q. And then the average amount approved deposits
3 per customer, what is that?
4 **A. That is for December of 2013, $1,224.73, and**
5 **that is the average -- for all the total dollars**
6 **successfully deposited by our customers in**
7 **December of 2013, that is the average dollar**
8 **amount per customer.**
9 Q. When did Intrust begin offering the mobile
10 deposit service?
11 **A. We began to offer the mobile deposit service in**
12 **conjunction with our Intrust mobile -- pardon**
13 **me, let me back up. We first began piloting**
14 **mobile deposit with just a few customers in**
15 **2011, heading into 2012; and then in fall of**
16 **2012, we began offering the product as it exists**
17 **now in conjunction with our Intrust mobile**
18 **banking product.**
19 Q. And if you look at the January column --
20 **A. Yes.**
21 Q. -- for mobile deposit January 2013, excuse me,
22 there's -- the January doesn't include the
23 percentage of total numbers using FIS. Do you
24 know why that is?
25 **A. I think that's because we started -- we started**

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1 **doing that metric in February of 2013.**
2 Q. Okay.
3 **A. And so it didn't occur to us to start running it**
4 **in January of 2013.**
5 Q. And between February 2013 and December of 2013,
6 has the percentage of customers using mobile
7 deposit increased?
8 **A. Yes, it has.**
9 Q. All right. Let's look at -- just if you could,
10 tell us what the next section is, the business
11 e-banking, what is that?
12 **A. The business e-banking is the total number of**
13 **customer records that are signed up or enrolled**
14 **for our Intrust business online banking product.**
15 Q. And what products are offered to businesses, or
16 online products are offered to businesses?
17 **A. The Intrust business online banking product**
18 **allows the customers to view information about**
19 **their accounts; often we refer to that as**
20 **information reporting or balance reporting.**
21 **Customers can also issue stop pay instructions**
22 **for checks. Customers can -- again, business**
23 **customers can initiate bill pay transactions,**
24 **they can initiate ACH transactions directly,**
25 **they can initiate wire transactions. And those**

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1 transactions can be both domestic wires through
2 the Fedwire system, and they can also initiate
3 international wires through the SWIFT system.
4 Q. And the next section, the premium alerts, CeB,
5 what is included in that section?
6 A. The premium alert CeB section is information
7 about the alerting module for our consumer
8 Intrust online banking product.
9 Q. And what is the alerting module?
10 A. The alerting module is an engine that is
11 designed to give customers text alerts or e-mail
12 alerts based upon transactional activity on
13 either their account or at -- with the overall
14 Intrust online banking product.
15 Q. So, for example, if someone made a mobile
16 deposit, would they receive a notification via
17 e-mail?
18 A. That is -- that is correct.
19 Q. And say whether it's accepted or declined?
20 A. Right. And probably the bigger use of some of
21 the alerting functionality is transactional
22 alerts for use of your debit card, for instance,
23 so that if you -- you can configure an alert
24 that says, hey, I'm normally just in, you know,
25 for us the State of Kansas, but I'd like an

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1 alert if my debit card gets used somewhere else.
2 You can configure that so that if your card is
3 used elsewhere outside of the State of Kansas,
4 for instance, you can receive an alert.
5 Q. And is the alert system as you've described part
6 of fraud prevention or detection services
7 offered by Intrust?
8 A. Yes, it is.
9 Q. The next section is QuickPay, what is that?
10 A. QuickPay is a payment engine that we have set up
11 to allow customers of Intrust online banking to
12 pay their credit card statement with the Intrust
13 Card Center. So these are individuals that have
14 credit cards issued by Intrust Bank, they can go
15 into Intrust online banking and pay their
16 monthly bill. Or at whatever frequency they
17 would like to make a payment.
18 Q. So is the QuickPay, is that solely related to
19 Intrust issued credit cards?
20 A. That is correct.
21 Q. With regard to Consumer e-Banking as you've
22 described it, is that -- do you believe that to
23 be a banking service?
24 A. I do.
25 Q. Why?

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1 A. Because customers today use Consumer e-Banking,
2 our Intrust online banking, some use it
3 exclusively for their interactions with Intrust
4 Bank. It is a key element of the services we
5 provide to them, and they have a high
6 expectation for high service and high quality
7 from our offerings.
8 Q. The Consumer e-Banking bill pay service, do you
9 consider that to be a banking service?
10 A. Yes, I do.
11 Q. How about the consumer mobile banking service?
12 A. I do.
13 Q. And how about the mobile deposit service?
14 A. Yes, I do.
15 Q. Why would you -- why do you consider the
16 consumer mobile banking service to be a banking
17 service?
18 A. A comment from what I said earlier about what
19 I've observed as far as trends and the industry
20 work that I have done over the last ten years, I
21 have seen more and more information from peers
22 and from industry groups that indicate consumer
23 preference for using a mobile device in all of
24 their interactions, in particular with banks,
25 and customers are telling us they would rather

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1 use their mobile device to interact with us than
2 other channels that we might offer.
3 Q. Are banking services offered by Intrust
4 stagnant?
5 A. No, definitely not.
6 Q. Okay. Could you explain that for us?
7 A. Mobile deposit is a great example. The first
8 iteration of our mobile deposit product was
9 supposed to be a stand-alone app, we weren't
10 exactly sure who our target customer was, and as
11 we started to develop it and pilot it, we
12 changed what we were going to offer based upon
13 the customer feedback we started getting. And
14 so the consumer mobile deposit product of today,
15 as opposed to that previous initial stand-alone
16 app, is an integrated product offering,
17 integrated within our mobile banking product to
18 provide a single, seamless experience for our
19 customers.
20 Q. Okay. Is an auto loan given by Intrust a
21 banking service?
22 A. Yes, it is.
23 Q. If I loan someone money to buy a car, is that a
24 banking service?
25 A. Yes, it is.

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1 Q. How -- why would that be considered a banking
2 service?
3 **A. It is a product and a service that banks often**
4 **provide and that customers and the consumers in**
5 **general often think first of banks and financial**
6 **institutions when they are looking for or**
7 **thinking of those services.**
8 Q. Does an entity or person have to be a bank in
9 order to provide different types of banking
10 services?
11 **MR. NGUYEN:** Objection, lacks
12 foundation.
13 **A. No.**
14 **BY MR. NORTON:**
15 Q. What -- well, can Intrust customers use an
16 Intrust product or service to send money to a
17 foreign country?
18 **A. Yes, they can.**
19 Q. And what methods does Intrust provide for its
20 customers to send money to a foreign country?
21 **MR. NGUYEN:** Objection as to form of
22 the question, vague as to customers.
23 **A. The -- our customers can send money to foreign**
24 **destinations through a couple of different**
25 **mechanisms. One is through the wire system,**

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1 **through the SWIFT international wire system. We**
2 **also have a service often referred to as an IAT,**
3 **an international ACH transaction, and there are**
4 **several countries that do accept international**
5 **ACH transactions and we do originate those**
6 **transactions.**
7 **BY MR. NORTON:**
8 Q. And are those two services you just described
9 available to consumer customers?
10 **A. The international wire transaction capability is**
11 **available to consumers. Currently we are not**
12 **offering any IAT transactions to consumers.**
13 Q. And is that something that you've discussed or
14 considered?
15 **A. Only briefly. It is not something that is high**
16 **on our product roadmap.**
17 Q. Let's take a look at Exhibits -- Exhibit Number
18 54. Can you tell us what that document is?
19 **A. This document is the system report generated by**
20 **our FIS online banking product, also often**
21 **referred to as CeB, or Consumer e-Banking, and**
22 **it is a report for the month of September 2004,**
23 **is the first document.**
24 Q. And if you flip through, do the documents shown
25 in this Exhibit 54 appear to be the same type of

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1 document?
2 **A. Yes, they are the same standard report out of**
3 **our CeB computer system.**
4 Q. And are these documents that are kept in the
5 ordinary course of business by Intrust?
6 **A. Yes, they are.**
7 Q. And are you familiar with these documents?
8 **A. Yes, I am.**
9 Q. And if you'll look, the very last page is for
10 which month and year?
11 **A. The last page is the Consumer e-Banking archived**
12 **report for December of 2013.**
13 Q. And does this report in Exhibit 54, does it --
14 is it related in any way to the document that
15 we've been discussing that's Exhibit Number 53?
16 **A. Yes.**
17 Q. How are they related?
18 **A. Many of the data elements of the Exhibit 53,**
19 **which is electronically a spreadsheet, many of**
20 **those data elements come from these monthly**
21 **reports.**
22 Q. And if there was data or numbers were a little
23 different between the Exhibit 53 and Exhibit 54,
24 which would you defer to as the more accurate
25 document?

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1 **A. The Exhibit 54.**
2 Q. Exhibit 54 is the raw data concerning these
3 identifiers; is that correct?
4 **A. That is correct.**
5 Q. Let's take a look at just a few of these that we
6 had not discussed on the other chart.
7 **A. For which month?**
8 Q. December 2013, very last page.
9 **A. Okay.**
10 Q. The -- about midway through, you'll see that
11 there is an item for credit card?
12 **A. Yes.**
13 Q. And what -- and then the first row under that is
14 number of users entitled to view credit card,
15 what is that?
16 **A. That number, the 62,026, is actually an**
17 **aggregate of all of the customers that are**
18 **enrolled in CeB for the month of December 2013.**
19 **This is -- it's actually a technological issue.**
20 **The system cannot distinguish between those**
21 **customers or those customer profiles that do**
22 **have credit card and who don't, so**
23 **technologically speaking we have entitled the**
24 **credit card reporting function to all customers**
25 **on the system.**

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1 Q. And then I noticed that the number of credit
2 card payments and dollars for credit card
3 payments are shown as zero, why is that?
4 **A. That is correct, that is because we do not use**
5 **the credit card payment functionality within**
6 **CeB. Instead we use that QuickPay functionality**
7 **that shows up at the bottom of the spreadsheet**
8 **in Exhibit 53.**
9 Q. Okay. So it's not that there were no credit
10 card payments made by Intrust customers?
11 **A. That's correct.**
12 Q. Let's look at Exhibit Number 55. Can you tell
13 us what this exhibit is?
14 **A. This exhibit is a system report provided by FIS**
15 **for our Consumer e-Banking, CeB, system. The**
16 **first document, the first page is from September**
17 **of 2004, and it is reporting the activity for**
18 **that month of our bill pay engine.**
19 Q. And if you flip to the last page, I believe it's
20 December 2013; is that right?
21 **A. Yes, that's correct.**
22 Q. And are these reports that are shown in Exhibit
23 55 documents that are generated by Intrust in
24 the ordinary course of its business?
25 **A. Yes, they are.**

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1 Q. And are you familiar with these reports?
2 **A. Yes, I am.**
3 Q. Let's look at the December 31st report. And by
4 the way, if there are any -- if there are -- do
5 you use this report, Number 55, the e-banking
6 bill payment summary, is it related to the chart
7 that we discussed earlier that's Exhibit 53?
8 **A. Yes, the --**
9 Q. How are they related?
10 **A. The data elements here within this report are**
11 **often the source data, a lot of them are the**
12 **source data for the Exhibit 53 spreadsheet.**
13 Q. And if there was for some reason a discrepancy
14 between specific numbers in the chart and the
15 bill payment summary report that's Exhibit 55,
16 which one would you defer to as the accurate
17 number?
18 **A. I would defer to Exhibit 55.**
19 Q. And is that because it's essentially the raw
20 data that's generated by your system?
21 **A. That is correct.**
22 Q. I'm going to go into a different area, so why
23 don't we take just a real short break.
24 (Thereupon, a recess was taken;
25 whereupon, the following was had.)

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1 **BY MR. NORTON:**
2 Q. All right. Mr. Morrison, we're back on the
3 record. Are you familiar with the phrase
4 electronic funds transfer?
5 **A. Yes, I am.**
6 Q. Is that also referred to as an EFT?
7 **A. Yes.**
8 Q. What is an electronic funds transfer?
9 **A. Electronic funds transfer is a transfer of money**
10 **from one account to either a merchant or another**
11 **account utilizing one of multiple electronic**
12 **payment rails.**
13 Q. And when you say electronic payment rails, what
14 do you mean by that?
15 **A. There are multiple payment rails that are in the**
16 **industry, one of which we've talked a lot about**
17 **already, the ACH payments network is an**
18 **electronic rail. But there are also payment**
19 **rails established by some of the card networks**
20 **that we've talked about earlier, such as the**
21 **NYCE debit network or Visa or MasterCard or**
22 **numerous other debit networks.**
23 Q. Does electronic funds transfer relate to any
24 products or services offered by Intrust?
25 **A. Yes, they do.**

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1 Q. Could you give me a few examples?
2 **A. Certainly. We have several products that are**
3 **tied to plastics, tied to credit and debit cards**
4 **that utilize electronic fund transfers to move**
5 **money out of the customer's account to a**
6 **merchant for goods and services. We also have**
7 **electronic fund transfers through some of our**
8 **consumer mobile products where customers can do**
9 **an electronic transfer from their account at**
10 **Intrust to an account at any other financial**
11 **institution in the United States.**
12 Q. With regard to electronic transfers and
13 retailers, could you, in layman's terms or
14 examples, could you explain that a little
15 further?
16 **A. Certainly. Using either your credit card or**
17 **your debit card issued by Intrust, you can go to**
18 **a store, go to a merchant, and you can present**
19 **your card and the merchant will swipe,**
20 **currently, your card, and based upon that**
21 **transaction, your -- either your checking**
22 **account will be debited for your transaction at**
23 **Intrust or your credit line at Intrust will be**
24 **reduced by the amount of your transaction.**
25 Q. Are you familiar with Intrust gift cards?

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1 **A. Yes, I am.**
2 Q. And do -- does the electronic funds transfer
3 relate to the Intrust gift cards?
4 **A. Yes, they do.**
5 Q. How so?
6 **A. The Intrust gift cards also use the same rails**
7 **for some of the trans -- for the transactions,**
8 **the merchant purchases. There's also the**
9 **ability to take those gift cards and use the ATM**
10 **networks, the automated teller machine networks**
11 **to withdraw funds off of the account, off of the**
12 **card in order to get cash.**
13 Q. And do you consider the electronic funds
14 transfers that you've described to be banking
15 services?
16 **A. I do.**
17 Q. Why?
18 **A. Because they are key services that we provide as**
19 **a bank and that our customers come to us and**
20 **expect us to be able to deliver.**
21 Q. Do other banks offer electronic funds transfers?
22 **A. Yes, they do.**
23 Q. With regard to financial fraud protection and
24 prevention services, are you aware of any such
25 services that Intrust offers?

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1 **A. Yes, I am.**
2 Q. And could you describe those for us?
3 **A. We offer several services as part of our Intrust**
4 **products. One I mentioned earlier when I was**
5 **talking about logging into online banking --**
6 **MR. NGUYEN:** Oops, sorry about that.
7 (Thereupon, a recess was taken,
8 after which the reporter read the
9 designated portion.)
10 **BY MR. NORTON:**
11 Q. Could you describe other fraud prevention and
12 detection services that Intrust offers to its
13 customers?
14 **A. Sure. The Intrust online banking product has**
15 **security features built around the login**
16 **credentials, so as I mentioned earlier, we have**
17 **technology through FIS, our core provider, that**
18 **examines the PC that a customer may be using**
19 **when trying to log in; and if the system**
20 **recognizes that computer as one that they've**
21 **used before and it fits the profile from a risk**
22 **perspective, the customer is allowed to proceed**
23 **on into online banking.**
24 **But in the alternative, if the customer is**
25 **coming in from a different PC or device, then**

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1 **the system will provide what is called by our**
2 **provider stepped-up authentication. And that's**
3 **the technology that then will either send a text**
4 **message to the cell phone number that's on file**
5 **with a code or an automated system will contact**
6 **the customer and dial their phone at one of the**
7 **numbers provided on the customer record and**
8 **provide a six-digit code that the customer can**
9 **use to continue their login process.**
10 **There's also a piece of technology that**
11 **will do what's sometimes in the industry called**
12 **out-of-wallet questions to ask the customer**
13 **questions from their past that should help them**
14 **identify themselves before they authenticate and**
15 **log into the product.**
16 **There's another set of fraud prevention and**
17 **detection technologies that tie into the credit**
18 **and debit card transaction processing.**
19 Q. And what is that?
20 **A. In particular, on the credit card side, we use a**
21 **system called Falcon. Again, through FIS, it is**
22 **a neural network that analyzes your normal**
23 **credit card behavior, and if it sees a**
24 **transaction that is outside of your normal**
25 **behavior, such as maybe you're in a geographic**

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1 **location that you have not been to before or you**
2 **are transacting with a frequency that you don't**
3 **transact usually or maybe you're a dollar range**
4 **that you don't normally use, then these systems**
5 **will kick in and prevent the transaction, to**
6 **notify the bank, to in turn notify you that we**
7 **think we've seen a problem on your account.**
8 Q. Okay. And you mentioned alerts that will be
9 sent to the system earlier, are those part of
10 the fraud detection and prevention service?
11 **A. Correct, they are integrated into -- they are a**
12 **piece of the overall puzzle when it comes to**
13 **trying to provide fraud protection services to**
14 **our customers.**
15 Q. What about encryption of data and things of that
16 nature?
17 **A. Yes, we do have encryption technologies for our**
18 **customer data and for the connection points for**
19 **when customers connect to our online products.**
20 Q. And in layman's terms, what's an encryption
21 program or whatnot?
22 **A. The standard encryption with an Internet product**
23 **is around SSL, secure socket layer, encryption**
24 **between the customer's computer and the**
25 **browse -- you know, the customer's browser and**

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1 **the back end system for online banking.**
2 **Likewise, there's encryption and device**
3 **identification for mobile banking that ties an**
4 **individual's registered mobile device to their**
5 **online banking account so that an unregistered**
6 **device or an unauthenticated device couldn't be**
7 **used to access mobile banking.**
8 Q. Any other types of security, whether it's
9 encryption, alerts, that you can think of
10 related to Intrust services?
11 **A. We have a lot of fraud detection and fraud**
12 **prevention services that are tied to our ACH**
13 **products and to when transactions are allowed to**
14 **post to a customer's account. We have a lot of**
15 **services that are also used to monitor check**
16 **transactions and potential check fraud**
17 **situations.**
18 Q. Okay. With regard to the ACH, could you expand
19 further?
20 **A. Certainly. We have features and technology**
21 **through FIS as our core provider. A lot of**
22 **them, sometimes they're called debit filter or**
23 **debit block, and customers can choose to block**
24 **any ACH transaction that might be posting to**
25 **their account. Likewise, even if the customer**

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1 **hasn't requested specific blocking of**
2 **transactions, we have processes in general to**
3 **monitor when we see suspicious activity across a**
4 **bunch of customers.**
5 Q. And how does that monitoring service work?
6 **A. Usually it's via an exception report or a**
7 **tool -- a tool in the back room of the bank**
8 **where they will see these exception items that**
9 **maybe raise a red flag, they might trip a dollar**
10 **frequency limit, things like that.**
11 **(A sotto voce discussion was**
12 **held between Mr. Norton and**
13 **Mr. Mayans.)**
14 **BY MR. NORTON:**
15 Q. Are you familiar with the terms PCI DSS?
16 **A. I am familiar with the term PCI DSS.**
17 Q. Could you explain for us what that is?
18 **A. Sure. PCI DSS stands for Payment Card Industry**
19 **Data Security Standards, and PCI DSS is a**
20 **standard put forth by a -- oh, it's a consortium**
21 **really that's designed around the protection of**
22 **credit and debit card data in the possession of**
23 **merchants as part of the credit and debit card**
24 **processing relationship between cardholders and**
25 **merchants.**

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1 Q. Okay. And does Intrust follow those standards?
2 **A. Yes, we do.**
3 Q. From a layman's standpoint, could you explain,
4 again, how those standards work, you know, from
5 a practical standpoint?
6 **A. Sure. From a practical standpoint, the PCI DSS**
7 **standards set -- set forth the rules by which**
8 **our customers as merchants who might be**
9 **accepting cards and then also the expectations**
10 **for our customers who might actually have cards**
11 **in their possession, how their data is going to**
12 **be handled and protected in commerce, in a**
13 **transaction.**
14 **So for our merchant customers, we have --**
15 **we are required to report to the card brands the**
16 **status of our customers' compliance with the**
17 **PCI DSS standards, we are required to provide**
18 **education to our merchants on the PCI DSS**
19 **standards, we're required to test our merchants**
20 **to make sure they are complying with the**
21 **standards, making sure that their security is up**
22 **to date from a standpoint of how they connect to**
23 **the Internet, how they store card data. It's --**
24 **it's a very robust set of standards and rules.**
25 Q. How does that relate to Intrust consumer

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1 customers?
2 **A. For the consumer, the -- it's sort of a peace of**
3 **mind concept. The card brands in particular**
4 **embrace PCI DSS because of the fraud trends that**
5 **everyone was seeing, all of the data breaches,**
6 **all of the compromised accounts. So from a**
7 **consumer's perspective, the industry, the**
8 **merchant side of the industry has really stepped**
9 **up their security and their data protection**
10 **policies to try to win back some of -- or to win**
11 **back some of the confidence in the consumer**
12 **space.**
13 Q. All right. Let's -- what exhibit are we on for
14 our stuff?
15 **THE REPORTER:** 81.
16 **MR. NORTON:** 81.
17 (Deposition Exhibit Number 81
18 Marked for Identification.)
19 **BY MR. NORTON:**
20 Q. Mr. Morrison, I'm going to show you a video, and
21 what I'm going to do is, after we have watched
22 it, is ask you if you can identify it, okay?
23 **A. Okay.**
24 **(AT THIS TIME, THE VIDEO PLAYED:**
25 When you find out that someone has stolen

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1 from you, it just kind of shatters you. I
2 received a call from Intrust --)
3 **MR. NORTON:** I'm going to start it
4 over since the volume was a little low
5 there when we started.
6 **(AT THIS TIME, THE VIDEO PLAYED:**
7 When you find out that someone has stolen
8 from you, it just kind of shatters you. I
9 received a call from Intrust, my debit card
10 had been stolen and was being used
11 fraudulently. When I went to my branch, I
12 was taken care of from the moment I walked
13 in. They saw the problem and fixed the
14 problem before I even knew I had one.)
15 **BY MR. NORTON:**
16 Q. Are you familiar with the video that was just
17 played?
18 **A. Yes, I am.**
19 Q. Can you tell us what that video is?
20 **A. That video is one of the advertising pieces that**
21 **was prepared as part of our Moments of Trust**
22 **Campaign.**
23 Q. And have you viewed that video before today?
24 **A. Yes, I have.**
25 Q. And where -- under what other circumstances have

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1 you viewed that video?
2 **A. I've seen that video both in the public media**
3 **here in Wichita --**
4 Q. On TV?
5 **A. Correct. I've also seen the video internally**
6 **prior to its release as part of a management**
7 **review that was provided to our senior**
8 **leadership.**
9 Q. And approximately when was that video used by
10 Intrust?
11 **A. I don't have the exact dates, but I believe it**
12 **was, oh, starting like last fall, October,**
13 **November through January, February of this year.**
14 Q. The actor in the video made the statement that,
15 essentially that she -- that Intrust knew that
16 she had a problem before she did with regard to
17 a debit card. Are there circumstances where
18 Intrust will identify that a customer has a
19 fraudulent or other type of issue with a debit
20 card before the customer even knows?
21 **A. That is correct. And just one quick**
22 **clarification, the -- the person in the video is**
23 **actually a customer of the bank --**
24 Q. Ah.
25 **A. -- that presented to us so happy with the**

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1 **scenario that she had experienced that it**
2 **frankly led to that campaign and our desire to**
3 **feature her as one of our customers in the**
4 **advertising campaign.**
5 Q. Can you give us examples where Intrust might
6 identify fraudulent activity related to a debit
7 card and notify a customer of that activity?
8 **A. Certainly. A lot of times we will either see**
9 **this through -- we have a tool that we use**
10 **called Visa Risk Manager, and that risk manager**
11 **tool allows us to set transaction processing**
12 **rules for our debit platform. And what will**
13 **often happen is the customer's account might**
14 **have been part of a compromise, it could be**
15 **legitimate activity, but the transaction -- a**
16 **transaction may trip one of the rules in Visa**
17 **Risk Manager.**
18 **And, again, just from a high-level**
19 **perspective, sometimes that's a transaction**
20 **that's outside of the normal pattern, either too**
21 **many transactions in a time frame or a dollar**
22 **amount or a lot of times there's a pattern of a**
23 **criminal who's stolen a card first stops at a**
24 **gas station and then tries to go to a grocery**
25 **store or tries to go to a big box retailer and**

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1 **buy a gift card.**
2 **When our system detects that, we have staff**
3 **both at Intrust that works directly for the bank**
4 **but also at our core processor, FIS, in a**
5 **support capacity, we have staff that see those**
6 **suspicious transactions, and as we look at the**
7 **account, we look at all the transactions that**
8 **are on that account, like in this customer's**
9 **case, we will then contact the customer and say,**
10 **hey, we see this transaction, was that really**
11 **you.**
12 Q. The video that we just watched, did it include
13 the word Intrust?
14 **A. Yes, it did.**
15 Q. It also included the phrase Intrust Bank?
16 **A. Yes, it did.**
17 Q. All right. Let's -- we're going to change gears
18 just a little bit. Does Intrust currently offer
19 its customers the ability to send a payment
20 directly to another individual using only an
21 e-mail address or cell phone number?
22 **A. No, we do not currently.**
23 Q. Okay. Is that something Intrust is looking
24 into?
25 **A. Yes.**

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1 Q. What -- is that service referred to sometimes as
2 peer to peer or person to person?
3 **A. Yes.**
4 Q. So if we discuss peer -- in the context of this
5 deposition peer to peer, person to person,
6 understand we're talking about a payment made
7 by -- or money sent by an individual to another
8 individual using e-mail, cell phone number, or a
9 social network identifier?
10 **A. Okay, I agree.**
11 Q. Have you had any involvement related to
12 Intrust's efforts to utilize a person-to-person
13 payment product?
14 **A. Yes, I have.**
15 Q. Okay. Would you just generally tell us about
16 your involvement?
17 **A. Starting with my role as the e-commerce director**
18 **and then continuing with my managerial**
19 **responsibilities for my successor, we have been**
20 **working on a product to enhance our online**
21 **offerings to add the person-to-person payment**
22 **capabilities.**
23 Q. Okay. Why is Intrust considering that service
24 or product?
25 **A. We view that as, again, a key element that our**

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1 **customers both have been asking for to some**
2 **extent, but we will also be a more important**
3 **part of their interaction with us and with their**
4 **funds and their bank as time goes forward.**
5 Q. In your research and investigation analysis that
6 we discussed at the beginning of the deposition,
7 did you find that other financial institutions
8 are offering the person-to-person payment
9 service?
10 **A. Yes, they are.**
11 Q. There are other banks?
12 **A. Yes, they are.**
13 Q. When did Intrust, to your knowledge, first begin
14 considering the person-to-person payment
15 service?
16 **A. We first began discussing the technology around**
17 **2010.**
18 Q. And what was your initial involvement in 2010?
19 **A. My involvement was to participate with the --**
20 **our vendor of choice, of course, is FIS because**
21 **they provide all of our electronic products**
22 **already. We went to FIS and said that we were**
23 **interested in offering a person-to-person**
24 **payment technology. And at the time, they had a**
25 **product that they called Send Money, and we**

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1 **actually went so far as to sign a contract with**
2 **FIS for the Send Money product back in 2011.**
3 Q. And approximately when was that contract signed?
4 **A. I believe it was July of 2011.**
5 Q. Okay. And was that contract -- what happened
6 with regard to that contract ultimately?
7 **A. So we signed the contract, and we started the**
8 **implementation project. And it was actually**
9 **Mark Lebbin, who as he was working through this**
10 **project, he discovered some feature**
11 **functionality that we didn't like from a risk**
12 **management standpoint.**
13 Q. And the feature functionality that Mark
14 discovered, did you investigate that?
15 **A. Yes, I did.**
16 Q. Okay. What -- and did you have concerns?
17 **A. I -- I did.**
18 Q. So what were your concerns?
19 **A. The -- the fundamental concern was that there**
20 **was not a, term of art in the industry**
21 **sometimes, a good funds model for the**
22 **person-to-person payments for the Send Money**
23 **product.**
24 Q. And what does that mean?
25 **A. Really what that means is in a good funds model,**

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1 **you are sure that the customer who is sending**
2 **money actually has the money in their account**
3 **before you send out the credit side of the**
4 **transaction. And so in a -- in a traditional**
5 **good funds model, step one is you debit the**
6 **customer's account, the customer who is**
7 **originating the transaction to validate that,**
8 **yes, they do have the $100 to send to their**
9 **friend, or wherever they're trying to send it.**
10 **Step two is you then send the credit out on the**
11 **payment rails to its destination.**
12 **And, unfortunately, the original Send Money**
13 **product was sending both the debit and the**
14 **credit at the same time, so that if the debit**
15 **was rejected because the customer did not have**
16 **sufficient funds, it was too late to stop the**
17 **credit.**
18 Q. And this product or service that you're
19 describing, did that allow an individual or
20 Intrust -- would it have allowed an Intrust
21 customer to send money to an individual using
22 e-mail or a cell phone identifier?
23 **A. Yes, it would have.**
24 Q. And what ultimately -- well, did you raise your
25 concerns with FIS?

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1 **A. Yes, we did.**
2 Q. And then ultimately what happened after you
3 raised your concerns?
4 **A. Ultimately FIS killed the entire product for its**
5 **entire customer base.**
6 Q. And, again, do you know approximately when that
7 was?
8 **A. I believe it was late 2011, possibly early 2012.**
9 Q. Did you continue discussing a person-to-person
10 payment system with FIS into 2012?
11 **A. Yes, we did.**
12 Q. And are you still in discussions with FIS
13 related to a person-to-person payment system?
14 **A. Yes, we are.**
15 Q. What's the current status?
16 **A. FIS has gone out and basically rewritten, redone**
17 **the product in conjunction with some of their**
18 **other initiatives from a payment network**
19 **perspective, and they have introduced a new**
20 **product that they now call People Pay.**
21 Q. And were you provided information relative to
22 People Pay?
23 **A. Yes, I -- yes, we were.**
24 Q. Okay. And if you would look in your notebook at
25 Exhibit Number 57. And can you tell us what

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1 that document is?
2 **A. This document is materials from FIS relating to**
3 **the People Pay product.**
4 Q. And have you seen this document before?
5 **A. Yes, I have.**
6 Q. And do you remember approximately when you first
7 saw it?
8 **A. I believe I saw it concurrent with the date**
9 **listed on the first page, June of 2013, 2013.**
10 Q. Was it presented to you by FIS?
11 **A. Yes, it was.**
12 Q. And what was the context?
13 **A. It was in the context of us continuing our**
14 **attempt to implement a person-to-person payment**
15 **products -- product. When we killed the Send**
16 **Money product, as it were, we kept in contact**
17 **with FIS to basically say where are you, are you**
18 **prepared, do you have a new replacement product,**
19 **and we basically checked with them, you know,**
20 **every month or two to see how their progress was**
21 **going. And by June of 2013, they were prepared**
22 **to present to us an overview of their new**
23 **replacement product.**
24 Q. And the product that is described in Exhibit
25 Number 57, is that the product that you are

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1 considering now?
2 **A. Yes, it is.**
3 Q. Can you generally describe for us what person --
4 or People Pay service or product you are
5 considering?
6 **A. So the People Pay product is, from our**
7 **customer's perspective, it is an add-on or an**
8 **enhancement of our Intrust online banking bill**
9 **pay technology and the bill pay product. And**
10 **the technology is going to function like the**
11 **payees I described in bill pay earlier, so that**
12 **our customers can come into their Intrust online**
13 **banking, they can then go to the online bill pay**
14 **product, and then they can set up a person to**
15 **receive a payment through the bill pay engine.**
16 Q. And what identifiers can the customer use to
17 designate who the money will be sent to?
18 **A. The customer can use a telephone number, cell**
19 **phone number, they can use an e-mail address,**
20 **and then they can also use the existing**
21 **functionality that is currently in the bill pay**
22 **product, namely street address, account number**
23 **if the individual really does want to provide an**
24 **account number.**
25 Q. And if the -- an Intrust customer uses the

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1 People Pay product that you guys are currently
2 analyzing and sends a payment addressed to a
3 cell phone number or an e-mail address, is
4 that -- does that transaction take place 100
5 percent in electronic -- excuse me, electronic
6 form?
7 **A. Yes, it does.**
8 Q. Do you have a current rollout date for this
9 product?
10 **A. We don't have the implementation date yet. We**
11 **are currently at the contract signing phase.**
12 **And I've requested a contract from FIS for**
13 **People Pay; they are, frankly, a little bit of a**
14 **big company, and so their legal department has**
15 **it on their to do list, but as of this date, I**
16 **don't yet have the contract.**
17 Q. When do you -- from your standpoint, what is
18 your expectation as to when this product will be
19 rolled out to Intrust customers, even if it's
20 not a firm plan yet?
21 **A. Certainly. Our -- our expectation and our goal**
22 **is to have it implemented by fourth quarter of**
23 **this year, of 2014.**
24 Q. And the documentation that is shown in Exhibit
25 57, does that accurately describe your

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1 understanding of the People Pay product that you
2 hope to roll out in the fourth quarter of 2014?
3 **A. Yes, it does.**
4 Q. And how is this product, this People Pay product
5 different from the product that you initially
6 reviewed back in 2011?
7 **A. The first primary difference is that it does**
8 **include a good funds model, so that for risk**
9 **management purposes, we can make sure that the**
10 **debit has processed before the credit is sent.**
11 **A second component that is different is tied**
12 **into the FIS PayNet initiative.**
13 Q. What is that?
14 **A. PayNet is a network, a payments network that FIS**
15 **has been developing for the last, oh, two, two**
16 **and a half years, and it is designed, frankly,**
17 **to compete with some of the other EFT payment**
18 **network and rails that exist out there today,**
19 **such as a debit network or even a Visa network.**
20 Q. Are there any other differences between what
21 you're currently considering and what you
22 considered back in 2011?
23 **A. There probably are some other differences, but**
24 **I'm not familiar with them.**
25 Q. If you would look at Exhibit Number 56, just

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1 prior. And can you tell us what that document
2 is?
3 **A. This document is an FIS document that was the**
4 **products description for the original Send Money**
5 **product.**
6 Q. Have you seen this document before?
7 **A. I have.**
8 Q. And does the description of the person-to-person
9 payment system identified in 56, is that an
10 accurate reflection of what you were considering
11 or Intrust was considering in 2011?
12 **A. Yes, it is.**
13 Q. Are there -- well, strike that. Is Intrust
14 currently looking at implementing a re -- a
15 consumer reloadable card service or product?
16 **MR. NGUYEN:** Objection, lacks
17 foundation.
18 **A. Intrust actually offers a, what's often called a**
19 **prepaid card product already. We have a couple**
20 **of different card products in -- in terms of a**
21 **payroll card, in terms of gift cards.**
22 **BY MR. NORTON:**
23 Q. Let me jump in just real quick. Are you
24 familiar with the type of card products Intrust
25 offers?

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1 **A. Yes, I am.**
2 Q. Are you familiar with the gift card product that
3 Intrust offers?
4 **A. Yes, I am.**
5 Q. Are you familiar with the debit card product
6 that Intrust offers?
7 **A. Yes, I am.**
8 Q. Are you familiar with the term reloadable card?
9 **A. Yes, I am.**
10 Q. And what is your understanding of a reloadable
11 card?
12 **A. A reloadable card, often also called in the**
13 **industry a general purpose reloadable card, is**
14 **a -- an account tied to a plastic that -- the**
15 **target market is for a customer to be able to**
16 **use repeatedly and either fund that card from a**
17 **traditional banking account or possibly fund**
18 **that account from other external sources such as**
19 **cash, money order, other transfer mechanism.**
20 Q. Okay. Is Intrust currently considering a
21 reloadable card product as you have just
22 described?
23 **A. Yes, we are.**
24 Q. Can you tell us about that?
25 **A. The product under consideration is -- internally**

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1 **we're calling it a Travel EMV card. The EMV**
2 **piece stands for the Europay/MasterCard/Visa**
3 **chip technology standard that is currently a hot**
4 **button topic in the North American market. And**
5 **the travel component of it is the concept of**
6 **this plastic would be sold to customers who wish**
7 **to load funds onto the card, then travel abroad**
8 **and use this chip-enabled card overseas for**
9 **their transactions.**
10 Q. And when were you first involved in considering
11 a reloadable card as you have just described?
12 **A. I was participating in the team starting in**
13 **about 2000 and -- end of 2012, beginning of**
14 **2013.**
15 Q. Okay. Have you discussed a reloadable card as
16 you have described with any vendors?
17 **A. Yes, we have.**
18 Q. Which vendors?
19 **A. The primary vendor we've discussed it with is**
20 **FIS.**
21 Q. Is there a current rollout date or anything like
22 that related to a reloadable card as you've
23 described?
24 **A. We -- we are targeting an end of April 2014**
25 **rollout date for the Travel EMV card.**

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1 Q. Oh, so that's a card that is close to being
2 rolled out then?
3 **A. It is.**
4 Q. Tell me how this Travel EMV card works.
5 **A. We have inventoried plastics in our branches,**
6 **we -- customers can come into any of the**
7 **branches, also we sometimes call them banking**
8 **centers, and the customer can then purchase one**
9 **of these cards, and at the teller line they can**
10 **load funds on to the card. There are also**
11 **capabilities within the card that if the**
12 **customer wants to go out and purchase funds to**
13 **load through other mechanisms, such as a Green**
14 **Dot or something like that, they can load funds**
15 **on to these cards as well.**
16 Q. Okay. What's Green Dot?
17 **A. Green Dot is another provider of prepaid cards**
18 **in the industry, and they have developed**
19 **mechanisms over the years where once customers**
20 **purchase those accounts, they can then reload**
21 **them with funds from various sources.**
22 Q. Okay. Have you seen any mockups or sample
23 cards?
24 **A. For the Travel EMV?**
25 Q. Yeah.

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1 **A. Yes, I have.**
2 Q. Could you describe those cards for us?
3 **A. They are a -- a standard -- they have a**
4 **MasterCard bug on them, and they have -- I don't**
5 **remember the exact color, but they have one of**
6 **the standard color schemes for the card.**
7 Q. And does the face of the card show Intrust, the
8 word Intrust?
9 **A. I don't recall.**
10 Q. And does it show Intrust Bank?
11 **A. I don't recall.**
12 Q. Okay. Is Intrust considering any other
13 reloadable card products?
14 **A. Yes, we are.**
15 Q. What other products?
16 **A. The suite of products that are offered by FIS**
17 **under their agent program, Travel EMV is one**
18 **component. There is another component that is a**
19 **gift card program, and there is another**
20 **component that is -- again, when I mentioned**
21 **earlier about a general purpose reloadable card.**
22 **Distinction between the general purpose**
23 **reloadable and the gift card is that we view the**
24 **gift card as a load-it-once-and-use-it product;**
25 **whereas, the general purpose reloadable is one**

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1 **that a customer, once they purchase the card,**
2 **they can load funds on to it more frequently.**
3 Q. And does Intrust currently have a rollout date
4 for the general purpose card?
5 **A. No, we don't.**
6 Q. Any other card-related products that you're
7 aware that Intrust is considering or
8 investigating?
9 **A. Not at this time.**
10 Q. Excuse me. The EMV card, is that -- will that
11 be -- strike that. With regard to the EMV card,
12 is that usable at ATMs?
13 **A. The Travel EMV card, yes, it is usable at ATMs.**
14 Q. And is it usable in foreign countries?
15 **A. Yes, it is.**
16 Q. Is the Travel EMV card, is that tied to an
17 Intrust Bank account?
18 **A. No, it is not.**
19 Q. And are you familiar with how a customer would
20 go about purchasing or signing up for a Travel
21 EMV card?
22 **A. Yes, I am.**
23 Q. Could you describe that for us?
24 **A. Right now, the initial rollout will be that they**
25 **will purchase those cards in the branches.**

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1 Q. Okay. Will those cards, at least initially, be
2 offered for sale online?
3 **A. Not initially, no.**
4 Q. Okay. Is there a plan as to when the Travel EMV
5 cards will be made available for purchase
6 online?
7 **A. No, not at this time.**
8 Q. You say not at this time, is -- do you expect
9 that the Travel EMV cards will be available for
10 purchase online at some point in the future?
11 **A. It's possible but, frankly, the way the market**
12 **continues to evolve, there may be a different or**
13 **better product offering that might more appeal**
14 **to an online market such as the GPR, the general**
15 **purpose reloadable card.**
16 Q. Okay.
17 (A sotto voce discussion was
18 held between Mr. Norton and
19 Mr. Mayans.)
20 **MR. NORTON:** Thank you,
21 Mr. Morrison, those are all the questions I
22 have.
23 **A. Okay, thank you.**
24 **//**
25 **//**

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1 **CROSS-EXAMINATION**
2 **BY MR. NGUYEN:**
3 Q. Mr. Morrison, can you define for me what a
4 banking service is?
5 **A. Banking service is a service provided to**
6 **customers for the movement of money and access**
7 **to funds.**
8 Q. Okay. And you testified earlier that in your
9 opinion a banking service can be provided by
10 companies or organizations that are not banks;
11 is that correct?
12 **A. Yes.**
13 Q. Okay. Then why is it called a banking service
14 in your mind?
15 **A. I think a lot of that comes from, you know, the**
16 **legacy, the -- the history. I think perhaps at**
17 **a moment in time several years ago, there were**
18 **certain things that people thought could only be**
19 **provided by a bank, but I think that as the**
20 **marketplace has evolved, I think the standard in**
21 **the industry now is that there are services that**
22 **once used to be provided only by banks but are**
23 **now being provided by multiple entities.**
24 Q. Okay. So are there services that can only be
25 provided by banks?

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1 **A. I'm not sure.**
2 Q. Are there services -- is Intrust Bank chartered
3 with any organization?
4 **A. Intrust Bank is a national banking association.**
5 Q. Correct, so it is chartered with the Office of
6 Controller of Currency; is that correct?
7 **A. That is correct.**
8 Q. And under that charter it is permitted to engage
9 in certain activities; is that correct?
10 **A. That is correct.**
11 Q. And would you agree with me that the activities
12 it is licensed to provide under that charter are
13 banking services?
14 **A. I would agree that the services that we provide**
15 **under our charter are perceived by customers as**
16 **banking services.**
17 Q. And if Intrust Bank provides services that are
18 not authorized by that charter, are those
19 banking services too?
20 **MR. NORTON:** Object to form of the
21 question. You can answer.
22 **A. I think our customers would perceive anything**
23 **that we provided to them as a banking service.**
24 **BY MR. NGUYEN:**
25 Q. So anything the bank provides will be perceived

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1 in your mind by customers as a banking service?
2 **A. I would agree with that.**
3 Q. So if tomorrow your bank started having a copy
4 service, like a Kinkos, for example, center
5 opened in a bank branch and started offering
6 copy services, would that be a banking service?
7 **MR. NORTON:** Object as an incomplete
8 hypothetical. You can object -- or answer
9 unless I say not to.
10 **A. Actually, I do think, especially if built up**
11 **over time, our customers would consider that a**
12 **banking service.**
13 **BY MR. NGUYEN:**
14 Q. And today I could walk into one of your bank
15 branches and get a document notarized; is that
16 correct?
17 **A. That is -- yes, I believe that is still correct.**
18 Q. And in your mind, that would be a banking
19 service?
20 **A. I believe our customers would perceive that as a**
21 **banking service.**
22 Q. Even though I can go to someone that is not a
23 bank and get my documents notarized?
24 **A. That's correct.**
25 Q. And even though I can go to a photocopy service

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1 or store and have photocopy services provided by
2 a Kinkos, for example, that's not a bank?
3 **A. I'm sorry, what was the question?**
4 Q. So, for example, the fact that I get photocopy
5 services at a bank branch makes them a banking
6 service in your mind; is that correct?
7 **MR. NORTON:** I'm going to object as
8 an incomplete hypothetical and misstates
9 the prior testimony.
10 **BY MR. NGUYEN:**
11 Q. You can answer.
12 **A. I don't believe that it's in my mind; I believe**
13 **that our customers would perceive anything that**
14 **we do as a banking service.**
15 Q. Even though it is something a bank has not
16 traditionally done in the past?
17 **A. That is correct.**
18 Q. So if your bank started selling lemonade at its
19 branches, that would be a banking service in the
20 minds of consumers in your opinion?
21 **MR. NORTON:** Same objection as to
22 incomplete hypothetical.
23 **A. I believe that if customers consistently over**
24 **time purchased lemonade from us, they would**
25 **perceive that as a banking service.**

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1 **BY MR. NGUYEN:**
2 Q. So to summarize, it doesn't really matter what
3 kind of service it is; as long as you think a
4 customer perceives it as coming from a bank,
5 that makes it a banking service?
6 **MR. NORTON:** Same objection.
7 **A. I do.**
8 **BY MR. NGUYEN:**
9 Q. You earlier described, I think, the phrase
10 alternative payments. Did you use that phrase?
11 **A. I believe the term was emerging payments.**
12 Q. Emerging payments. And by emerging payments,
13 you mean that they are -- the new forms of
14 payments and payment systems that have not
15 traditionally been provided before. Is that an
16 accurate summary?
17 **A. Yes, I would say maybe not necessarily**
18 **traditionally but maybe historically. The**
19 **concept of time and the evolution of the**
20 **process.**
21 Q. And not historically provided by banks, right?
22 **A. Not necessarily.**
23 Q. Okay. You mentioned earlier in your definition
24 of banking services at one point that it had to
25 do with the movement of money. Are there

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1 nonbank organizations and companies that offer
2 services to consumers that involve the transfer
3 or movement of money?
4 **A. Yes.**
5 Q. Can you give me examples of some?
6 **A. I would suggest that I mentioned Green Dot**
7 **earlier.**
8 Q. Okay.
9 **A. I would suggest maybe Western Union as an**
10 **example.**
11 Q. What does Green Dot do?
12 **A. Green Dot is selling a -- multiple products**
13 **actually, but primarily they're known for their**
14 **general purpose reloadable card.**
15 Q. Okay. And Green Dot is not a bank?
16 **A. I do not believe that they are a bank.**
17 Q. Okay. Would you consider Green Dot to be
18 providing banking services?
19 **MR. NORTON:** Object to the form,
20 incomplete hypothetical.
21 **A. I would say that Green Dot is providing things**
22 **that the consumer marketplace would view as a**
23 **banking service.**
24 **BY MR. NGUYEN:**
25 Q. Even though they're not a bank?

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1 **A. I don't -- yeah, I don't believe they're a bank.**
2 Q. And Western Union is not a bank; is that
3 correct?
4 **A. Correct, I don't believe so.**
5 Q. And it provides services for consumers to
6 transfer funds electronically?
7 **A. That is correct.**
8 Q. So it provides EFT or electronic funds
9 transfers?
10 **A. Yes, they do.**
11 Q. Including, for example, international wire
12 transfers?
13 **A. Yes, I do believe they have international**
14 **capability.**
15 Q. Domestic wire transfers?
16 **A. They have a domestic transfer capability as**
17 **well.**
18 Q. And other mechanisms to transfer funds through
19 electronic communications networks?
20 **A. Yes, I believe so.**
21 Q. Are you familiar with Travelex?
22 **A. Yes, I am.**
23 Q. And is Travelex a bank?
24 **A. I do not know their legal status.**
25 Q. Okay. Does Travelex provide electronic funds

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1 transfer capabilities to consumers?
2 **A. Yes, they do.**
3 Q. Okay. Are you familiar with PayPal, you
4 mentioned PayPal earlier?
5 **A. Yes, I am familiar with PayPal.**
6 Q. PayPal provides electronic funds transfer
7 services, correct?
8 **A. Yes, they do.**
9 Q. They're not a bank?
10 **A. I'm not sure about their status either. At one**
11 **point, I thought there was some discussion about**
12 **either them or their holding company getting a**
13 **bank charter, but I don't know if -- whatever**
14 **happened with that.**
15 Q. Okay. Are you familiar with a mobile
16 application called Square?
17 **A. Yes, I am.**
18 Q. What's Square?
19 **A. Square is a device that allows a -- any**
20 **individual or business with a mobile smart --**
21 **with a smartphone device to become a merchant --**
22 **they're a merchant acquirer is what they are,**
23 **they allow you to accept credit cards.**
24 Q. Right, and there's a little Square device that
25 you would attach to your mobile smartphone to be

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1 able to swipe a credit card payment from
2 someone?
3 **A. That is correct.**
4 Q. And to receive a payment?
5 **A. Yes.**
6 Q. And that's an electronic funds transfer?
7 **A. Yes, it is.**
8 Q. And Square is not a bank; is that correct?
9 **A. Correct, I do not believe Square is a bank.**
10 Q. Are you familiar with a mobile application
11 called Venmo?
12 **A. No, I'm not.**
13 Q. Are you familiar with Xoom, X-O-O-M?
14 **A. Yes, I am.**
15 Q. And what does Xoom provide?
16 **A. I believe that Xoom, if I have the correct**
17 **company, I believe they're in the U.K., and I**
18 **believe they also are doing funds transfer**
19 **within the U.K.**
20 Q. To your knowledge, are they a bank?
21 **A. I do not know, I have no knowledge.**
22 Q. Okay. So we've gone through a number of
23 examples of entities that are not banks that you
24 would agree provide electronic funds transfers?
25 **A. Correct.**

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1 Q. So you would agree with me that you don't have
2 to provide banking services to provide
3 electronic funds transfer services?
4 **MR. NORTON:** Object to the form,
5 misstates prior testimony, incomplete
6 hypothetical.
7 **A. I'm sorry, I really don't understand the**
8 **question.**
9 **BY MR. NGUYEN:**
10 Q. You don't have to -- a company does not have to
11 provide banking services in order to provide
12 electronic funds transfer services?
13 **MR. NORTON:** Same objection.
14 **A. I don't know that I agree with that statement as**
15 **phrased.**
16 **BY MR. NGUYEN:**
17 Q. Okay. Earlier you listed for us a variety of
18 samples of financial services that are conducted
19 via electronic communications networks, such as
20 ACH is one of the examples you mentioned --
21 **A. Uh-huh.**
22 Q. -- correct? Is that yes?
23 **A. Yes, I'm sorry.**
24 Q. And you used the phrase, when asked by your
25 counsel, financial services via electronic

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1 communications networks. Would you agree with
2 me that the phrase financial services is broader
3 than banking services?
4 **A. Yes.**
5 Q. And banking services are an example of financial
6 services? It's a subset of financial services?
7 **A. I'm not sure that they're a subset.**
8 Q. Okay. Why do you believe that financial
9 services are broader than banking services?
10 **A. This may be from a banking perspective, but**
11 **there's a lot that we at Intrust, for instance,**
12 **have done historically, such as wealth**
13 **management and things like that, that maybe**
14 **aren't banking services, especially from a**
15 **transactional standpoint, but they are, you**
16 **know, portfolio management, things like that.**
17 Q. So, for example, if I use services from Intrust
18 Bank to help me manage my cash and stock
19 portfolio, that's an example of wealth
20 management and investment advisory services?
21 **A. Yes.**
22 Q. Okay. And you consider that a financial
23 service?
24 **A. Yes, I would.**
25 Q. You would not consider that a banking service?

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1 **A. Not necessarily. I think some people might**
2 **perceive it as a banking service, but especially**
3 **in the context of today's conversation, we seem**
4 **to be talking about banking services as a**
5 **transactional event.**
6 Q. Wealth management, investment advisory services
7 are provided by many entities that are not
8 banks; is that right?
9 **A. Yes.**
10 Q. Can you give me an example of any nonbanks that
11 provide such services?
12 **A. I'm not sure of the legal status of all these**
13 **entities. But I don't know, for example, if**
14 **A.G. Edwards is a bank.**
15 Q. Okay. For example, you might, you know, rely on
16 a stockbroker to help advise you about stock
17 investments; is that correct?
18 **A. Correct.**
19 Q. Or someone to advise you about retirement plans?
20 **A. Correct.**
21 Q. That is a profession that may not be a bank or
22 associated with a bank?
23 **A. That's true.**
24 Q. ACH transfers can be conducted by nonbanks; is
25 that correct?

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1 **A. Actually, the transmission of an ACH file to the**
2 **Federal Reserve, I know you have to be -- it's**
3 **an ODFI, originating depository financial**
4 **institution. I am not aware if the Fed will**
5 **actually accept an ACH transaction from a**
6 **nonfinancial institution, from a non-Federal**
7 **Reserve recognized institution.**
8 Q. Let me ask that a different way: Can a ACH
9 transaction be initiated by an entity that's not
10 a bank?
11 **A. The initiator can be a nonbank.**
12 Q. So, for example, there are payroll services that
13 will work on behalf of employers to do direct
14 deposits of wages into an employee's bank
15 account, correct?
16 **A. Correct.**
17 Q. And that is typically done by an ACH
18 transaction, correct?
19 **A. That is correct.**
20 Q. And the payroll service that offers that service
21 is not a bank, correct?
22 **A. Correct.**
23 Q. And, therefore, the use of ACH to transfer funds
24 electronically does not necessarily mean it's a
25 banking service?

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1 **A. Could you say that again?**
2 Q. Sure. The use of ACH transfers to
3 electronically transfer funds is not necessarily
4 a banking service?
5 **MR. NORTON:** Object to incomplete
6 hypothetical.
7 **A. I don't really know how to respond to that.**
8 **BY MR. NGUYEN:**
9 Q. It can be done by a payroll service, which is
10 not a bank, right?
11 **MR. NORTON:** Same objection.
12 **A. A payroll service can utilize the ACH network.**
13 **BY MR. NGUYEN:**
14 Q. Uh-huh.
15 **A. But I don't know how a payroll service's**
16 **customers will perceive their services. I don't**
17 **know that they would necessarily perceive what**
18 **the payroll service company is doing as either a**
19 **banking service or a payroll service.**
20 Q. Okay. You'd agree with me that new methods of
21 emerging payments have not historically been
22 provided by banks?
23 **MR. NORTON:** Object to form of the
24 question, foundation, speculation,
25 incomplete hypothetical.

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1 **BY MR. NGUYEN:**
2 Q. You can answer.
3 **A. I'm not sure I agree with that.**
4 Q. Well, they're called emerging payments because
5 they're new, emerging methods, correct?
6 **MR. NORTON:** Same objection.
7 **A. I -- I think the emerging nature of the payments**
8 **is that it's an approach or a technology that is**
9 **different from the past.**
10 **BY MR. NGUYEN:**
11 Q. Okay.
12 **A. But I don't think that the nature of the**
13 **payment, the fact that it's an emerging, is any**
14 **indication of who it is that's proposing it.**
15 Q. So let's take the example of person-to-person
16 payments. That's a new product that your bank
17 is considering offering to its customers,
18 correct?
19 **A. That's correct.**
20 Q. And that is a product that other banks are
21 offering to their customers, correct?
22 **A. That's correct.**
23 Q. Would you agree with me that that is an emerging
24 payment method that has not been previously
25 offered by banks in the past?

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1 **A. I can't speak to all banks. I've had some peer**
2 **group experience where some of the larger**
3 **institutions have been doing person-to-person**
4 **payments for a number of years.**
5 Q. Let's talk about -- when's the first time you
6 heard of a bank doing a person-to-person
7 payment?
8 **A. I don't have a specific recollection, but, you**
9 **know, going back as far -- wow, going as far**
10 **back to a forum that I used to attend called the**
11 **Emerging Payments Forum, sponsored by a company**
12 **called Global Concepts that got bought by**
13 **McKenzie, we had forum meetings back in 2003,**
14 **2004; and at that point, Bank of America was in**
15 **the room, and they were talking about, you know,**
16 **various payment mechanisms. I don't think at**
17 **the time the term person-to-person payments was**
18 **used, but they were certainly talking about, you**
19 **know, how can we, you know, take electronic**
20 **payments and how can we make them at the**
21 **individual consumer level as opposed to at the**
22 **consumer to business or business to consumer**
23 **level.**
24 Q. Because with your online banking, for example,
25 product, a customer can transfer funds

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1 electronically from an account they hold at
2 Intrust to another account they hold at Intrust
3 Bank, correct?
4 **A. That is correct.**
5 Q. But a person, a customer cannot use the online
6 banking product to transfer electronically funds
7 from their account at Intrust to someone else's
8 account at another financial institution?
9 **A. Actually, there is a product that they can use**
10 **for that, it's -- it's called external**
11 **transfers, and it is -- it rides the ACH rails,**
12 **and a customer can transfer from their Intrust**
13 **account using the ACH rails to an account at**
14 **another financial institution.**
15 Q. And I was told by one of the other witnesses
16 called by your company, Ms. Elliott, that that
17 is limited to transferring funds from an account
18 that the customer holds at your bank, Intrust,
19 to an account that same customer holds or
20 controls at another bank; is that correct?
21 **A. I don't know what she said. I know that from a**
22 **risk perspective, we encourage customers to only**
23 **do those transfers, those external transfers**
24 **from owned accounts to owned accounts. But**
25 **there is no control in place that would prevent**

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1 **me from getting the account information from a**
2 **friend who banks at Bank of America and using**
3 **that external transfer product transferring from**
4 **my Intrust account that I own to the account my**
5 **friend owns at Bank of America.**
6 Q. Your responsibilities don't include management
7 of the external transfer function, do they?
8 **A. They -- they do actually --**
9 Q. They do?
10 **A. -- I manage the technology component.**
11 Q. Okay. Let's talk about bill payment services.
12 Your online banking service allows customers to
13 add on a bill pay service; is that correct?
14 **A. That is correct.**
15 Q. Okay. Are there bill payment services that are
16 offered in the marketplace by companies which
17 are not banks?
18 **A. I am not sure.**
19 Q. Are you familiar with Quicken?
20 **A. Yes, I am.**
21 Q. Does Quicken offer a bill pay product?
22 **A. I don't know if Quicken still has their**
23 **stand-alone product or not.**
24 Q. But they did at one point, to your knowledge?
25 **A. I do believe at one point they had a stand-alone**

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1 **product for their bill payment.**
2 Q. That would allow a customer to pay their -- his
3 or her bills --
4 **A. That's correct.**
5 Q. -- electronically? And Quicken is not a bank;
6 is that correct?
7 **A. That I -- actually, I don't know their legal**
8 **status, but I think that's correct.**
9 Q. In your view, does Quicken provide banking
10 services?
11 **A. I think Quicken provides services that some**
12 **customers would view as banking services.**
13 **MR. NGUYEN:** I think I'm on 125.
14 **THE REPORTER:** 125.
15 (Deposition Exhibit Number 125
16 Marked for Identification.)
17 **BY MR. NGUYEN:**
18 Q. I'm going to show you a document we'll mark as
19 Exhibit 125, excuse the slight dampness of it,
20 it's Bate marked 0147 through 0150, and it is a
21 document marked Personal Financial Manager Bill
22 Pay and Transfer Service Terms and Conditions.
23 Are you familiar with this document?
24 **A. Yes, I am.**
25 Q. And this is a set of terms and conditions that I

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1 as an Intrust Bank customer would have to accept
2 if I want to use the bill pay service and
3 transfer service through a personal financial
4 manager, as it's described, such as Quicken or
5 QuickBooks, on the Intrust Bank website; is that
6 correct?
7 **A. That is correct.**
8 Q. So maybe you can describe for me when a customer
9 would have to accept these terms and conditions.
10 **A. Customers would have to accept these terms and**
11 **conditions either when they chose to enroll for**
12 **our Quicken Direct Connect product, as opposed**
13 **to Web Connect product, and it's possible that**
14 **they might have to accept this document when**
15 **they sign up for the Intrust online banking bill**
16 **pay pro -- oh, no, excuse me. No, no, this is**
17 **exclusively for the Quicken Direct Connect**
18 **product.**
19 Q. All right. And what is the Quicken Direct
20 Connect product?
21 **A. Quicken Direct Connect is a technology term used**
22 **by Intuit for one of their methods by which**
23 **customers using their Quicken software, Intuit**
24 **software, can connect to their bank data. And**
25 **there used to be three methods, there was Direct**

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1 **Correct, Web Connect, and then there was like a**
2 **QIF download; now it's just really Direct**
3 **Connect and Web Connect. We offer both**
4 **technologies.**
5 **The Direct Connect, though, customers get**
6 **set up with user credentials, and they can, from**
7 **a PC with Quicken software and the Internet and**
8 **these credentials, directly pull Intrust Bank**
9 **account data down into their Quicken software**
10 **for reconciliation purposes. Then they can also**
11 **originate bill payments directly from their**
12 **Quicken software, and it goes into this -- it**
13 **goes into another FIS bill payment engine like**
14 **the one that powers the Intrust online banking**
15 **bill payment engine. Technically, it is set up**
16 **as a separate bill payment entity in the FIS**
17 **technology, but it is the same fundamental**
18 **engine.**
19 Q. So if I am a customer of Intrust Bank and I've
20 signed up for personal online banking with your
21 bank and then I've also signed up for bill pay,
22 I can also integrate the Quicken connect
23 application into your bill pay service; is that
24 correct?
25 **A. Correct, you can use Quicken through Direct**

1 **Connect to integrate into our bill pay**
2 **capabilities.**
3 Q. Right. So there is maybe some smaller, you
4 know, some subset of your customers who think,
5 hey, I like using Quicken still and I want to
6 use Quicken in an integrated fashion with your
7 bill pay service?
8 **A. That's correct.**
9 Q. And if so, I would accept this set of terms and
10 conditions in Exhibit 125?
11 **A. That is correct.**
12 Q. Okay. And so this is what you mean by you're
13 unsure of whether or not Quicken has a separate
14 stand-alone bill pay product because the
15 products can be integrated with a bank's bill
16 pay product?
17 **A. No, what I mean was several years ago Quicken**
18 **used to offer -- you know, customers could come**
19 **in, buy off the shelf the Quicken software.**
20 Q. Okay.
21 **A. They could put in whatever DDA account**
22 **information they wanted, and then what -- at the**
23 **time, what you could do is send your payment**
24 **instruction to Intuit, probably through one of**
25 **their agent bank relationships, to initiate**

1 **payments against your account. And what they**
2 **would do is they would do an ACH offset against**
3 **your account at whatever bank, and then they**
4 **would use their third-party provider as the bill**
5 **payment engine. So the difference between what**
6 **Intuit was offering and what we're doing is**
7 **we're saying we're hooking the Quicken software**
8 **into the FIS bill pay engine.**
9 Q. Got it. And Intuit is another provider of bill
10 payment services; is that correct?
11 **A. I don't know if Intuit is actually, you know,**
12 **producing the payments and running the engine or**
13 **if they went out and used a third party for**
14 **that, I don't know.**
15 Q. They provide a product called Paytrust, are you
16 familiar with Paytrust?
17 **A. The name is familiar, but I don't know the**
18 **details.**
19 Q. Are you familiar with a product called MSN Bill
20 Pay from Microsoft?
21 **A. No, I'm not.**
22 Q. You, at least, are familiar with Quicken's bill
23 pay applications?
24 **A. Yes.**
25 Q. Let's talk quickly about direct deposit of funds

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1 into customer bank accounts. Are there nonbanks
2 who engage in direct deposit of funds into
3 customer bank accounts?
4 **MR. NORTON:** Object to incomplete
5 hypothetical.
6 **A. Where -- are you saying Intrust customer**
7 **accounts?**
8 **BY MR. NGUYEN:**
9 Q. Any banks?
10 **A. So say that again.**
11 Q. Sure. Are there nonbanks, to your knowledge,
12 that engage in directly depositing funds into a
13 bank account of a bank customer?
14 **MR. NORTON:** Same objection.
15 **A. I do not -- I am not aware of any.**
16 **BY MR. NGUYEN:**
17 Q. What about payroll services such as ADP, they
18 directly deposit funds into a customer's bank
19 account, right, that is wages from an employer?
20 **MR. NORTON:** Same objection.
21 **A. Well, I guess where I'm having the disconnect or**
22 **maybe where I'm misunderstanding you, you know,**
23 **a payroll processor such as ADP, or something**
24 **like that, they are, you know, handling the**
25 **transaction, as it were, but the source of funds**

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1 **is the customer that signed up for the payroll**
2 **services, and the destination, sometimes it's a**
3 **bank account, sometimes it's a general purpose**
4 **reloadable card, whatever else. So I guess what**
5 **my -- my classification, I guess, is that, yes,**
6 **ADP, you know, processes ACH transactions.**
7 **BY MR. NGUYEN:**
8 Q. Right, directly deposit funds from an employer
9 into an employee's bank account?
10 **A. Yes.**
11 **MR. NORTON:** Same objection.
12 **BY MR. NGUYEN:**
13 Q. And that's a fairly common practice these days
14 as employees often like to get their wages
15 deposited through direct deposit?
16 **A. Yes. We have a number of customers that we**
17 **process direct deposits for.**
18 Q. Okay. And is that process through payroll
19 services?
20 **A. Actually, we originate those transactions**
21 **ourselves.**
22 Q. Are you familiar with the term money service
23 business?
24 **A. Yes, I am.**
25 Q. What's a money service business?

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1 **A. A money service business, to my understanding,**
2 **is one that's engaged in providing cash to**
3 **customers, usually the general public, based**
4 **upon some underlying transfer or transaction**
5 **that has, you know, moved the money from one**
6 **place to whatever location the MSB that the**
7 **person is at trying to withdraw cash.**
8 Q. Are there money service businesses that are
9 banks?
10 **A. I do not know.**
11 Q. Are there nonbank money service businesses?
12 **A. Yes, there are.**
13 Q. Can you give me an example of some?
14 **A. I don't know the names for certain. I -- oh,**
15 **there's -- there's one, I'm blanking on the**
16 **name, there's one that's local to Wichita. I**
17 **think -- there might be one that's called Speedy**
18 **Cash.**
19 Q. Okay. And is Speedy Cash a money transmitter?
20 **A. I believe that they do transmit funds.**
21 Q. Okay. Are you familiar with the term money
22 transmitter or money remitter?
23 **A. Not specifically, no.**
24 Q. Okay. In the course of your work for Intrust,
25 do you deal with money transmitters?

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1 **A. I don't know -- I'm not sure what your**
2 **definition of money transmitter is.**
3 Q. Well, you mentioned Speedy Cash, you thought,
4 was a money transmitter. Is that a business
5 that is licensed to transmit money for
6 consumers?
7 **A. I'm not sure how Speedy Cash -- I don't know**
8 **anything about their licensing, and I do not**
9 **know the mechanics of how Speedy Cash moves**
10 **funds.**
11 Q. Okay. Do you know if Western Union is a money
12 transmitter?
13 **A. I believe they would be -- by your definition, I**
14 **believe they would be a money trans --**
15 **transmitter.**
16 Q. And a money transmitter is a -- an example of a
17 money service business; is that correct?
18 **A. I don't know if one is the subset of the other.**
19 Q. Let's talk about fraud protection/detection
20 services for a moment. There are nonbanks that
21 provide fraud protection and detection services,
22 correct?
23 **MR. NORTON:** Objection, incomplete
24 hypothetical.
25 **A. I'm not -- I'm not aware of any companies that**

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1 **offer fraud prevention and protection services.**
2 **BY MR. NGUYEN:**
3 Q. None at all?
4 **A. I'm not aware of any off the top of my head that**
5 **offer those services as described, certainly to**
6 **consumers.**
7 Q. But you are aware that your company offers fraud
8 protection services?
9 **A. Our product and services are integrated within**
10 **all of our offerings, so it is not something**
11 **that customers sign up for or, you know, it's**
12 **not something that's on a stand-alone product**
13 **list. It's just an integrated piece of a lot of**
14 **our -- a lot of our services.**
15 Q. Right, because you don't offer some stand-alone
16 fraud protection or detection service using the
17 name Intrust or Intrust Bank that a customer can
18 purchase?
19 **A. No, we do not.**
20 Q. Okay. All of the fraud protection/detection
21 services you described, such as security
22 authentication for online banking, are
23 integrated into a stand-alone product you
24 already offer to customers?
25 **A. They're integrated into all of our offerings and**

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1 **services.**
2 Q. So they're integrated into your online banking,
3 correct?
4 **A. That's correct.**
5 Q. They're integrated into your mobile banking
6 product, correct?
7 **A. Yes, they are.**
8 Q. And that's because websites -- consumers expect
9 websites to protect the security of their data?
10 **A. That's true.**
11 Q. Particularly financial information?
12 **A. Yes.**
13 Q. And so authentication of security and IDs on
14 websites is very common today with web-based
15 accounting, isn't it?
16 **A. I would say, especially because of some of the**
17 **FFIEC regulations for the enhanced**
18 **authentication that came out in 2012 that I**
19 **think there's -- in some respects, some of the**
20 **things that banks are required to do may be a**
21 **little more stringent than some of the**
22 **traditional e-commerce, Amazon-type players.**
23 Q. Right, but when you buy something off an
24 e-commerce site, there's usually some security
25 measures built into the transaction process,

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1 correct?
2 **A. I would assume so.**
3 Q. And from a payment card perspective, that's done
4 in part to comply with the PCI DSS compliance
5 standards, correct?
6 **A. That is correct.**
7 Q. And that's something that virtually every
8 e-commerce site does to protect the security of
9 payment card information that's exchanged
10 through the website, correct?
11 **A. That is correct.**
12 Q. And so there's nothing unique about your company
13 engaging in such security protocols to protect
14 the data transmitted by your customers; is that
15 correct?
16 **A. We are not -- as a financial institution, we are**
17 **not doing anything different than other**
18 **financial institutions.**
19 Q. Right. So every e-commerce site that engages
20 in security protocols to comply with the PCI DSS
21 standards is not offering fraud
22 protection/detection services to its customers,
23 are they?
24 **MR. NORTON:** Objection, incomplete
25 hypothetical, foundation.

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1 **A. I would say that the e-commerce sites are on the**
2 **other side of the equation. They are the**
3 **traditional merchant acquirer of the e-commerce**
4 **transaction; whereas, we are the issuer, the --**
5 **you know, we're holding the funds, we are**
6 **holding the credentials for access to the funds.**
7 **The standards and rules that the merchant side**
8 **of the equation need to live under and process**
9 **under are different than what the issuer or the**
10 **depository institution side need to live under.**
11 **BY MR. NGUYEN:**
12 Q. But compliance with PCI DSS standards is
13 something, as you testified earlier, that these
14 and other card associations expect of your bank;
15 is that correct?
16 **A. They expect us to enforce it as it applies to**
17 **our merchant customer.**
18 Q. Correct. So it's not an independent service you
19 offer to your customers?
20 **A. No, it's not.**
21 Q. And, in fact, a lot of the security mechanisms
22 that you testified about are provided by other
23 companies, such as Falcon through FIS you
24 mentioned?
25 **A. Uh-huh.**

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1 Q. Is that a yes?
2 **A. Well, Falcon is the name of the technology,**
3 **what's the question?**
4 Q. That is a security mechanism that is integrated
5 somehow in your services; is that correct?
6 **A. Falcon is integrated into the payment network**
7 **that processes credit card transactions.**
8 Q. Got it. So it's not unique to your company's
9 product or services?
10 **A. Falcon is a product that several card processing**
11 **companies use with their networks.**
12 Q. That is a branded product offered by FIS, not by
13 your bank?
14 **A. It is offered through FIS. Brand, however, as I**
15 **think we said earlier, is applied to all of our**
16 **products, and the fraud protection piece is a**
17 **component for all of our products.**
18 Q. I was referring to, I guess, the name of their
19 mechanism, Falcon, that's a name that FIS owns
20 and controls?
21 **A. Right. Actually, Falcon is a name of the**
22 **technology. FICO is the company that actually**
23 **owns Falcon.**
24 Q. Okay.
25 **A. And then FICO, in turn, sells Falcon technology**

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1 **to multiple processors.**
2 Q. Got it. And in that video you were asked to
3 watch, which was Exhibit, I believe, 81?
4 **MR. NORTON:** 80 -- 82.
5 **MR. NGUYEN:** Okay. Let me get to
6 that.
7 (Discussion held off the record.)
8 **BY MR. NGUYEN:**
9 Q. So Exhibit 81, the video that you watched,
10 Mr. Morrison, that was a video describing how
11 customers should -- can trust Intrust because in
12 the example given in the video, a customer
13 received a call from Intrust telling her her
14 debit card had been stolen?
15 **A. Correct.**
16 Q. That's not a independent product or service that
17 Intrust Bank sells, is it?
18 **A. We do not sell the fraud protection services**
19 **independently of our other services.**
20 Q. It is something you do for customers who have a
21 checking account for you -- with your bank?
22 **A. We -- the description that was -- or the**
23 **transaction or the circumstances of the video, I**
24 **should say, they were actually tied to a debit**
25 **card --**

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1 Q. Uh-huh.
2 **A. -- relationship. We -- most of our checking**
3 **account customers do have debit cards, but it's**
4 **not a one-to-one relationship.**
5 Q. And the debit cards carry the Intrust or Intrust
6 Bank mark on them, correct?
7 **A. That's correct.**
8 Q. And so you don't market separately some product
9 or service that relates to financial fraud
10 prevention or detection using the mark Intrust
11 or Intrust Bank?
12 **A. That's correct.**
13 Q. Or any other variation of Intrust?
14 **A. That's correct.**
15 Q. You talked also earlier about gift cards and
16 prepaid cards. Those are examples of
17 stored-value cards; is that correct?
18 **A. That's correct.**
19 Q. Okay. And can nonbanks sell or offer gift
20 cards?
21 **A. Yes, they can.**
22 Q. All right. And can you give me examples of any
23 companies that you know of that offer or sell
24 gift cards that are not banks?
25 **A. I think the biggest example is Green Dot. There**

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1 **are other multiple examples, you know, that you**
2 **see a lot of times in some of the big box**
3 **retailers, the Wal-Marts, the Targets,**
4 **et cetera.**
5 Q. Right. So you can go in there and buy, for
6 example, $100 Target gift card?
7 **A. Correct.**
8 Q. That is a set amount?
9 **A. Correct.**
10 Q. Not reloadable?
11 **A. Actually, I think there are also some reloadable**
12 **cards that you can purchase at some of the**
13 **retailers.**
14 Q. So, for example, Starbucks offers reloadable
15 prepaid cards?
16 **A. I believe that's correct.**
17 Q. And Walgreens does?
18 **A. Not sure about Walgreens.**
19 Q. And there are prepaid Visa and MasterCards, is
20 that correct, that are offered on the market?
21 **A. That's correct.**
22 Q. Okay. And those are sold at grocery stores, for
23 example?
24 **A. Yes, that's correct.**
25 Q. And other retailers?

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1 **A. Yes.**
2 Q. Okay. Are there issuers of such prepaid
3 reloadable Visa brand cards that are not banks?
4 **MR. NORTON:** Objection, incomplete
5 hypothetical and foundation.
6 **A. Actually, I'm not sure that the term issuer is**
7 **appropriate because I believe there does have to**
8 **be, under the Visa rules, a bank issuer for**
9 **those plastics.**
10 **BY MR. NGUYEN:**
11 Q. Good point. So -- but they -- you have seen
12 them offered or sold by companies that are not
13 banks?
14 **A. I have seen retailers sell those cards.**
15 Q. And are you aware of prepaid phone cards?
16 **A. Yes.**
17 Q. For example, have you seen or heard of Verizon
18 offering a prepaid phone card?
19 **A. It's been a few years since I've seen one**
20 **personally.**
21 Q. And how does -- how would a customer use a
22 prepaid phone card?
23 **A. I'm not sure.**
24 Q. But to your understanding, that's purchasing a
25 phone card with a prepaid amount for wireless

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1 service?
2 **A. I -- I don't know.**
3 Q. Okay. They're offered by telecommunication
4 companies; is that right?
5 **A. Correct, I believe so.**
6 Q. Which are not banks?
7 **A. That's correct.**
8 Q. Walk me through the process by which a customer
9 has to enroll in or sign up for your personal
10 banking service. So as I understand it, to have
11 an online banking account with your bank, I
12 first need to have a checking account with your
13 bank; is that correct?
14 **A. Actually, the very first thing you really need**
15 **to have, and this is more from a technical**
16 **perspective, is we first have to have that**
17 **customer record, that CIS record that I**
18 **mentioned in the document, and so you can either**
19 **create that customer relationship with us by**
20 **coming into one of our banking centers, or you**
21 **can do it online through, we call it the online**
22 **account creation process.**
23 Q. Okay. If I do it online, at some point, does
24 the bank need me to do anything to verify my
25 identity?

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1 **A. Yes, we ask you to provide personal information,**
2 **although at the initial on-boarding process**
3 **there is not a true authentication process**
4 **because at this point we don't have any data to**
5 **authenticate you against.**
6 Q. So in that scenario, do I have to then come
7 physically into one of your branches?
8 **A. No.**
9 Q. Okay. How would you authenticate my identity?
10 **A. What we do is we gather your information, we run**
11 **it up against systems, I believe Chex Systems is**
12 **the third-party service provider that we do. We**
13 **validate those data points, see if there's any**
14 **red flags as to whether or not that might be**
15 **fraudulent or stolen identity, and then we have**
16 **some risk mitigation controls that might limit**
17 **your funds availability upon your initial**
18 **opening. But you can create the online customer**
19 **record, create your account, and create your**
20 **online credentials all in one process.**
21 Q. What type of information do I have to submit if
22 I do this online?
23 **A. Usually we need, you know, full contact**
24 **information, name, address, we do need Social.**
25 **We then --**

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1 Q. Social Security?
2 **A. Correct, I'm so sorry, Social Security number.**
3 **We then also do need -- we will ask you some of**
4 **those out-of-wallet questions like I described**
5 **as part of the other authentication process, and**
6 **then we will ask you for whatever your initial**
7 **funding source will be for your account.**
8 Q. And do I have to actually provide the funds at
9 this point?
10 **A. I don't recall if you have to provide them right**
11 **away or if -- but I think there might be a**
12 **process if you don't provide the funds right**
13 **away, we might close your account after a**
14 **certain number of days just because clearly this**
15 **was a dropped relationship and they were just --**
16 **weren't interested.**
17 Q. Do you have any estimate as to the length of
18 time it takes on average for a potential
19 customer to complete an online application to
20 open an account?
21 **A. I don't have the exact metrics on that, but my**
22 **estimation is it's, you know, under -- under**
23 **five minutes.**
24 Q. Okay. And then you have to go through an
25 identity verification process, how long does

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1 that take your bank?
2 **A. That's -- it's realtime within the online**
3 **account creation process. The review of the**
4 **Chex Systems pull and the questions that get**
5 **pulled up, that's all done realtime. I think we**
6 **may have some backroom processes to review and**
7 **look for anything suspicious, but that happens**
8 **behind the scenes, the customer doesn't see**
9 **that.**
10 Q. How long does it take, then, in that process
11 with the online mechanism to open an account?
12 **A. Again, I think the online mechanism is, you**
13 **know, under ten minutes to -- to do the initial**
14 **customer setup, initial account, and choose your**
15 **funding mechanism.**
16 Q. Is there, for example, a delay before the
17 account is actually active for you to complete
18 the identity verification process?
19 **A. No, it's realtime.**
20 Q. Then the alternate process is I can physically
21 walk into a branch and open an account?
22 **A. That's correct.**
23 Q. And deposit funds at that time?
24 **A. That's correct.**
25 Q. And then once I have the customer record, then I

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1 can then enroll in personal online banking?
2 **A. That's correct.**
3 Q. Do I have to go through an enrollment process
4 there?
5 **A. Yes, you do.**
6 Q. To create a user ID and password?
7 **A. Correct.**
8 Q. Answer some security questions that are set up?
9 **A. You can either answer some security questions or**
10 **you can provide some information about the**
11 **account that has already been created.**
12 Q. And then if I want to enroll in bill pay, I have
13 to go through another enrollment process before
14 I can use your bill pay service after I've set
15 up personal online banking?
16 **A. Yeah, the bill pay enrollment process, though,**
17 **is just an affirmative, yes, I want it, agree to**
18 **the terms and conditions; or, no, I don't.**
19 **There are no additional questions,**
20 **qualifications; it's just opting into the**
21 **service.**
22 Q. And then once I set up online bill pay, in order
23 to pay bills, I actually have to set up the
24 payees, the company, for example, to whom I want
25 to send payments?

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1 **A. That is correct.**
2 Q. For example, the utility company name and my
3 account number?
4 **A. That's correct.**
5 Q. If I want to use your mobile banking service, I
6 have to go through another step, which is after
7 I've enrolled in the online, personal online
8 banking, I have to download your mobile app to
9 my smartphone; is that correct?
10 **A. That's correct.**
11 Q. And then once I do that, I have to enroll in
12 mobile banking on the mobile device?
13 **A. That -- you can either on -- there is a process,**
14 **you can either choose to complete the process**
15 **through the mobile device, or you can choose to**
16 **go into the personal online banking and attach**
17 **the mobile device number to your online account.**
18 **But there is a process, but you can either --**
19 **you can do it through either avenue.**
20 Q. And each of these steps along the way to create
21 an account or to enroll in online banking, bill
22 pay or mobile banking, I would see the Intrust
23 or Intrust Bank name, correct?
24 **A. That is correct.**
25 Q. And I would also have to go through various

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1 security authentication -- ID authentications,
2 security measures to make sure I'm accessing the
3 right account?
4 **A. Correct.**
5 Q. And the reason you do that is to keep accounts
6 secure, right?
7 **A. To -- well, to keep accounts and customer**
8 **information secure. It's the authentication**
9 **piece is the -- is the key.**
10 Q. And those security measures and authentication
11 measures are designed to prevent a customer from
12 accessing the wrong account; is that correct?
13 **A. Well, it's designed to really prevent the**
14 **noncustomer from accessing a customer's**
15 **information.**
16 Q. Okay. So a noncustomer from intentionally
17 accessing a customer's information?
18 **A. Correct.**
19 Q. But it would also prevent customers from
20 inadvertently accessing the -- another person's
21 account?
22 **A. Correct.**
23 Q. Whether intentionally or accidentally?
24 **A. Correct.**
25 Q. Would you agree with me that if another online

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1 payment service or peer-to-peer payment service
2 had a similar name as your company that it would
3 be virtually impossible for a user of that
4 service to access incorrectly an online or
5 mobile account with your bank?
6 **MR. NORTON:** Object to foundation,
7 incomplete hypothetical, and speculation.
8 **A. So could you restate that?**
9 **BY MR. NGUYEN:**
10 Q. Sure. If there was another company out there
11 that had a name similar to your bank's name and
12 they offered some type of online account or
13 payment service, are you concerned that one of
14 your customers might be confused into trying to
15 access one of your bank's accounts if they
16 thought they were going to the other company?
17 **MR. NORTON:** Same objection.
18 **A. I think my concern would be that a customer**
19 **would give the confusing site information that I**
20 **don't want them to be giving, whether that's**
21 **user credentials, whether that's account**
22 **information, or whether that's personal**
23 **information.**
24 **BY MR. NGUYEN:**
25 Q. But you have a number of security protocols in

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1 place on your site to make sure people don't
2 even log into an online or mobile account unless
3 they verify their identity?
4 **A. Well, those are authentication pieces. But,**
5 **again, I wouldn't -- I wouldn't want any of my**
6 **customers even giving, you know, just simple**
7 **user ID. You know, there's lots of situations**
8 **out there where, you know, the phishers, the**
9 **information gatherers are trying to gather any**
10 **information they possibly can to try to perform**
11 **any type of an account takeover. I wouldn't**
12 **want anything out there where my customers would**
13 **be confused in thinking, oh, I really am dealing**
14 **with Intrust and so it's okay to give them my**
15 **name, my street address, or my user name or --**
16 **or whatever it is.**
17 Q. Will a user name with your online or mobile
18 banking accounts and password work on another
19 company's online authentication system?
20 **A. I have no idea how another company might be set**
21 **up.**
22 Q. Well, the password and user name that are set up
23 with online mobile banking by customers with
24 your bank, that is a unique combination that the
25 customer sets up for your bank, right?

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1 **A. Actually, unfortunately I don't know that to be**
2 **true because there is some trends out there in**
3 **some of the security comments and, you know,**
4 **public -- or consumer education fronts where**
5 **people have been using the same user name and**
6 **passwords on multiple sites. And so there's**
7 **actually a lot of literature out there about**
8 **how -- you know, telling customers, telling the**
9 **public, don't use, you know, full name and**
10 **password password, don't use the same data and**
11 **credentials everywhere they go.**
12 Q. Does your enrollment process forewarn your
13 customers to not use a user name and password
14 that they may have used on another site?
15 **A. I'd have to double-check our security**
16 **questionnaire. I know we have given that advice**
17 **in some context, but I don't know if it's been**
18 **incorporated into our security FAQs.**
19 Q. Let's talk about person-to-person payments now.
20 When did you first begin, your company first
21 begin investigating a person-to-person payment
22 product? I believe you said it was in 2010; is
23 that right?
24 **A. 2010 is really when the topic, you know, first**
25 **started -- started, you know, being discussed in**

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1 **product meetings, in -- in the strategy**
2 **meetings, things like that.**
3 Q. Now, you are considering entering into an
4 agreement with FIS to use its People Pay
5 product, correct?
6 **A. That is correct.**
7 Q. And People Pay is the name that is the product
8 used by FIS, correct?
9 **A. Correct.**
10 Q. That's its, I guess, trademark or brand name?
11 **A. Yeah, I don't know what they would -- what**
12 **status they applied to it, but they are the ones**
13 **that have presented the name.**
14 Q. And FIS uses the People Pay product with other
15 financial institutions besides your bank,
16 correct?
17 **A. That is correct.**
18 Q. And also using the name People Pay?
19 **A. That is correct.**
20 Q. And is -- have you seen demos of the product at
21 work?
22 **A. Yes, I have.**
23 Q. And does the name People Pay actually appear in
24 the product screens visible to a user?
25 **A. I don't recall.**

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1 Q. Take a look at Exhibit 57 in the binder.
2 **A. Exhibit 57?**
3 Q. Yes.
4 **A. Okay.**
5 Q. It's the deck from FIS.
6 **A. Okay.**
7 Q. People Pay update, June 2013.
8 **A. Okay.**
9 Q. If I can find the page to direct you to. Turn
10 to page 772 of that deck.
11 **A. 772?**
12 Q. Yeah. It's those numbers at the bottom in the
13 middle, it says 0772.
14 **A. Okay. Just a second. Okay.**
15 Q. Okay. And there there is a sample landing page
16 for what would happen if an unregistered user
17 were to receive a notification about a payment?
18 **A. Uh-huh.**
19 Q. And you see there there's a reference to what is
20 People Pay on the landing page?
21 **A. Uh-huh.**
22 Q. Do you see that?
23 **A. I do.**
24 Q. Have you seen this before?
25 **A. Yes, I have.**

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1 Q. Okay. And this is, as I understand it, what
2 happens if someone who's not already registered
3 for the People Pay service receives a
4 notification that a sender has sent them money?
5 **A. Correct.**
6 Q. And then they click on a link and it takes them
7 to this landing page?
8 **A. Correct.**
9 Q. And here they are informed what is People Pay,
10 do you see that?
11 **A. I do.**
12 Q. And that's to educate them about what People Pay
13 is in case they don't know what it is since
14 they're not registered; is that correct?
15 **A. That is correct.**
16 Q. Let's actually walk through this document, I
17 have some questions. If you turn to the third
18 page of the document, it is Bate marked 0751.
19 This screen says, or this slide says
20 alternatives continue to expand?
21 **A. Correct.**
22 Q. And this is a compilation that FIS prepared to
23 demonstrate alternative payment methods; is that
24 correct?
25 **A. That is correct.**

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1 Q. So are these all -- are the brands listed on
2 this deck, to your knowledge, alternate forms of
3 person-to-person payments?
4 **A. Actually, they're not all person-to-person**
5 **payments. I think they are, you know, broader**
6 **than the person-to-person space.**
7 Q. Got it. So different forms of electronic funds
8 transfer of some type?
9 **A. Right, specifically MCX is a good example.**
10 Q. Okay.
11 **A. You know, those are not -- concurrently, the**
12 **model is not, you know, person to person; they**
13 **are the person to business.**
14 Q. Got it. And so this references Google Wallet,
15 correct?
16 **A. Uh-huh. Yes, it does.**
17 Q. Dwolla?
18 **A. Yes.**
19 Q. Are you familiar with Dwolla?
20 **A. I -- just basic familiarity. I know they're out**
21 **of Iowa, I believe.**
22 Q. And are they a bank?
23 **A. Actually, I don't know what their status was. I**
24 **think some of their founders were former**
25 **bankers, but I don't remember if they used the**

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1 **bank structure for their corporate structure or**
2 **not.**
3 Q. LevelUp and Isis are listed on here as well?
4 **A. Yes.**
5 Q. Are either of those banks?
6 **A. I'm not -- I don't recognize LevelUp. Isis is**
7 **not a bank, they are a consortium.**
8 Q. Correct. MCX is not a bank?
9 **A. That's correct.**
10 Q. Starbucks is not a bank?
11 **A. That's correct.**
12 Q. So these are all examples of alternative payment
13 methods?
14 **A. Correct.**
15 Q. If you turn to page 757 in the document. On
16 that page under the side that says FI benefits,
17 the last bullet point says, compete with
18 nontraditional payment providers. Do you see
19 that?
20 **A. Yes, I do.**
21 Q. Do you have any understanding about what
22 nontraditional payment providers are?
23 **A. I do.**
24 Q. What are they?
25 **A. The nontraditional payment providers are, within**

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1 **the context of this document, the companies that**
2 **FIS feels are offering services that our**
3 **customers might perceive as something that we**
4 **could provide, should provide, a competing**
5 **service.**
6 Q. So can you -- can you give me an example of a
7 nontraditional payment provider?
8 **A. I think FIS' intention within their context was**
9 **to reference back to the entities that you**
10 **pointed out in the earlier slide.**
11 Q. On page 751 such as Google Wallet?
12 **A. That is correct.**
13 Q. All right. And other nonbank institutions?
14 **A. That is correct.**
15 Q. And so part of the selling point from FIS to
16 your bank of using the People Pay product is for
17 your bank to compete with other non -- with --
18 to compete -- strike that. One of the selling
19 points that FIS made to your bank to begin using
20 the People Pay product is so that your bank
21 could begin competing with nontraditional
22 payment providers?
23 **A. That is correct.**
24 Q. Because the person-to-person service is not a
25 service your bank has traditionally provided in

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1 the past?
2 **A. We have not provided the person-to-person**
3 **service as envisioned with this methodology and**
4 **this implementation.**
5 Q. Okay. Turn to slide 760, 0760 in the document.
6 **A. Okay.**
7 Q. It is a slide entitled FIS Mobile, colon, People
8 Pay, and there are screen shots of a mobile app.
9 Have you seen this?
10 **A. Yes, I have.**
11 Q. And have you seen demos of the People Pay mobile
12 application?
13 **A. Yes, I have.**
14 Q. Okay. And is this familiar as to what you have
15 seen in terms of a demonstration?
16 **A. It is similar to what I have seen for the**
17 **demonstration.**
18 Q. All right. And on the first screen shot on the
19 left, there's a red box around People Pay. Do
20 you see that?
21 **A. Yes, I do.**
22 Q. Okay. Is this your understanding of how a
23 mobile app for this product would look to a
24 consumer once implemented by your bank?
25 **A. Yes, it is.**

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1 Q. Okay. So describe for me how I as a consumer
2 would get to this screen if I -- once you
3 implement People Pay with your bank, it'll be
4 integrated into the personal online banking
5 product; is that correct?
6 **A. Actually, the full integration would be into**
7 **both Intrust personal online banking and into**
8 **the Intrust mobile banking product.**
9 Q. So let's focus on mobile since the example in
10 front of us is mobile.
11 **A. Okay.**
12 Q. So if I were to launch my Intrust mobile banking
13 application, one of the options at some point
14 will become People Pay; is that right?
15 **A. That is correct.**
16 Q. And will it say People Pay?
17 **A. I do not know what the branding is going to be**
18 **at this point.**
19 Q. Okay. In the demos you've seen, it's referenced
20 as People Pay?
21 **A. That is correct.**
22 Q. And then if I click on People Pay in your mobile
23 application, where will the application take me
24 at that point?
25 **A. The intention is to, as soon as you tap the**

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1 **People Pay or whatever the icon ends up getting**
2 **branded, it brings up the next window, which in**
3 **this diagram is labeled Send Money.**
4 Q. Got it. So the second diagram?
5 **A. Correct.**
6 Q. So on the first screen shot, the FIS logo is up
7 top?
8 **A. Correct.**
9 Q. Would that be visible to users in your mobile
10 app?
11 **A. No.**
12 Q. But People Pay will be visible?
13 **A. I don't know. The -- FIS has the branding**
14 **capabilities within the mobile banking app, so**
15 **for Intrust, our mobile banking app, instead of**
16 **FIS, it says Intrust Bank. And what I don't**
17 **know until we get into the implementation**
18 **project, will we want to re-brand People Pay,**
19 **number one, or, number two, will we have the**
20 **option to re-brand People Pay.**
21 Q. You may -- because you don't know from FIS
22 whether they'll let you re-brand People Pay?
23 **A. That's correct.**
24 Q. And do you know whether FIS will let you replace
25 the FIS logo in the mobile application?

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1 **A. Yes, we -- we have already done that.**
2 Q. Will any part of this application product say
3 that it's powered by FIS?
4 **A. I do not believe in -- I think -- I don't**
5 **believe there's anything in our mobile banking**
6 **app now that says powered by FIS.**
7 Q. Have you had discussions with FIS about whether
8 the FIS name will appear in the mobile
9 application in connection with the People Pay
10 product?
11 **A. No, we haven't had any discussions about that.**
12 **Historically, our relationship with FIS, they**
13 **have been very aware of -- of brand sensitivity,**
14 **and my personal experience has been, with them,**
15 **especially from their technology perspective,**
16 **they do strive very hard to give their customers**
17 **the opportunity to brand all of their products**
18 **as their perspective customer -- or their**
19 **respective customer.**
20 Q. On that first screen shot next to the People
21 Pay, there's a little graphic icon of a
22 caricature of a person with a dollar sign in it?
23 **A. Yes.**
24 Q. Do you know if that's how FIS graphically
25 represents People Pay?

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1 **A. I don't know if that version or if that icon is**
2 **still used today.**
3 Q. Okay. Does a customer, once I begin using the
4 People Pay service in your mobile application,
5 do I have to accept any special terms or
6 conditions?
7 **A. We haven't gotten to the point yet of terms and**
8 **conditions, so I really can't answer at this**
9 **point.**
10 Q. Do you know if FIS expects you to implement
11 additional terms and conditions that a customer
12 must accept in order to use the People Pay
13 product?
14 **A. I don't know.**
15 Q. One of the reasons your bank has not offered
16 person-to-person payments before is because your
17 bank doesn't have the technological capability
18 itself to do so; is that correct?
19 **A. We've chosen to not make the investment to**
20 **develop the technology or the product ourselves.**
21 Q. Okay. And so instead, you decided it's better
22 to contract with a technology provider such as
23 FIS?
24 **A. That is correct.**
25 Q. Okay. Once I click onto the People Pay tab and

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1 go to Send Money, whatever the next screen is,
2 will I as a user still be within your mobile
3 application?
4 **A. Yes.**
5 Q. Will that part of your mobile application be
6 powered by FIS?
7 **A. Yes, it'll still be the same technology.**
8 **mFoundry is the company, you know, that I**
9 **mentioned earlier that FIS purchased, mFoundry**
10 **developed the mobile banking app, and so we are**
11 **still going to be living inside the mFoundry**
12 **technology.**
13 Q. Got it. Turn to page 762 in the document.
14 **A. Okay.**
15 Q. There's a slide there with some more bullet
16 points about the People Pay solution from FIS,
17 and the last one says better than non-FI
18 alternatives. Do you see that?
19 **A. I do.**
20 Q. And does that reference better than nonfinancial
21 institution alternatives?
22 **A. Yes, it does.**
23 Q. Okay. And do you have an understanding as to
24 what that was meant to reference?
25 **A. I'm not familiar with what FIS was specifically**

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1 **trying to say with that bullet.**
2 Q. They used this to communicate, try to sell the
3 product to you; is that right?
4 **A. That is correct.**
5 Q. Okay. What did you understand it to mean when
6 you saw this?
7 **A. I don't know that I really gave it a whole lot**
8 **of thought. You know, honestly, it's the fifth**
9 **bullet down on the list, and I kind of wonder if**
10 **maybe they just weren't filling up the slide**
11 **deck.**
12 Q. Does that reference that their product is better
13 than alternatives offered by other nonfinancial
14 institutions?
15 **A. I am sure that the FIS sales team believes that.**
16 Q. Okay. Because there are alternatives offered by
17 nonfinancial institutions to People Pay?
18 **A. I -- yes, there are.**
19 Q. Okay. Can you turn to page 765 in the document?
20 And this is part of an appendix that is
21 described as the People Pay user experience
22 which walks through a user experience with the
23 product. And in the yellow box here, there's a
24 bullet point that says FI branded. Do you see
25 that?

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1 **A. Yes, I do.**
2 Q. Okay. Was it your understanding that the
3 screens and user experience would be branded
4 with your financial institution?
5 **A. Yes.**
6 Q. Okay. Turn to page 769 in the document. This
7 is an example, it's a slide entitled E-Mail
8 Alert, Registered Receiver, and as I understand
9 it, once a sender uses People Pay to send money,
10 if I, the recipient, am already registered with
11 People Pay, then I will receive this form of
12 e-mail; is that correct?
13 **A. That is my understanding as well.**
14 Q. Because I as the recipient -- so FIS requires
15 that the recipient register with FIS in order to
16 receive funds?
17 **A. That is correct.**
18 Q. So when I as a recipient -- so and I'll get a
19 notification that money's been sent to me by,
20 let's say, my friend across the state?
21 **A. That is correct.**
22 Q. And then the first time I receive a People Pay
23 payment, I actually have to go through a
24 registration process with FIS?
25 **A. You have to go through a registration process to**

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1 **accept the funds, correct.**
2 Q. And during that registration process, is it made
3 clear to me that I'm providing data to FIS as
4 opposed to your bank?
5 **A. Actually, I am not sure exactly what branding is**
6 **on -- I think that was on that document on the**
7 **next one, 770.**
8 Q. Okay.
9 **A. I think that's the one for the very first time,**
10 **that's what they mean by the unknown,**
11 **unregistered.**
12 Q. Got it.
13 **A. And so see at the top where it says PG**
14 **financial?**
15 Q. Right.
16 **A. This -- the slide that's intended to reflect**
17 **that that's where we could be branding, and it**
18 **would be Intrust Bank, Sue Smith has sent you a**
19 **payment for $35.**
20 Q. Got it. So once I'm registered with People Pay,
21 this is what I'll get, an e-mail with the brand
22 of your bank?
23 **A. Actually, both, both the unregistered and the**
24 **registered users --**
25 Q. Okay.

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1 **A. -- should see an e-mail with the Intrust**
2 **branding.**
3 Q. So let's turn to the unregistered user e-mail
4 notification, which is on page 770.
5 **A. Okay.**
6 Q. And here the financial institution branding
7 would occur up top?
8 **A. Correct.**
9 Q. And it says, to claim this payment, please go to
10 peoplepay dot, in this example, pgfinancial.com.
11 Do you see that?
12 **A. Correct.**
13 Q. And so would a separate website be set up to
14 direct users to claim payments made through
15 People Pay?
16 **MR. NORTON:** Object to form.
17 **A. I don't have enough information yet on what**
18 **happens next after this slide. They have not**
19 **given us that detail.**
20 **BY MR. NGUYEN:**
21 Q. For example, do you know whether it is your
22 company versus FIS that would operate a website
23 related to the People Pay product for your bank?
24 **A. I don't have enough information to tell you**
25 **where exactly that landing page is going to be.**

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1 Q. Okay. Or who's going to operate it?
2 **A. That's correct.**
3 Q. Okay. And do you see at the bottom there's a
4 logo that says PayNet? Do you see that?
5 **A. Yes.**
6 Q. And that is a payment network being developed by
7 FIS, correct?
8 **A. That is correct.**
9 Q. Unaffiliated with your bank?
10 **A. We -- we have no interest or ownership in**
11 **PayNet.**
12 Q. But as you understand it, that will appear in
13 the e-mail alert sent to an unregistered
14 receiver?
15 **A. I don't know if the PayNet logo will appear or**
16 **not.**
17 Q. Do you have an understanding as to why FIS will
18 require an unregistered receiver to register
19 with its People Pay service before being able to
20 claim a payment?
21 **MR. NORTON:** Object, misstates prior
22 testimony.
23 **BY MR. NGUYEN:**
24 Q. You can answer.
25 **A. I -- I don't have the details of their claiming**

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1 **process. I -- I do know that they, you know,**
2 **require a mechanism to deliver the funds.**
3 Q. They have to get information from the recipient
4 of the funds?
5 **A. That is correct.**
6 Q. And then they would likely store that
7 information for the future?
8 **A. I don't know if the recipient will have an**
9 **opportunity to, you know, sort of, you know,**
10 **have their data purged after this one-time**
11 **transaction or not.**
12 Q. Look at page 0772, and we looked at this
13 earlier, which is the site which it appears an
14 unregistered receiver is directed to?
15 **A. Correct.**
16 Q. Have you seen this sample web page at any demos
17 of the People Pay service?
18 **A. I've seen it -- I don't think I've seen it in a**
19 **demo, but I think I've seen it in this format as**
20 **part of a presentation deck.**
21 Q. So if I'm not registered and I receive an e-mail
22 that someone sent me money through People Pay, I
23 click on a hyperlink and it will take me to a
24 website that will look like this is your
25 understanding?

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1 **A. That is correct.**
2 Q. Okay. And there is a area that's circled that
3 says, does your institutions participate, click
4 here. Do you see that?
5 **A. Yes, I do.**
6 Q. Setting aside the grammar, is -- have you seen
7 what happens if a user clicks there?
8 **A. I have not seen the -- you know, a live demo**
9 **that says, you know, here's where you go.**
10 Q. Right. But is it your understanding that a user
11 can check to see whether their financial
12 institution participates in People Pay?
13 **A. Yes, that's correct.**
14 Q. So if I were to click there, I would get a list
15 of other banks that participate in People Pay?
16 **A. That's correct.**
17 Q. And then it would be made clear to me that
18 People Pay is offered by many banks?
19 **A. I should give you one quick caveat, it's --**
20 Q. Just a second.
21 **A. I'm sorry, restate that question.**
22 Q. So that once I click to that list of financial
23 institutions, it will be clear to me as a user
24 that many banks offer the People Pay service?
25 **A. Well, I don't know, and the reason why I was**

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1 **going to clarify for a second, it is possible**
2 **that they're going to say these are all the**
3 **banks that have People Pay.**
4 Q. Okay.
5 **A. It's also possible that FIS is going to say**
6 **these are all of the institutions that are part**
7 **of PayNet because the PayNet network is one of**
8 **the settlement rails for these People Pay**
9 **transactions. And so, for instance, Intrust has**
10 **already signed up to receive PayNet**
11 **transactions.**
12 Q. Okay.
13 **A. It is possible that the model might be, these**
14 **are all the institutions that participate in**
15 **PayNet, and you don't necessarily have to sign**
16 **up for People Pay, you just have to get enough**
17 **information for the PayNet institution to then**
18 **figure out where that transaction needs to go.**
19 Q. Okay. In fact, if you look on the next page,
20 0773, there's a screen shot for the enter text
21 for verification, there's a PayNet logo at the
22 bottom of that. Do you see that?
23 **A. I do.**
24 Q. Does that tell you that FIS' intent is to
25 include PayNet branding during the flow process

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1 and user experiences for unregistered?
2 **A. I don't know where they're intending to use**
3 **PayNet throughout the process.**
4 Q. I want to refer you to a document we marked
5 yesterday as Exhibit 114, so it's going to be in
6 that loose stack in front of you. Actually, no,
7 let's -- that's -- do you want to take a break
8 real fast?
9 **MR. NORTON:** Sure, sure.
10 (Thereupon, a recess was taken;
11 whereupon, the following was had.)
12 **BY MR. NGUYEN:**
13 Q. All right. Mr. Morrison, can you pull out from
14 the deck of --
15 **MR. NORTON:** Are you through with
16 114?
17 **MR. NGUYEN:** Oh, set that aside for
18 a moment, I want to use something else.
19 **BY MR. NGUYEN:**
20 Q. 117, it was the payments to the people deck.
21 Are you familiar with this presentation deck
22 from FIS?
23 **A. I don't recognize it off the top of my head.**
24 Q. Okay. You don't recall seeing this before?
25 **A. Don't think so but I've seen a lot of the -- of**

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1 **the -- FIS has a lot of collateral for this.**
2 Q. I'm sure. Let me reference you to one page and
3 see if you recognize this --
4 **A. Sure.**
5 Q. -- which is the 12th page of the document, 0747,
6 which is a slide deck entitled Why Everybody
7 Loves FIS People Pay. You see that?
8 **A. I do see the document.**
9 Q. And have you seen that deck slide before?
10 **A. I don't recall seeing this actual slide before.**
11 Q. And so the bullet point of the financial
12 institutions, it says, the last one, stronger
13 competitive edge against nonbank players. Do
14 you see that?
15 **A. I do.**
16 Q. Have you ever heard FIS' representatives tell
17 you that their product will give your bank a
18 stronger competitive edge against nonbank
19 players?
20 **A. I have.**
21 Q. Okay. And is that because there are nonbanks
22 that offer person-to-person payment services?
23 **A. Yes --**
24 Q. And --
25 **A. -- in part.**

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1 Q. -- they believe and they sell their product
2 based on a claim that their product will give
3 you a stronger edge against the nonbank
4 providers of person-to-person payments?
5 **A. I -- I think that's part of their sales process.**
6 Q. Okay.
7 **A. Or part of their sales pitch.**
8 Q. Sure. Now you can look at Exhibit 114 in front
9 of you and look to page 2593. The document is
10 page 6. First of all, have you seen this
11 digital transactions report before?
12 **A. Yes, I have.**
13 Q. Was this a report prepared by Lisa Elliott or
14 her team?
15 **A. I -- I don't remember exactly who prepared it,**
16 **but I do know that it came out of our marketing**
17 **department.**
18 Q. And this was part of your company's exploration
19 of implementing person-to-person payment
20 services?
21 **A. I -- I believe that was part of the question. I**
22 **believe there were other elements to what they**
23 **were analyzing.**
24 Q. Got it. So on page -- starting on page 2593 of
25 the document, 02593, there are some examples of

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1 other services for person-to-person payments
2 such as QuickPay being used by Chase. Do you
3 see that?
4 **A. I do.**
5 Q. In this sample, are you familiar with QuickPay?
6 **A. I'm familiar with Chase. I don't have a direct**
7 **familiarity with their QuickPay product.**
8 Q. What about Popmoney?
9 **A. Same thing, I know U.S. Bank, but I have not**
10 **ever had any personal familiarity with Popmoney.**
11 Q. Do you remember reviewing this report back in
12 2011?
13 **A. Vaguely, yes.**
14 Q. Did you do any investigation into the Popmoney
15 platform developed by CashEdge as a alternative?
16 **A. I'm familiar with CashEdge. I do not recall**
17 **what the research was specifically to Popmoney.**
18 Q. So CashEdge is a company that provides a
19 person-to-person payment technology platform; is
20 that correct?
21 **A. That is correct.**
22 Q. And that's called Popmoney?
23 **A. Oh, yeah, I believe Popmoney is their -- their**
24 **product developed by CashEdge.**
25 Q. So CashEdge is another example of one of the

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1 nonbank providers of person-to-person payment
2 services?
3 **A. I -- I honestly compare CashEdge to more like**
4 **FIS as a third-party service provider.**
5 Q. Okay. Of a technology platform for
6 person-to-person payments?
7 **A. Correct.**
8 Q. And on the next page at the bottom, there's a
9 description of ZashPay provided by Fiserv. Are
10 you familiar with ZashPay?
11 **A. I am familiar with ZashPay.**
12 Q. Is that another person-to-person payment
13 technology platform provided by a nonbank?
14 **A. Yeah, Fiserv is a competitor to FIS, they are**
15 **another core processor, so they are -- I would**
16 **also call them another third-party provider of**
17 **technology.**
18 Q. That is not a bank?
19 **A. That is correct.**
20 Q. Okay. Okay. You can set that aside. I'm going
21 to give you another document.
22 **MR. NGUYEN:** What exhibit number are
23 we on?
24 **THE REPORTER:** I believe we're on
25 126.

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1 (Deposition Exhibit Number 126
2 Marked for Identification.)
3 **BY MR. NGUYEN:**
4 Q. I'm going to show you, Mr. Morrison, what I'm
5 marking as Exhibit 126 as a People Pay handout,
6 March 2013. Have you seen this document before?
7 **A. Let's see. Possibly. I don't recall**
8 **specifically, but it looks similar to several of**
9 **the collateral materials that FIS has prepared.**
10 Q. To provide information about its People Pay
11 product, correct?
12 **A. That is correct.**
13 Q. And that's part of your area of responsibility
14 at the company, right?
15 **A. That is correct.**
16 Q. Okay. If you turn to page 20 -- the first page
17 after the cover, which is Bate marked 02567.
18 **A. Okay.**
19 Q. Under the implementation heading, there's a
20 sentence that reads, there are three types of
21 pages that must be branded in People Pay, the
22 landing page, splash pages, for registered and
23 unregistered users, and modal pages. Do you see
24 that?
25 **A. I do.**

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1 Q. Do you recall any discussion with FIS about the
2 branding of pages in People Pay?
3 **A. Don't have specific recollection of what the**
4 **various branding options are.**
5 Q. Got it. So you couldn't tell me which pages in
6 the People Pay application, whether online or
7 mobile, would carry your Intrust Bank brand or
8 not?
9 **A. I know that -- well, two comments. The online**
10 **banking pages for People Pay --**
11 Q. Uh-huh.
12 **A. -- the -- the branding -- the FIS documentation**
13 **indicates what branding options were available**
14 **at the time of this document.**
15 Q. Okay.
16 **A. And the mobile product branding, my**
17 **understanding is that the Intrust branding that**
18 **already exists for mobile banking would not be**
19 **impacted by any of the additions of the People**
20 **Pay functionality.**
21 Q. Okay.
22 **A. So I am not personally aware of any new landing**
23 **pages specifically related to mobile that**
24 **wouldn't also be covered under the personal**
25 **online banking branding and implementation**

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1 **efforts.**
2 Q. Got it. All right. Will you turn to page 2585
3 in the document?
4 **A. Okay.**
5 Q. And 2585, at the bottom, there's a heading that
6 says frequently asked questions, FAQs, and it
7 says, how does People Pay work. And it says, to
8 get started, all an end user would need to do
9 is, first bullet point, complete a brief
10 registration process; second bullet point, enter
11 the recipient's name, payment information, and
12 where to send the payment, there are three items
13 which have to be entered for that. Do you see
14 that?
15 **A. I do.**
16 Q. Okay. Are you familiar with the brief
17 registration process that is referenced here in
18 this FIS document?
19 **A. I don't know the details of the process, but I**
20 **do know that they've intended for a**
21 **registration -- a registration process.**
22 Q. And that is registration with FIS' People Pay
23 application; is that correct?
24 **A. I believe that the registration is within our**
25 **online banking and bill pay product to add the**

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1 **People Pay capability as an Intrust customer to**
2 **use the service.**
3 Q. Okay. But do you know if that registration
4 information is processed and received by FIS as
5 opposed to your bank?
6 **A. I -- technologically they're one and the same,**
7 **but the -- I believe this information is geared**
8 **towards the Intrust customer who is preparing to**
9 **initiate a transaction.**
10 Q. Okay.
11 **A. And the model is that that Intrust customer is**
12 **on our Intrust online banking to sign up for**
13 **this new feature.**
14 Q. Will that customer then get added into a
15 database that FIS maintains of all people who
16 have registered to use People Pay through any
17 institution?
18 **A. I don't know the answer to that question.**
19 Q. Okay. You can set that aside. Let me ask you
20 some questions about the data we looked at. If
21 you turn to Exhibit 53. Turn to the second page
22 of Exhibit 53, which is the 2013 data you went
23 through in detail earlier today, it is Bate
24 marked 05482.
25 **A. Okay.**

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1 Q. I just have a clarification question. Some of
2 the -- these are monthly columns from January to
3 December with data for each line item. And for
4 some of the statistics, the figures are
5 cumulative for month to month until you get to a
6 total figure in December, is that correct, for
7 the year?
8 **A. That is correct.**
9 Q. But that's not true for all of the line items;
10 is that correct?
11 **A. That is correct.**
12 Q. So, for example, the first line item, total
13 number of consumer customer, CIS records, that
14 figure at the end, 85,934, is the total number
15 of consumer customer records that exist with the
16 bank as of December 2013; is that correct?
17 **A. That is correct.**
18 Q. So it is not, for example, the total number of
19 customer -- consumer customer records with the
20 bank for 2013, it's not an addition of all the
21 monthly figures?
22 **A. That is correct.**
23 Q. And that's true for the number of Consumer
24 e-Banking active customers as well?
25 **A. That is correct.**

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1 Q. So going back to the first line item, total
2 number of consumer customers, 85,934, just so I
3 understand what this reflects accurately, is the
4 total number of different consumers who have
5 some customer record with the bank?
6 **A. That is correct.**
7 Q. Of any type of customer record?
8 **A. We don't have multiple types of customer record.**
9 **What we have is a customer record, and then you**
10 **would have a flag that indicates are you a**
11 **consumer, are you a business --**
12 Q. Okay.
13 **A. -- are you other third-party entity type of**
14 **thing, trust, whatnot.**
15 Q. Got it. Okay. In the Consumer e-Banking bill
16 pay section, the percentage as of December 2013
17 that's reflected in active number of bill pay
18 users is 15.08 percent. Do you see that?
19 **A. Yes, I do.**
20 Q. So that means 15.08 percent of your consumer
21 customers are an active user of the bill pay
22 service?
23 **A. That is correct.**
24 Q. So it's a relatively small percentage; is that
25 right?

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1 **MR. NORTON:** Object to the form and
2 to characterization.
3 **A. Relative to what?**
4 **BY MR. NGUYEN:**
5 Q. To the overall total?
6 **A. I guess I don't -- the -- the percentages that**
7 **we track, we're really more interested in**
8 **trends --**
9 Q. Okay.
10 **A. -- and penetration rate.**
11 Q. Okay. And have you done any analysis of the
12 demographics of your customers who use online
13 banking?
14 **A. I know that there have been some analyses done.**
15 **Most of that, though, has been done by the**
16 **marketing department.**
17 Q. Okay.
18 **A. I personally don't commission any of those**
19 **efforts.**
20 Q. Okay. And does that affect any of the work you
21 do, trying to know who the users are
22 demographically of online banking services?
23 **A. We do -- based upon the information we receive**
24 **from marketing and some of those teams about**
25 **some of the customer demographics, we will go**

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1 **out and research various features and**
2 **functionality based upon some of the indications**
3 **they give us as far as demographic and target**
4 **market.**
5 Q. Earlier, you testified that the number of
6 consumer customers who were using the mobile
7 deposit feature of your mobile banking product
8 was increasing; is that correct?
9 **A. Which -- which descriptor line item?**
10 Q. Talking about the mobile deposit feature. I
11 believe you testified earlier that that was
12 increasing in usage by your customers?
13 **A. That is correct.**
14 Q. If you look at the line that says percentage of
15 total number of consumer customers at FIS --
16 **A. Yes.**
17 Q. -- and in December it was 1.55 percent?
18 **A. That is correct.**
19 Q. And for the months since February, which is
20 reflected, it has been increasing, is that
21 correct, from 1.07 percent?
22 **A. That is correct.**
23 Q. It has only increased less than half of a
24 percentage point; is that right?
25 **A. That is correct.**

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1 Q. And it's still under 2 percent; is that correct?
2 **A. That is correct.**
3 Q. So it has not increased very much?
4 **A. Again, that's in the eye of the beholder.**
5 Q. Earlier you testified about a mechanism in your
6 personal online banking service that a consumer
7 could use to send payments to someone else,
8 there's various methods; is that correct?
9 **A. That is correct.**
10 Q. All right. And one of those methods is through
11 the bill pay service in which you could pay, for
12 example, a utility or other company that issues
13 bills to consumers?
14 **A. That is correct.**
15 Q. And those payments are done electronically; is
16 that correct?
17 **A. The actual mechanism for fulfillment varies**
18 **based upon the individual recipient of the**
19 **funds.**
20 Q. Okay, got it. That can be done in some
21 electronic method?
22 **A. That is correct.**
23 Q. But if I want to pay another individual using
24 your bill pay service, I would have -- an
25 individual name is not going to be among the set

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1 of possible payees that have registered with
2 your online banking service?
3 **A. That is correct.**
4 Q. Those tend to be companies that issue bills to
5 consumers?
6 **A. The electronic recipients are heavily weighted**
7 **towards the commercial recipients.**
8 Q. So if I want to pay an individual using your
9 bill pay service, I have to enter that person's
10 name, address, account information, and
11 potentially phone contact information?
12 **A. The account information is optional.**
13 Q. Okay.
14 **A. The only requirement -- required data is the**
15 **name and address.**
16 Q. Okay. And that person would receive a physical
17 check?
18 **A. That is correct.**
19 Q. Okay. And you would agree with me that is a
20 different type of fund payment service than a
21 person-to-person payment service?
22 **A. The person-to-person payment service as reported**
23 **by FIS is envisioned to still retain the paper**
24 **delivery option, but I believe that the**
25 **intention of the product is to do electronic**

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1 **fulfillment as the primary, preferred**
2 **fulfillment method.**
3 Q. All right. And that's a different method of
4 payment than you currently offer?
5 **A. It is -- it is a new, enhanced service and**
6 **feature.**
7 Q. You also mentioned under business e-banking that
8 businesses can do wire transfers, as well as
9 international wire transfers; is that correct?
10 **A. That is correct.**
11 Q. That's not a service that you market to
12 consumers; is that correct?
13 **A. We market the domestic wire transactions to**
14 **consumers but -- and we do market international**
15 **transactions to consumers. However, we do not**
16 **allow your con -- our consumer customers to**
17 **initiate those transactions via our online**
18 **banking product.**
19 Q. Got it. And you mentioned earlier that using
20 the SWIFT wire transfer system consumers could
21 send a foreign wire transfer?
22 **A. Yes, they can.**
23 Q. And are wire transfers using the SWIFT system
24 provided by nonbanks as well?
25 **A. I do not know for certain.**

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1 Q. Okay. But the IAT, international ACH fund
2 transfer method, is not available at your bank
3 to consumers, correct?
4 **A. That is correct.**
5 Q. Looking back to the data that we referenced, if
6 you look at Exhibit 53 again, at the top, at the
7 section where it says Consumer e-Banking, active
8 consumers last 90 days, the first line under
9 Consumer e-Banking.
10 **A. Okay.**
11 Q. The December figure is 43,139. Do you see that?
12 **A. I do.**
13 Q. If you turn to Exhibit 54, which I understand is
14 the raw data --
15 **A. Correct.**
16 Q. -- for that section of the spreadsheet, Exhibit
17 53, if you go to the last page of Exhibit 54,
18 which is the figures for December 2013, the
19 number of active customers, and this is for your
20 Consumer e-Banking, is listed as 58,227. Do you
21 see that?
22 **A. I do.**
23 Q. Is that -- is there a reason for the discrepancy
24 between the 58,227 figure reported there for
25 December 2013 and the figure in Exhibit 53 for

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1 that same month which is 43,139?
2 **A. Yes.**
3 Q. Can you tell me what the discrepancy is?
4 **A. Yes, the report in Exhibit 54 --**
5 Q. Okay.
6 **A. -- is data reported according to a fundamental**
7 **flag status that FIS uses.**
8 Q. Okay.
9 **A. And so the FIS core system only tracks a status**
10 **of active as opposed to inactive and locked and**
11 **then deleted.**
12 Q. Okay.
13 **A. And their active status, the system for the FIS**
14 **side, we set a longer time frame than 90 days.**
15 **So the FIS system, I believe it's a one-year**
16 **period, and the primary reason we did that is --**
17 **actually, I think we might have gone greater**
18 **than a year. The primary reason we did that is**
19 **we didn't want the system to automatically move**
20 **somebody from active to inactive when it just**
21 **happened to be a customer that only gets in**
22 **every tax year, tax time, whatever else. So we**
23 **didn't want the system to artificially lock**
24 **customers out, so that's from a customer service**
25 **standpoint.**

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1 From a -- the report that's in Exhibit 53
2 is more from a business perspective, who's
3 really using the system. So what we do, that
4 43,000 number is a subset of the 58,227. And
5 the different criteria is we apply -- we apply a
6 filter to the raw data that says go check the
7 last login date from our data -- from our data
8 warehouse and then we take out customers that
9 haven't logged in greater than 90 days.
10 Q. And is that raw figure, the raw data figure of
11 43,139 reflected anywhere in Exhibit 54?
12 A. No, it is not.
13 Q. So how do I know how that was determined?
14 A. The -- you don't have the calculation for that.
15 Again, the starting figure is the 58,227.
16 Q. Okay.
17 A. And then what we have done in our calculations,
18 in the preparation of Exhibit 53 that we do on a
19 monthly basis, we ask our data warehouse team to
20 run the 58,227 number up against the login
21 history dates.
22 Q. Okay.
23 A. And, basically, anybody -- so for the month of
24 December, for instance, anybody out of that
25 58,227 who had a login date greater than 90 --

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1 90 days back, they were pulled out of this
2 value.
3 Q. And you do that for every month reflected on --
4 for 2013 in Exhibit 53?
5 A. That is correct.
6 Q. You do the same thing for the months reflected
7 in 2012 spreadsheet --
8 A. Yes, that is correct.
9 Q. -- in Exhibit 53 as well?
10 A. Yes, that is correct.
11 Q. Is there a separate set of documents that
12 reflects that adjustment to the figure or how
13 that was determined?
14 A. No, there's -- you don't have a document here
15 that shows the routine for that report
16 generation.
17 Q. So how would I be able to get the accuracy of
18 the figures reported on the active customers,
19 last 90 days log, Exhibit 53? Take your word
20 for it?
21 A. I really don't know -- I mean, I don't know
22 exactly what you're looking for. From my
23 perspective as a user of the report, I would not
24 expect the active users -- two things. I would
25 expect the active users line in Exhibit 53 to

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1 track numerically in terms of variance from
2 month to month with the data that's in Exhibit
3 54. So I would not -- any cleanup, variance,
4 you should expect to see the same. Number two,
5 as a user of the report, I have never seen and I
6 would never expect to see a value in Exhibit 53
7 reported that's greater than the data in Exhibit
8 54.
9 Q. I was just trying to determine if there's some
10 other report or document that reports the figure
11 or reflects the figure of customers that were
12 pulled out of the total active customers' data
13 to result in the figures reported in Exhibit 53,
14 Consumer e-Banking?
15 A. No, there wouldn't be a -- there would not --
16 there's not an interim document that's used.
17 The report writing process is a query-based
18 process.
19 Q. Okay.
20 A. And so you feed it the list of the total data
21 set, which in this case is the 58,000 whatever,
22 and you run the query against it that says now
23 pull login dates for the entire data set and
24 output a file that gives me just the number
25 of -- gives me just the customer IDs that logged

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1 in in this time frame. And then you total those
2 up, and that's how you get your total for the
3 Exhibit 53.
4 Q. Okay. There's just not a generation of -- or a
5 printout of the query --
6 A. That's correct.
7 Q. -- of the results? Okay. You talked earlier
8 about this Travel EMV card that your company is
9 planning to launch, I believe in April --
10 A. That's correct.
11 Q. -- of this year; is that correct?
12 A. That's correct.
13 Q. As of today, your company has never offered a
14 reloadable prepaid card; is that correct?
15 A. Well, the only one that would be technically
16 reloadable is our payroll card product because
17 it is, you know, it is a card in consumers'
18 hands and it is reloaded every month or every
19 pay period by our corporate customers.
20 Q. But it's not a prepaid card in the sense that
21 the employee does not go buy a card with some
22 amount on it to begin with?
23 A. That is correct.
24 Q. Right. And it is not a card that is, or service
25 that is marketed by your company directly to

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1 consumers, it's marketed to employers, correct?
2 **MR. NORTON:** Objection, foundation.
3 **A. That is correct.**
4 **BY MR. NGUYEN:**
5 Q. So it's reloadable but it's not a prepaid card?
6 **A. I -- I guess I have a different definition of a**
7 **prepaid card. You know, we have a prepaid card**
8 **that is a gift card that customers can purchase**
9 **that has a one-time set amount --**
10 Q. Correct.
11 **A. -- but they cannot reload those funds.**
12 Q. Correct. And the payroll card is a reloadable
13 card, but it is not a card that the user pays
14 for?
15 **A. That is correct.**
16 Q. The Travel EMV card, you mentioned that it was
17 for customers to use overseas --
18 **A. That is correct.**
19 Q. -- in their travel? Is it intended only for
20 customers to use overseas?
21 **A. No.**
22 Q. So why is it called a Travel EMV card then?
23 **A. The internal name for it came out of the**
24 **marketplace we were looking at at the time.**
25 **Part of the genesis of that product was we were**

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1 **worried about having an EMV chip-enabled plastic**
2 **in calendar year 2014. Part of it is we wanted**
3 **to retire our old traveler's checks program.**
4 **And so as we started talking about the EMV side**
5 **of it, frankly, I think maybe FIS even in their**
6 **collateral called it a Travel EMV product, so I**
7 **think the name kind of stuck.**
8 Q. Are you planning to market it to consumers as a
9 travel product?
10 **A. I'm not aware -- I'm not familiar with the**
11 **specific marketing plans.**
12 Q. Right now, you have to -- initially once it
13 becomes launched, a consumer must physically go
14 to one of your branches to purchase one of these
15 cards; is that correct?
16 **A. Correct, initial purchase is at a branch**
17 **location.**
18 Q. Okay. And then the consumer would decide how
19 much in funds to load onto the card?
20 **A. That is correct.**
21 Q. And then you could reload at a certain point in
22 the future?
23 **A. That is correct.**
24 Q. So in the beginning, once this product is
25 launched, the only places to buy it will be at

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1 an Intrust Bank branch in Kansas, Oklahoma, or
2 Arkansas; is that right?
3 **A. That is correct. I'm not sure it will be**
4 **available in the Arkansas location, but I don't**
5 **know that for a fact.**
6 Q. I have just one last set of questions about
7 personal online banking, which is so earlier we
8 talked about applying for an account online as
9 opposed to --
10 (A sotto voce discussion was
11 held between Mr. Nguyen and
12 Mr. MacGregor.)
13 **BY MR. NGUYEN:**
14 Q. Oh, that's right, yeah. So strike that. We
15 talked earlier about the process to open up an
16 actual checking account with your bank.
17 **A. Okay.**
18 Q. And there were two ways to do so, I could
19 physically go to a branch or, secondly, there
20 was a process I could apply through an online
21 application, correct?
22 **A. Correct.**
23 Q. When I apply online, the -- it's limited to
24 people who are 18 and older; is that correct?
25 **A. I don't recall the age restrictions off the top**

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1 **of my head. There are age restrictions for new**
2 **account opening.**
3 Q. Okay. And I also have to be a U.S. citizen; is
4 that correct?
5 **A. I believe that's correct.**
6 Q. Okay. And do I have to also be a resident of
7 Kansas, Oklahoma, or Arkansas?
8 **A. I don't recall the location restrictions for the**
9 **online account opening.**
10 Q. Okay. Are there -- are there geographic -- are
11 there geographic restrictions for the ability of
12 a consumer to open a checking account with your
13 bank online?
14 **A. That is correct.**
15 Q. But you don't know what the restrictions are?
16 **A. I don't recall the specific restrictions.**
17 Q. Are those reflected on web pages on your
18 website?
19 **A. Yes, I believe they are.**
20 Q. Because you want to communicate to consumers who
21 can apply for a checking account online and who
22 cannot?
23 **A. That is correct.**
24 **MR. NGUYEN:** I'm done.
25 **MR. NORTON:** Pardon?

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1 **MR. NGUYEN:** I'm done.
2
3 **REDIRECT EXAMINATION**
4 **BY MR. NORTON:**
5 Q. Mr. Morrison, just have a couple follow-ups.
6 Providing a method for customers to pay money to
7 another person is nothing new to Intrust Bank,
8 is it?
9 **A. No.**
10 Q. For example, writing a check to another person
11 is just a method of moving money from one place
12 to another, isn't it?
13 **A. Correct.**
14 Q. And Intrust Bank's been doing that for just
15 about as long as it's been in existence, hasn't
16 it?
17 **A. Correct, about 135 years.**
18 Q. So using an electronic format to move money
19 doesn't change necessarily the basic function of
20 Intrust Bank to allow its customers to move
21 money?
22 **A. No, we see this as something that our customers**
23 **expect us to be able to do and have been asking**
24 **us to be able to do.**
25 Q. It's another way that Intrust is providing the

1 same services that it's been providing for 136
2 years, isn't it?
3 **A. Yes, it is.**
4 **MR. NORTON:** Okay. We have no
5 further questions. Thank you.
6
7 RECROSS EXAMINATION
8 **BY MR. NGUYEN:**
9 Q. I just have one further follow-up. So the
10 process of moving money that you just discussed
11 from one person to another, that's not a process
12 that's limited to companies that have a banking
13 license, is it?
14 **A. I don't know that I understand the question.**
15 Q. You just testified that Intrust Bank has been
16 providing a service to consumers for years to
17 allow them to help move money from them to
18 someone else?
19 **A. That is true.**
20 Q. Okay. And other companies that do not have
21 banking licenses provide services that allow
22 consumers to do that as well; is that correct?
23 **A. I think that's correct.**
24 **MR. NGUYEN:** Okay. Thank you.
25 **MR. NORTON:** Thank you, we have no

1 further questions.
2 (Whereupon, the deposition was
3 concluded at 5:31 p.m.)
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1 I, THOMAS MORRISON, the witness herein,
2 have read the transcript of my testimony, and the
3 same is true and correct to the best of my
4 knowledge, with the exception of the changes noted
5 on a separate page, together with notation of the
6 reasons for making such corrections.
7
8 _____
9 THOMAS MORRISON
10
11 STATE OF KANSAS)
12 SEDGWICK COUNTY) ss:
13 Subscribed and sworn to before me, the
14 undersigned authority, this the _____ day of
15 _____, 2014.
16
17 _____
18 Notary Public, _____ County
19 State of Kansas
20 My appointment expires:
21 _____
22
23 Nancy L. Rambo, R.P.R., C.S.R.
24
25 (CASE: Intrust Financial Corporation -vs- nTrust
Corp., TAKEN 3/26/14)

C E R T I F I C A T E

STATE OF KANSAS)
SEDGWICK COUNTY) ss:

I, Nancy L. Rambo, do hereby certify the foregoing deposition was stenographically recorded by me as stated in the caption. The deponent was duly sworn to tell the truth, the whole truth, and nothing but the truth. Colloquies, statements, questions and answers thereto were reduced to typewriting under my direction and supervision, and the deposition is a true and correct record of the testimony/evidence given by the deponent.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in the action.

WITNESS my hand and official seal at Wichita, Sedgwick County, Kansas, this 7th day of April, 2014.

_____
NANCY L. RAMBO, R.P.R., C.S.R.
Registered Professional Reporter
Certified Shorthand Reporter

Costs:

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Page 1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

INTRUST FINANCIAL)
CORPORATION,)
)
Opposer,) Opposition No 91204456
) Application Serial
vs) No 85/250992
) Mark: NTRUST
nTRUST CORP ,)
)
Applicant)

The deposition of GENE M REED taken before Susana Albor-Hoyt, Certified Shorthand Reporter, Registered Professional Reporter, at 205 Remington Boulevard, Bolingbrook, Illinois, commencing at 11:19 a m on the 16th day of October, A D , 2014

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* * * * * *

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(Witness sworn.)
WHEREUPON:
GENE M. REED,
called as a witness herein, having been first duly sworn, was examined and testified as follows:
EXAMINATION
BY MR. NORTON:
Q. Could you please state your name.
A. My name is -- My name is Gene Reed.
Q. What's your middle initial?
A. M, Martin.
Q. And do you go by Geno?
A. Yes, yes. All my life.
Q. And how do you spell Gene?
A. G E N E.
Q. Okay. Mr. Reed, my name is Michael Norton. I am an attorney for Intrust Financial Corporation and Intrust Bank NA, and we subpoenaed you here for your deposition; do you understand that?
A. Yes.
Q. And we're here today for a dispute between my client, and I'm gonna refer to them as Intrust Bank. And the gentleman to

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my right, Jimmy Nguyen, represents a company that is named nTrust Corp., and that is, nTrust begins with an n, T R U S T Corp.; do you understand that?
A. Yes.
Q. And I will refer to nTrust Corp. as either nTrust Corp. or nTrust with an N; do you understand that?
A. Yes.
Q. Okay. If at any time you're unsure which one I'm talking about, just ask me to clarify. I'll be happy to do so, okay?
A. Yes.
Q. All right. Have you ever had your deposition taken before?
A. No.
Q. Okay. Well, hopefully, this will be short and sweet, and we'll get you out of here as quickly as we can. And I understand that you're an employee with FIS; is that correct?
A. Yes.
Q. And you are represented here today through an attorney retained by FIS?
A. Yes.

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Q. Let's start with a little bit of background. First, what is FIS?
A. What we do is we actually -- we assist clients in procuring their cards, credit cards, and paper carriers, inserts, things like that to financial institutions.
Q. And what does FIS stand for?
A. Fidelity -- it's kind of funny because I -- it's called Fidelity ...
Q. Is it Fidelity Information Services?
A. Services, correct. I never, ever -- I always consider it as FIS. So ...
Q. All right. And what is your current position with FIS?
A. I'm a graphic designer there.
Q. How long have you held that position?
A. About six years.
Q. Did you work in a different position prior to that?
A. At the company?
Q. At the company.
A. No.
Q. And where is your office located?
A. Right across the street. It's a new

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building. I don't know the actual address.
Q. What city and state?
A. Bolingbrook, Illinois.
Q. Is that a suburb of Chicago?
A. Yes.
Q. And by the way, sometimes we'll ask questions that seem kind of simple or elementary. It's just, we have a written record that we're dealing with, and we may be dealing with someone reading this who doesn't know where here is.
A. I understand.
Q. So if our questions sound kind of simplistic, it's just because we're trying to get it on the record.
A. Okay.
Q. All right. And what -- What do you do as a graphic designer for FIS?
A. What I'll do is I will review artwork that comes in, depending on what it's used for. If it's used for our custom print, then I will review the card and paperwork. If it's just an actual logo that will be placed on our generic stock, I will review it to see if it's useable or not.

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1 **Q. And what types of products does the**
2 **art that you review typically go on?**
3 A. They go on -- Are you talking about
4 substrates? Like your plastics or your
5 paper?
6 **Q. You're talking a little over my**
7 **head.**
8 A. Oh, I understand.
9 **Q. Just in laymen's terms --**
10 A. Oh, in laymen's terms? Credit
11 cards. We produce credit cards. We produce
12 paperwork or carriers, card carriers,
13 inserts, things like that.
14 **Q. I see. Could you give me just a**
15 **real brief, you know, ten-second overview of**
16 **your educational background?**
17 A. I went to school at Joliet Junior
18 College. I did not finish. I did go to
19 school at the College of DuPage for a while.
20 I do have a high school education. I just
21 never finished my college degree, basically.
22 **Q. And I'm sorry. What was the junior**
23 **college? I didn't catch that name.**
24 A. Joliet Junior College and then
25 DuPage College, College of DuPage.

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1 **Q. Okay. And I've seen some documents**
2 **that reference you as a senior designer?**
3 A. Yes. I've been doing it for a long
4 time.
5 **Q. And what's the difference between**
6 **just a graphic designer and a senior**
7 **designer?**
8 A. The things that you're able to do
9 and how long you've been in the business as
10 well.
11 **Q. What things are you able to do as a**
12 **senior designer?**
13 A. You know, more like we do -- We can
14 do more, like the Web sites. Do more -- I
15 guess, it's just basically the time on the
16 job.
17 **Q. Okay. And are you currently a**
18 **senior designer?**
19 A. I call myself a senior designer.
20 **Q. All right. Are you familiar with**
21 **Intrust Bank?**
22 A. Yes. I've heard of them, yes.
23 **Q. And tell me what you know about**
24 **Intrust Bank.**
25 MS. WALTER: Objection, vague.

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1 BY THE WITNESS:
2 A. Just a client, a client of ours,
3 basically. I don't know them personally.
4 So ...
5 **Q. Sure. What -- What do you know of**
6 **them? What is Intrust Bank?**
7 MR. NGUYEN: Objection, vague,
8 ambiguous.
9 BY MR. NORTON:
10 **Q. Have you worked for Intrust Bank**
11 **before?**
12 A. No.
13 **Q. Prior to, say, March of 2014, had**
14 **you heard of Intrust Bank?**
15 A. Yes. I've heard of them, yes.
16 **Q. Okay. And tell me how it is that**
17 **you had heard of Intrust Bank prior to March**
18 **of 2014.**
19 A. We do work with them.
20 **Q. Had you seen any of the work that**
21 **FIS does for Intrust Bank prior to March of**
22 **2014?**
23 A. Yes.
24 **Q. Could you give me some examples?**
25 A. We do a lot of VHD printing for

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1 them.
2 **Q. What's that?**
3 A. It's basically, print on demand,
4 print on demand cards for them.
5 **Q. What type of cards?**
6 A. It seems to be a lot more college,
7 college card sometimes.
8 **Q. Are these credit cards?**
9 A. Credit card, yes. Credit cards,
10 yes.
11 **Q. And how about gift cards?**
12 A. Not to my knowledge.
13 **Q. Any cards other than credit cards**
14 **that you guys -- or that you know of that**
15 **FIS does for Intrust Bank?**
16 A. Not to my knowledge.
17 **Q. Okay. Are you familiar with nTrust**
18 **Corp. or nTrust with an n?**
19 A. No.
20 **Q. I'm gonna hand you what has been**
21 **marked as Deposition Exhibit No. 30.**
22 MR. NGUYEN: Thank you.
23 MS. WALTER: 130.
24 MR. NORTON: I'm sorry. 130. Thank
25 you.

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BY MR. NORTON:
Q. Okay. Take just a couple of seconds or however long you need to look over that document.
A. Okay.
Q. Could you tell us what document or Exhibit No. 130 is?
A. Basically, this is a file pro- -- It's a file transfer site. It's an FTP site. What it is is where clients upload art, and then I go out there, download the art, and review it.
Q. Okay. Do -- And I see at the very top of the document, Exhibit No. 130, is an e-mail address for Geno Reed. Do you see that?
A. Yes.
Q. Could you tell me what 130 is? Is this a screen shot?
A. I don't recall.
Q. Do you know how this document came to be?
MR. NGUYEN: Objection, vague, ambiguous.
THE REPORTER: Vague what?

Page 14

MR. NORTON: Ambiguous.
MR. NGUYEN: Ambiguous.
BY THE WITNESS:
A. To be honest, I don't recall. I'm sorry. I don't recall.
Q. I'm gonna hand you what's been marked as Deposition Exhibit No. 132. I'm sorry, Kate. I only --
MS. WALTER: That's okay.
BY MR. NORTON:
Q. And if you would, just take a minute or two to look over that document.
(Witness viewing document.)
BY MR. NORTON:
Q. Let me know after you've had a chance to look at this, Mr. Reed.
A. Okay.
Q. Could you tell us what -- Well, strike that.
If you look at the bottom of the front page of Document 132, it appears to be an e-mail from Geno Reed to Paul Koldenhoven and cc'ing Bastian Knoppers; do you see that?
A. Uh-huh.
Q. Is that a yes?

Page 15

A. Yes.
Q. It's important when you answer to say --
A. Yes.
Q. -- yes or no --
A. Yes.
Q. -- so that we get it down correctly. And the e-mail is dated April 10th of 2014; do you see that?
A. Yes.
Q. Do you recall preparing this e-mail?
A. No, I don't recall.
Q. Do you believe that you did not prepare this e-mail?
A. I vaguely -- I don't remember this e-mail at all, actually.
Q. Do you have any reason to believe, as you sit here today, that this e-mail was sent by someone other than yourself?
A. It could be.
Q. How is that?
A. There -- I have a backup when I'm not there, and they have access to my system. And if I'm not there, they actually will follow up with the client or whoever on

Page 16

my behalf.
Q. And were you present on April 10th of 2014?
A. I do not recall.
Q. If you look at the documents that are shown as attachments to that e-mail that is Exhibit No. 132, you'll see the same document that is Exhibit No. 130; is that correct?
A. Correct.
Q. Okay. Have you ever spoken with anyone at nTrust Corp. or nTrust with an n?
A. No.
Q. Have you ever communicated by e-mail with anyone at nTrust Corp. or nTrust with an n?
A. Not to my knowledge.
Q. Do you know anyone named Wayne Chen?
A. No.
Q. Have you ever spoken with anyone named Wayne Chen?
A. Not to my knowledge.
Q. Have you ever e-mailed or corresponded with someone named Wayne Chen?
A. Not to my knowledge.

Page 17

1 **Q. If you look at that Document No.**
2 **130, this is the -- you say this was an FTP?**
3 A. Uh-huh, yes.
4 **Q. An image of an FTP site?**
5 A. Yes.
6 **Q. And is this -- Is this an FTP site**
7 **that you use regularly in your work --**
8 A. Yes.
9 **Q. Just let me finish.**
10 A. Oh.
11 **Q. It makes it more difficult for her**
12 **if we're talking over one another.**
13 A. I understand.
14 **Q. You're doing fine. You're doing**
15 **fine.**
16 **Tell me, Mr. Reed, how -- when new art**
17 **comes to FIS, what happens?**
18 MR. NGUYEN: Objection, vague,
19 ambiguous. Object to the form of the
20 question.
21 BY MR. NORTON:
22 **Q. Do clients submit artwork to FIS?**
23 A. Yes.
24 **Q. How do they submit the artwork?**
25 A. FTP site or e-mail.

Page 18

1 **Q. And if a client chooses to submit**
2 **artwork by a FTP site, how does that work?**
3 A. They upload the art. They will give
4 a brief description. We would like for them
5 to give us the actual person that they're --
6 account manager that they're working with.
7 That's it.
8 **Q. And when clients upload artwork by**
9 **the FTP site, are you able to view it?**
10 A. Yes. I'm able to download it and
11 view it.
12 **Q. And -- And does Exhibit No. 30**
13 **reflect what you see after a client uploads**
14 **artwork to the FTP site?**
15 A. Yes.
16 MS. WALTER: You mean 130.
17 MR. NORTON: Thank you.
18 BY MR. NORTON:
19 **Q. Now, if you look at Exhibit No. 130,**
20 **it specifies an e-mail address of to**
21 **geno.reed@fisglobal.com. Do you see that?**
22 A. Yes.
23 **Q. Is that your e-mail address?**
24 A. (No verbal response.)
25 Q. Do you mind if I lean across?

Page 19

1 A. Yes. I was looking over here. Yes,
2 yes. That's my e-mail address.
3 **Q. And then the subject is nTrust CA**
4 **MasterCards, dash, Print Ready PSD's,**
5 **apostrophe S; do you see that?**
6 A. Yes.
7 **Q. And then the next line, someone has**
8 **circled Hello Shelly, slash, Geno; do you**
9 **see that?**
10 A. Yes.
11 **Q. Are you aware of any other Geno's**
12 **that work at FIS in your office?**
13 A. No.
14 **Q. Who is Shelly?**
15 A. I do not know.
16 **Q. Are you aware of any Shelly's that**
17 **work in your office --**
18 A. No.
19 **Q. Let me --**
20 A. I'm sorry.
21 **Q. No. You're fine. (Continuing.) --**
22 **that worked at your office in April of 2004**
23 **-- 2014?**
24 A. No.
25 **Q. Next to your e-mail address in the**

Page 20

1 **to line is open paren, design at**
2 **metavante.com. And that's M E T A V A N T**
3 **E, dot, com; do you see that?**
4 A. Yes.
5 **Q. Do you recognize that e-mail**
6 **address?**
7 A. Yes.
8 **Q. What is that?**
9 A. That was our original e-mail that we
10 used which is no longer active, basically.
11 **Q. How do you say that? Metavante?**
12 A. Metavante.
13 **Q. Is that how you say it?**
14 A. Yes.
15 **Q. Okay. Metavante. And was Metavante**
16 **purchased by FIS?**
17 MS. WALTER: Objection, foundation.
18 BY MR. NORTON:
19 **Q. I'm just trying to understand how**
20 **you went from a metavante.com e-mail address**
21 **to an fis.com e-mail address.**
22 A. Yes. They were purchased by FIS.
23 **Q. Approximately when did you go from a**
24 **metavante.com e-mail address to a**
25 **fisglobal.com e-mail address?**

Page 21

A. I do not recall.
Q. In April of 2014, were you using the fisglobal.com e-mail address?
A. I do not recall.
Q. If you look at the attachments to Exhibit No. 130, pages two and three, do you recognize those documents?
A. Yes.
Q. Okay. Could tell me what those are?
A. Credit cards.
Q. When did you first see these documents?
A. I do not recall the date.
Q. Do you recall if it was around April of 2014?
A. No.
Q. In your job as a graphic designer at FIS, did you work with the artwork that is shown on Exhibit 130?
A. No, I did not. I did not work with it.
Q. What involvement did you have with that artwork?
A. Downloaded it, took a look at it, and I asked who it belonged to.

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Q. Okay. So you do recall receiving this artwork?
A. Yes, I do recall receiving it.
Q. And how did you receive it?
A. Via LEAPFILE.
Q. And is that the --
A. Yes.
Q. -- what is shown on Exhibit No. 130 on the front page?
A. Yes, sir.
Q. Okay. After having a chance to look at that artwork, do you -- do you now recall having seen this FTP site screen shot?
MS. WALTER: Asked and answered.
BY THE WITNESS:
A. I've seen the screen shot. No, not the screen shot, but I've seen the FTP site.
Q. What is shown on the face of Exhibit No. 130, have you seen that before?
A. Yes.
Q. Okay. When is the first time you saw what is reflected on the face of Exhibit 130?
A. I do not recall.
Q. Would it have been back in April of 2014?

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A. I do not recall the date.
Q. Okay. So walk me through what you did the first time you saw the artwork that is shown in Exhibit 130.
A. I reviewed it to see if it was useable. I did not know where it belonged to or whose account it was attached to. So what I did was I -- I sent it to one of our account managers and asked them is this your client.
Q. Okay. Which account manager did you send it to?
A. Debbie Caravelli (phonetic).
Q. And why did you choose to send it to Deborah Caravelli?
A. Because she -- she was new. So usually, I'll start with the new people because it's something I've never seen before. So sometimes, from my point of view, from my perspective, they seem to handle anything new coming in.
Q. Okay. Why is it that you were unable to tell who the customer was for this artwork?

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A. Because I don't recall working with them.
Q. Let's take a look at Exhibit No. 131.
MR. NGUYEN: Thank you.
BY MR. NORTON:
Q. Can you tell us what that exhibit is?
A. It seems to be an e-mail sent to Geno from Debbie.
Q. If you look at the bottom, you will see it says from Geno Reed or Reed dash -- or Reed, comma, Geno; do you see that?
A. Yes.
Q. And the -- That e-mail at the bottom is dated Monday, April 7th, 2014; do you see that?
A. Yes.
Q. And the subject is art looking for an owner; do you see that?
A. Yes.
Q. Do you recall sending this e-mail?
A. No.
Q. Okay. If you look on the second page, could you tell us what that is?

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A. The front of a credit card.
MR. NGUYEN: Objection, lacks foundation.
BY MR. NORTON:
Q. Okay. Do you recall having seen the image that is shown on page two of Exhibit 131?
A. Yes.
Q. Okay. When do you recall seeing it?
A. I don't recall the day or time.
Q. Okay. Now, earlier you said that when you first received the artwork that was shown on Exhibit No. 130, you sent an e-mail asking who it belonged to, correct?
A. Correct.
Q. Now, if you look at Exhibit No. 31 [sic], will you agree with me that that is an e-mail purportedly from your e-mail address asking whose artwork that is the same as Exhibit No. 130 belonged to, correct?
A. I do not recall sending that e-mail.
Q. You recall sending an e-mail that asked if who this artwork belonged to that's shown on Exhibit No. 130, correct?

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A. I recall sending an e-mail to Debbie asking about who does the artwork belong to, yes.
Q. Okay. If you look in Exhibit No. 131 in the to line it says, romeo, dash, client services; do you see that?
A. Yes.
Q. Do you know what romeo, dash, client services refers to?
A. Yes.
Q. And what does it refer to?
A. All the client service managers.
Q. How many client service managers are there in Romeoville?
A. I do not know exactly.
Q. Do you have an approximation?
A. 20/30.
Q. When artwork comes in and you're unsure who the owner is, do you ever send it to romeo, dash, client services?
A. Sometimes.
Q. Is it possible that when the artwork shown on Exhibit No. 130 came in that you actually sent it to romeo, dash, client services?

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A. I did not send that e-mail.
Q. Do you know who sent this e-mail?
A. The name at the bottom, Tammy.
Q. Who's Tammy?
A. Tammy is my backup.
Q. Okay. Does Tammy have access to send and receive from your e-mail account?
A. Yes.
Q. Have you talked with Tammy about the nTrust Corp. artwork that we're discussing here today?
A. Briefly.
Q. So you sent a separate e-mail to Ms. Canfarelli?
A. Yes.
Q. Now, the e-mail that Tammy sent, had you spoken with her before she sent that e-mail?
A. No.
Q. Did you receive any replies to this e-mail?
A. Not to my knowledge.
Q. And the from is from your e-mail account; is that correct?
A. Yes.

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Q. Do you have a primary contract -- contact at nTrust Corp.?
A. N?
Q. nTrust with an n.
A. No.
Q. Do you have a contact at Intrust Bank?
A. I've worked with someone at Intrust Bank before.
Q. Who's that?
A. Jeannie.
Q. Do you Jeannie's last name?
A. No, I do not.
Q. On Exhibit No. 130, you'll note that in the message line it begins, I've resubmitted the nTrust MasterCard PSD print -- files for print, period. Do you see that?
A. Yes.
Q. Do you know whether these files that are attached to Exhibit No. 130 had been submitted before?
A. Not to my knowledge.
Q. At FIS, are designers assigned to specific clients?

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A. No.
Q. Are clients assigned to specific designers?
A. No.
Q. Now, did you talk with anyone before you sent the artwork that was attached to Exhibit 130 to Ms. Canfarelli?
A. No.
Q. Did you speak with her after you sent the artwork to her?
A. No.
Q. Who is Paul Koldenhoven?
A. He is a salesperson.
Q. Did you speak with Mr. Koldenhoven about the artwork?
A. I have not, no.
Q. Have you spoke with Mr. Koldenhoven about Intrust Bank or nTrust Corp.?
A. No.
Q. Who is Bastian Knoppers?
A. He is the head of the Romeoville facility.
Q. Okay. Have you spoken with Mr. Knoppers about the artwork?
A. No, I have not.

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Q. Have you spoke with Mr. Knoppers about Intrust Bank or nTrust Corp.?
A. No, I have not.
Q. What is Tammy's last name?
A. Tammy Prozak.
Q. Is it Pazdro (phonetic)?
A. Pazdro, yes.
Q. What is her position?
A. She is an admin, and she's my backup when I'm not there.
Q. Is she an administrative assistant for -- for your group?
A. Yes and no. We've kind of transitioned over, so she's no longer my backup anymore. So she's strictly materials, and I'm client service.
Q. In April of 2014, did you have a backup other than Tammy?
A. No.
Q. Did anyone have access to your e-mail other than Tammy in April of 2014?
A. Not to my knowledge.
Q. Who is Debbie Villeneuve?
A. I do not know.
Q. Do you know anyone who has a name similar to that?
A. No.
Q. Do you know what the company Select Corp. is?
A. No, I do not.
MR. NORTON: Mark that as Exhibit 133.
(Reed Exhibit No 133 marked as requested.)
MR. NORTON: Thank you.
BY MR. NORTON:
Q. Mr. Reed, I'm gonna hand you what's been marked as Deposition Exhibit No. 133, and if you would turn to the second page. And there in the middle you'll see -- or towards the top is an e-mail from Wayne Chen dated Tuesday, April 15, 2014 to Debbie Villeneuve, cc Angela Biener, Shelley Alliet, and Geno Reed; do you see that?
A. Yes.
Q. And then in the middle of that particular e-mail it says -- it begins the middle, I've also cc'd Geno on it. Do you see that?
A. Yes.

Page 31

Page 32

Q. Do you recall receiving this e-mail?
A. Not to my knowledge.
Q. And then at the top of page number two and beginning on the bottom of page number one, if you look on page number one now at the very, very, bottom, there's an e-mail that says from Geno Reed, again dated April 15, 2014 to Debbie Villeneuve, cc'ing the other folks we mentioned. It says, Hi, Debbie. We cannot access this site; do you see that?
A. Oh, yes.
Q. Okay. The e-mail continues on for a few more sentences and concludes with. Thanks, Geno Reed; do you see that?
A. Yes.
Q. Did you -- Do you recall sending this e-mail?
A. Not to my knowledge.
Q. Do you have any reason to believe that you didn't send this e-mail?
A. No.
Q. Were you gone for an extended amount of time in April of 2014?
A. I cannot recall.

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Q. Did you take any vacations in April of 2014?
A. I do not recall.
Q. And then again on page number one, just above that is another reply e-mail from Angela Biener to Geno Reed on April 15, 2014 beginning, Hello Geno, comma; do you see that?
A. Yes.
Q. Do you recall receiving that e-mail?
A. No, I do not recall.
Q. Prior to today, had you seen any of the e-mails that are shown on Exhibit No. 133?
A. No, I do not recall.
Q. Does Tammy still work for FIS?
A. Yes.
Q. Here in Bolingbrook?
A. Yes.
MR. NORTON: Thank you. Those are all the questions that I have.
MR. NGUYEN: Sure. I have some follow-up questions, but let me get some water.
MS. WALTER: Do you need a break?

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THE WITNESS: No.
MS. WALTER: Okay. Maybe, we can take a five-minute bathroom break?
MR. NGUYEN: Sure.
MS. WALTER: I don't know. You might have more than five minutes of questions.
MR. NGUYEN: I have probably, like, 15.
MS. WALTER: Let's take a quick break.
THE WITNESS: Okay.
(A short break was had.)
EXAMINATION
BY MR. NGUYEN:
Q. Hello, Mr. Reed. My name is Jimmy Nguyen, and as you heard earlier, I represent the other company that's involved in this dispute. Its name is nTrust Corp., and I just have a few follow-up questions with you.
So at your duties with FIS, do you deal directly with in establishing client relationships for FIS or is that not in your job duties?

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A. It's not in my job duties.
Q. So for example, someone else has responsibility to develop a relationship with a financial institution that might use FIS's services; is that correct?
A. To my knowledge, yes.
Q. Such as a client relations manager?
A. Yes.
Q. And then once the client needs graphic design services, that will then come to you for assistance; is that correct?
A. Yes.
(Brief interruption.)
BY MR. NGUYEN:
Q. So as result of that, are you familiar -- are you only familiar with the clients of FIS on which you work?
MS. WALTER: Objection, vague.
MR. NGUYEN: Let me rephrase that.
BY MR. NGUYEN:
Q. So as I understand it from FIS's website, your company has, I think, 14,000 clients or so it works with across the world. Does that sound faintly familiar to you?

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MS. WALTER: Objection, foundation.
BY THE WITNESS:
A. No, it doesn't.
Q. There are a lot of clients at FIS; is that correct? Many clients?
A. Not to my knowledge. Not to my knowledge.
Q. Does it happen -- Strike that.
Is this the first time you have come across a piece of artwork for which you did not know which client it belongs to?
A. No.
Q. This is not the first time?
A. No, it isn't.
Q. Does it happen fairly regularly?
A. Yes.
Q. Approximately how often might that happen in a given month?
A. I cannot give you accurate numbers, but it does happen a lot.
Q. Ten times a month approximately? I'm just trying to get an approximation.
A. 10, 20 to 5.
Q. Multiple times a month?
A. Yes.

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Q. And is it fairly common for you to then e-mail someone else at your company to find out who the artwork belongs to?
A. Yes.
Q. And that's not because you're necessarily confusing one company's artwork for another company; is that right?
A. Correct.
Q. It's because you just don't know who it belongs to?
A. Correct.
Q. So if you look at Exhibit 130, this is the screen capture of the LEAPFILE FTP site that we looked at earlier; do you see that?
A. Yes.
Q. Now, you recall seeing or downloading the nTrust Corp. artwork --
A. Yes.
Q. -- from your FTP site; is that correct?
A. Yes.
Q. And you did not know who it belonged to; is that right?
A. Correct.

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Q. That's because you had never worked with nTrust Corp., my client before; is that correct?
MS. WALTER: Object to the form.
BY THE WITNESS:
A. To my -- Not to my knowledge.
Q. And you then e-mailed Deborah Canfarelli to ask who the artwork belonged to; is that right?
A. Yes.
Q. But that was not because you were confused between my client, nTrust Corp. and Intrust Bank; is that correct?
MS. WALTER: Object to the form.
BY THE WITNESS:
A. Can you restate that?
Q. Sure. You e-mailed Debbie to find out who the nTrust Corp. artwork belonged to; is that right?
A. Yes.
Q. That's because you just didn't know what company it belonged to?
MS. WALTER: Object to the form.
You can answer in your own words.
BY THE WITNESS:

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A. I know that the logos look totally different. So her being new, I do what I normally do. I would send it to the first -- the new person to see if it belongs to them. That's basically it.
Q. Okay. With Exhibit 130, there are a red arrow and a red circle that appears on the first page of Exhibit 130; do you see that?
A. Yes.
Q. That does not normally appear on the screen on the FTP sites, does it?
A. No, it does not.
Q. Do you know who put that on the printout of this screen shot?
A. (No verbal response.)
Q. If you don't know, that's okay. I just need to know if you know.
A. Not to my knowledge.
Q. Let me back up for a moment. Did you actually take the screen shot of the FTP site that appears on Exhibit 130?
A. I might have.
Q. But you don't recall?
A. I don't recall. It's been so long.

Page 40

Q. Okay. And do you recall ever adding a red arrow to an FTP screen shot to point to the Wayne Chen e-mail address?
A. Not to my knowledge. But I have taken screen shots before, and I have marked up certain things to point out certain things. But again, I don't -- It's been a while since. I just can't recall if I did this or not.
Q. Okay. So you don't recall preparing the screen shot with the arrows that -- with the arrow and the circle that's in Exhibit 130?
A. I could have. I don't recall. I'm gonna be honest.
Q. That's fine. With Exhibit 131, could you look at Exhibit 131, which is the e-mail chain you looked at earlier.
A. Okay.
Q. I just want to confirm. You do not recall sending the e-mail that is dated Monday, April 7, 2014 at 2:34 p.m. from Geno Reed to Romeoville Client Services; is that correct?
A. Correct.

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Q. And it indicates there that that was -- it says, Thanks, Tammy, who's your admin backup?
A. Yes.
Q. Thank you. And Exhibit 132, that's an e-mail chain that attaches the FTP screen capture. The e-mail in that chain on Thursday, April 10, 2014 at 11:35 a.m. from Geno Reed to Paul Koldenhoven, you do not recall sending that e-mail either; is that correct?
A. Not to my knowledge.
Q. Okay. And Exhibit 133 was another set of e-mail chains that Mr. Norton showed you, some of which have your name in them. You don't recall getting any of those e-mails either; is that correct?
A. Correct.
Q. And it's possible that your admin, Tammy, may have either sent or received e-mails through your e-mail account for Exhibits 131, 132, and 133; is that correct?
MS. WALTER: Object to the form.
BY MR. NGUYEN:
Q. Is that possible?

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A. It's possible.
MR. NGUYEN: Okay. Based on the witness's testimony, I'm gonna object to the introduction into evidence for the trial period of Exhibits 130, 131, 132, and 133. It's lacking in foundation and inadmissible for that reason.
MS. WALTER: It doesn't concern you. He's making an objection for the record for the future.
MR. NGUYEN: Okay. I think, that's all the questions I have.
MR. NORTON: No further questions.
THE REPORTER: Signature?
MS. WALTER: I think, we would like to review and sign.
THE REPORTER: On the record, should I hold onto the exhibits?
MR. NGUYEN: I'm sorry? What was the question?
MR. NORTON: She asked whether she should hold onto the exhibits.
MR. NGUYEN: We'll go off the record and talk about procedural, how you normally do.

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(Witness excused.)
.
.
SIGNATURE
.
The deposition of GENE M. REED was taken in the matter, on the date, and at the time and place set out on the title page hereof.
.
It was requested that the deposition be taken by the reporter and that same be reduced to typewritten form.
.
It was agreed by and between counsel and the parties that the deponent will read and sign the transcript of said deposition.
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AFFIDAVIT
.
STATE OF _____:
COUNTY/CITY OF _____:
.
Before me, this day, personally appeared, GENE M. REED, who, being duly sworn, states that the foregoing transcript of his/her Deposition, taken in the matter, on the date, and at the time and place set out on the title page hereof, constitutes a true and accurate transcript of said deposition, along with the attached Errata Sheet, if changes or corrections were made.
.
_____
GENE M. REED
.
SUBSCRIBED and SWORN to before me this _____ day of _____, 2014 in the jurisdiction aforesaid.
.
_____ _____
My Commission Expires Notary Public
.
.

Page 45

1 DEPOSITION ERRATA SHEET
2 RE: APPINO & BIGGS
3 REPORTING SERVICE, INC.
4 FILE NO.: 36289
5 CASE: INTRUST FINANCIAL CORPORATION vs.
6 NTRUST CORP.
7 DEPONENT: GENE M. REED
8 DEPOSITION DATE: 10/16/14
9 To the Reporter:
10 I have read the entire transcript of my Deposition taken in the
11 captioned matter or the same has been read to me. I request that
12 the following changes be entered upon the record for the reasons
13 indicated. I have signed my name to the Errata Sheet and the
14 appropriate Certificate and authorize you to attach both to the
15 original transcript.
16 PAGE LINE FROM TO REASON
17 _____
18 _____
19 _____
20 _____
21 _____
22 _____
23 _____
24 _____
25 _____

Page 46

1 PAGE LINE FROM TO REASON
2 _____
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17 _____
18 _____
19 _____
20 _____
21 _____
22 _____
23 _____
24 SIGNATURE:_____DATE:_____
25 GENE M. REED

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1 STATE OF ILLINOIS)
2) SS.
3 COUNTY OF COOK)
4 I, Susana Albor-Hoyt, Certified Shorthand
5 Reporter, Registered Professional Reporter, do hereby
6 certify that on the 16th day of October, A.D., 2014,
7 the deposition of the witness, GENE M. REED, called by
8 the Opposer, was taken before me, reported
9 stenographically, and was thereafter reduced to
10 typewriting under my direction.
11 The said deposition was taken at 205 Remington
12 Boulevard, Bolingbrook, Illinois, and there were
13 present counsel as previously set forth.
14 The said witness, GENE M. REED, was first duly
15 sworn to tell the truth, the whole truth, and nothing
16 but the truth, and was then examined upon oral
17 interrogatories.
18 I further certify that the foregoing is a true,
19 accurate, and complete record of the questions asked
20 of and answers made by the said witness, GENE M. REED,
21 at the time and place hereinabove referred to.
22 The signature of the witness, GENE M. REED, was
23 reserved by agreement of counsel.
24 The undersigned is not interested in the within
25 case, nor of kin or counsel to any of the parties.

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1 Witness my signature on this 27th day of October,
2 A.D., 2014.
3 _____
4 SUSANA ALBOR-HOYT, CSR, RPR
5 180 North LaSalle Street
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Relationship Checking

- Online bill pay and external transfers
- Bill pay services
- Direct deposit services
- Conducted via electronic communications network (OnLine Banking)
- Gift cards available for purchase
- Stored value cards (gift cards)
- Electronic money issuance and transfer service

Select Checking

- Online bill pay and external transfers
- Bill pay services
- Direct deposit services
- Conducted via electronic communications network (OnLine Banking)
- Gift cards available for purchase
- Stored value cards (gift cards)
- Electronic money issuance and transfer service

Prep Checking

- Online bill pay and external transfers
- Bill pay services
- Direct deposit services
- Conducted via electronic communications network (OnLine Banking)
- Gift cards available for purchase
- Stored value cards (gift cards)
- Electronic money issuance and transfer service

Direct Deposit

- Direct deposit services

Payroll Cards

- Financial fraud protection and prevention
- Payroll cards
- Stored value cards
- Electronic money issuance and transfer service

EXHIBIT
1A

Virtual Checking- Retire

- Online bill pay and external transfers
- Bill pay services
- Direct deposit services
- Conducted via electronic communications network (OnLine Banking)
- Gift cards available for purchase
- Stored value cards (gift cards)
- Electronic money issuance and transfer service

Basic Checking- Retired

- Online bill pay and external transfers
- Bill pay services
- Direct deposit services
- Conducted via electronic communications network (OnLine Banking)
- Gift cards available for purchase
- Stored value cards (gift cards)
- Electronic money issuance and transfer service

Free Checking- Retired

- Online bill pay and external transfers
- Bill pay services
- Direct deposit services
- Conducted via electronic communications network (OnLine Banking)
- Gift cards available for purchase
- Stored value cards (gift cards)
- Electronic money issuance and transfer service

Gold Checking- Retired

- Online bill pay and external transfers
- Bill pay services
- Direct deposit services
- Conducted via electronic communications network (OnLine Banking)
- Gift cards available for purchase
- Stored value cards (gift cards)
- Electronic money issuance and transfer service

Interest Checking- Retired

- Online bill pay and external transfers
- Bill pay services

- Direct deposit services
- Conducted via electronic communications network (OnLine Banking)
- Gift cards available for purchase
- Stored value cards (gift cards)
- Electronic money issuance and transfer service

Investor's Relationship Checking- Retired

- Online bill pay and external transfers
- Bill pay services
- Direct deposit services
- Conducted via electronic communications network (OnLine Banking)
- Gift cards available for purchase
- Stored value cards (gift cards)
- Electronic money issuance and transfer service

Investor's Maximizer- Retired

- Conducted via electronic communication networks
- Direct deposit (can direct deposit into this account)
- Electronic money issuance and transfer service

Treasury Savings- Retired

- Conducted via electronic communication networks
- Direct deposit (can direct deposit into this account)
- Electronic money issuance and transfer service

Overdraft Protection

- Virtual or digital credit card product or service (credit card can be used as overdraft protection)
- Conducted via electronic communication networks

INTRUST Bounce Blocker

- None

Money Market Savings

- Conducted via electronic communication network
- Direct deposit services (money can be direct deposited into this account)

Regular Savings

- Conducted via electronic communication network
- Direct deposit services (money can be direct deposited into this account)

Youth Savings

- Conducted via electronic communication network
- Direct deposit services (money can be direct deposited into this account)

Time Deposit Accounts (CDs)

- Conducted via electronic communications networks
- Electronic funds transfer via electronic communications network

Individual Retirement Accounts

- Conducted via electronic communication networks
- Electronic funds transfer via electronic communications network
- Direct deposit (funds can be directly deposited into these accounts)

INTRUST Private Wealth Management

- Transfer money from an individual consumer in one country to a consumer in another country
- Conducted via electronic communications network
- Electronic funds transfer via electronic communications network
- Bill pay services
- External transfers

Retirement Plans

- Stored value cards
- Prepaid cards
- Conducted via electronic communication networks
- Electronic funds transfer via electronic communications network
- Direct deposit service

Home Mortgage Loans

- Conducted via electronic communication network (apply online)

INTRUST Home Equity Loan/Line

- Conducted via electronic communication network (apply online)
- Electronic money issuance and transfer service
- Stored value cards

Auto Loan

- Conducted via electronic communication network (apply online)

Unsecured Loans

- Conducted via electronic communication network (apply online)

INTRUST Bank Gift Cards

- Gift cards
- Stored value cards

INTRUST Visa Check Card

- Financial fraud protection and prevention
- Electronic money issuance and transfer service
- Electronic funds transfer via electronic communications network

INTRUST Bank Credit Card

- Virtual or digital credit card product or service
- Financial fraud protection and prevention
- Electronic money issuance and transfer service
- Electronic funds transfer via electronic communications network

INTRUST Mobile Banking

- Electronic funds transfer via electronic communications network
- Electronic money issuance and transfer service

Personal OnLine Serices

- Online Bill Pay and external transfers
- Transfer of money from an individual consumer in one country to a consumer in another country
- Conducted via electronic communication networks
- Bill pay services
- Electronic money issuance and transfer service
- Direct deposit services

INTRUST Small Business Checking

- Transfer of money from an individual consumer in one country to a consumer in another country
- Online Bill Pay and external transfers
- Prepaid cards/gift cards/payroll cards/etc.
- Conducted via electronic communications network
- Electronic funds transfer via electronic communications network

- Bill pay services
- Stored value cards
- Electronic money issuance and transfer service
- Direct deposit services
- Financial fraud protection and prevention

INTRUST Business Interest Checking

- Transfer of money from an individual consumer in one country to a consumer in another country
- Online Bill Pay and external transfers
- Prepaid cards/gift cards/payroll cards/etc.
- Conducted via electronic communications network
- Electronic funds transfer via electronic communications network
- Bill pay services
- Stored value cards
- Electronic money issuance and transfer service
- Direct deposit services
- Financial fraud protection and prevention

INTRUST Business Checking

- Transfer of money from an individual consumer in one country to a consumer in another country
- Online Bill Pay and external transfers
- Prepaid cards/gift cards/payroll cards/etc.
- Conducted via electronic communications network
- Electronic funds transfer via electronic communications network
- Bill pay services
- Stored value cards
- Electronic money issuance and transfer service
- Direct deposit services
- Financial fraud protection and prevention

INTRUST Treasury Management Checking

- Transfer of money from an individual consumer in one country to a consumer in another country
- Online Bill Pay and external transfers
- Prepaid cards/gift cards/payroll cards/etc.
- Conducted via electronic communications network
- Electronic funds transfer via electronic communications network
- Bill pay services

- Stored value cards
- Electronic money issuance and transfer service
- Direct deposit services
- Financial fraud protection and prevention

Business Time Deposits

- Conducted via electronic communications networks
- Electronic funds transfer via electronic communications network

INTRUST Business Savings

- Conducted via electronic communication network
- Direct deposit services

INTRUST Business Money Market Savings

- Conducted via electronic communication network
- Direct deposit services

Business OnLine Services

- Transfer of money from an individual consumer in one country to a consumer in another country
- Online bill pay and external transfers
- Conducted via electronic communication networks
- Electronic funds transfer via electronic communications network
- Bill pay services
- Direct deposit services
- Financial fraud protection and prevention

INTRUST Corporate Card

- Virtual or digital credit card product or service
- Financial fraud protection and prevention
- Conducted via electronic communication network

INTRUST Visa Purchasing Card

- Virtual or digital credit card product or service
- Financial fraud protection and prevention
- Conducted via electronic communication network

Commercial Loans

- Conducted via electronic communication network (apply online)

- Electronic funds transfer via electronic communications network

Small Business Loans

- Conducted via electronic communication network (apply online)
- Electronic funds transfer via electronic communications network
- Electronic money issuance and transfer service (for lines)
- Stored value cards (for lines)

Real Estate Loans

- Conducted via electronic communication network
- Electronic funds transfer via electronic communications network

Agri-Business Loans

- Conducted via electronic communication network
- Electronic funds transfer via electronic communications network

Letters of Credit

- Electronic funds transfer via electronic communications network
- Conducted via electronic communication network
- External transfers
- Electronic money issuance and transfer service
- Financial fraud protection and prevention

Treasury Management

- Online Bill Pay and external transfers
- Prepaid cards/gift cards/payroll cards/etc.
- Conducted via electronic communications network
- Electronic funds transfer via electronic communications network
- Bill pay services
- Stored value cards
- Electronic money issuance and transfer service
- Direct deposit services
- Financial fraud protection and prevention

Disbursements

- Prepaid cards/gift cards/payroll cards/etc.
- Stored value cards
- Direct deposit services
- Electronic funds transfer via electronic communications network

- Electronic money issuance and transfer service
- External transfers
- Conducted via electronic communications network

Risk/Information Management

- Financial fraud protection and prevention
- Conducted via electronic communication networks

International Banking

- Transfer of money from an individual consumer in one country to a consumer in another country
- External transfers
- Conducted via electronic communications networks
- Electronic money issuance and transfer service

Merchant Services

- Transfer of money from an individual consumer in one country to a consumer in another country
- Conducted via electronic communication networks
- Electronic funds transfer via electronic communication network
- Electronic money issuance and transfer service
- Financial fraud protection and prevention

Fraud and Security

- Financial fraud protection and prevention

Merchant Business Center

- Conducted via electronic communication network
- Electronic money issuance and transfer service
- Electronic funds transfer via electronic communications network

Relationship Checking

Features:

- No monthly account maintenance fee ($15) if a $5,000 average collected balance or a $10,000 combined relationship balance is maintained
- Variable interest earned for balances of $5,000 or more
- OnLine Bill Pay and Bill Pay with no monthly charge
- Additional free deposits via Mobile Check Deposit
- Unlimited check writing
- Free INTRUST Visa Check Card
- Free checks
- Free cashier's checks and travelers checks
- Free estate and financial analysis
- e-Statements
- Overdraft Protection
- Discounted rates on new personal loans with auto debit payments
- Unlimited INTRUST Bank ATM transactions at no charge
- No fee for ATM transactions at other bank's ATMs
- Discounted Visa® Gift Card purchases at any INTRUST banking center location

Select Checking – New in 2013

Features:

- A $10 monthly maintenance fee
- Receive up to $10 in credits per month for taking advantage of various banking services

Receive Up to $10 in Credits Each Month

INTRUST Select Checking allows you to receive up to $10 in credits for using various banking services. Each month you will receive a $2 credit for every completed item listed below, giving you control on how to earn back a portion or the entire monthly maintenance fee.

- Discontinue paper statements and receive e-Statements only (In OnLine Banking, choose statement delivery method of *Online*)
- 25 or more check card purchases posted to this account
- Maintain an average collected balance in this account of $1,000 or more
- Have a personal loan or credit card
- Receive preauthorized credits (including direct deposits) into this account totaling $250 or more

Prep Checking – New in 2013

Features:

- No monthly account maintenance fee if account is set for e-Statements and no paper statements are received (In OnLine Banking, choose statement delivery method of *Online*)
- No minimum balance requirement

Direct Deposit

All checking accounts have the option of **Direct Deposit**, meaning payroll, retirement, and government payments can all be deposited directly into your checking account instead of depositing paper checks.

Payroll Cards

Each pay period, your paycheck is deposited onto the Card. The need for paper checks is eliminated and replacement check costs are reduced.

EXHIBIT 1B

Benefits Include:

- Purchasing power of Visa
- Withdraw cash at bank tellers or ATMs
- Visa fraud protection for lost or stolen cards

Virtual Checking - Retired

Features:

- No monthly account maintenance fee if account is set for e-Statements and no paper statements are received (In OnLine Banking, choose statement delivery method of *Online*)
- Minimum opening deposit of $100
- Free OnLine Banking and Bill Pay
- e-Statements
- Limited check writing (three free checks per monthly cycle; $.50 per check thereafter; checks include teller withdrawal, but do not include electronic checks.
- Free INTRUST Visa Check Card
- Overdraft Protection
- Discounted rates on new personal loans with auto debit payments
- Unlimited INTRUST Bank ATM transactions at no charge.

Basic Checking - Retired

Features:

- Unlimited check writing
- Online Bill Pay available for a low monthly fee
- Free OnLine Banking
- e-Statements
- Free INTRUST Visa Check Card
- Overdraft Protection
- Discounted rates on new personal loans with auto debit payments
- Unlimited INTRUST Bank ATM transactions at no charge
- Minimum opening deposit of $100
- No monthly account maintenance fee if $1,000 average collected balance is maintained

Free Checking - Retired

Features:

- No minimum balance requirement/No monthly service charge
- Free INTRUST Visa Check Card with Free Visa Extras rewards program
- Unlimited check writing
- Unlimited INTRUST Bank ATM transactions at no charge
- Combined Statement
- Direct Deposit
- Free OnLine Banking
- Discounted rate on new personal loans with auto debit payment.
- INTRUST Platinum Visa with No Annual Fee Getaway Miles Air Travel and Vacation Rewards Program

Gold Checking - Retired

Features:

- No minimum balance requirement; $10 fixed monthly service charge
- Free INTRUST Visa Check Card with Free Visa Extras rewards program
- Free wallet-style checks
- Unlimited check writing
- Unlimited INTRUST Bank ATM transactions at no charge
- Combined Statement
- Direct Deposit
- Free OnLine Banking
- Free OnLine Bill Pay
- Free official checks and travelers checks
- Discounted rate on new personal loans with auto debit payment.
- INTRUST Platinum Visa with No Annual Fee Getaway Miles Air Travel and Vacation Rewards Program

Interest Checking - Retired

Features:

- No monthly service charge if a $3,000 combined relationship balance or $1,500 average collected account balance is maintained
- Interest earned
- Free INTRUST Visa Check Card with Free Visa Extras rewards program
- Unlimited check writing
- Unlimited INTRUST Bank ATM transactions at no charge
- Combined Statement
- Direct Deposit
- Free OnLine Banking
- Free OnLine Bill Pay
- INTRUST Platinum Visa with No Annual Fee Getaway Miles Air Travel and Vacation Rewards Program

Investor's Relationship Checking - Retired

Features:

- No monthly service charge if a $25,000 combined relationship balance is maintained
- Interest earned
- Free INTRUST Visa Check Card with Free Visa Extras rewards program
- Free wallet-style checks
- Unlimited check writing
- Unlimited INTRUST Bank ATM transactions at no charge
- No fee for ATM transactions at other banks ATMs
- Combined Statement
- Direct Deposit
- Discount rate on new personal loans with auto debit payment
- Free OnLine Banking
- Free OnLine Bill Pay
- Free official checks and travelers checks
- INTRUST Platinum Visa with No Annual Fee Getaway Miles Air Travel and Vacation Rewards Program

Investor's Maximizer - Retired

Features:

- No maintenance fee with a $5,000 balance each day of the statement cycle
- Interest compounded monthly
- No charge for first 25 deposited items per month
- Unlimited INTRUST Bank ATM transactions at no charge
- Check writing
- Combined statement

Treasury Savings - Retired

Features:

- No maintenance fee with a $1,000 balance each day of the statement cycle or a $2,500 average monthly collected balance
- Interest compounded monthly – earn premium interest with a minimum daily balance of $10,000 or more
- Unlimited INTRUST Bank ATM transactions at no charge
- Check writing
- Free checks
- Combined statement

Overdraft Protection

Features:

- **INTRUST Savings, Money Market, Other Checking or Credit Card Account**. Funds are withdrawn from your savings, money market or other checking account as needed. Small transfer fee. Needed funds are billed to your credit card. Cash advance fee applies.
- **INTRUST Overdraft Protection Line of Credit**. A line of credit with a competitive annual percentage rate. Needed funds are billed to this account, which is set up solely to protect your checking account. Cash advance fee applies.

INTRUST Bounce Blocker

On the occasion you find yourself a little short in your account, INTRUST Bounce Blocker (1) can save you the cost and inconvenience of returned checks or declined transactions.

If you are handling your account in a responsible manner, we may consider, at our discretion, providing Bounce Blocker on your account and paying items that overdraw your account.(2) INTRUST Bounce Blocker may be activated when your account is overdrawn by writing a check; making an in-person withdrawal or an automated payment; or other transaction using your checking account number.

Money Market Savings

Features:

- Maintain a $5,000 average collected balance to avoid the monthly account maintenance fee
- Check writing
- Free checks
- Tiered variable interest rates

- Free Cashier's Checks and Travelers Checks
- Available for Overdraft Protection as the transfer account
- Insured to the maximum allowed by FDIC
- Variable interest is calculated daily; compounded and credited monthly
- Combined statement
- Free OnLine Banking
- Phone Banking – Access your account information by phone, 24 hours a day, 7 days a week

Regular Savings

Features:

- No monthly account maintenance fee ($5) with a $300 minimum balance each day of the statement cycle
- Variable interest earned
- Available for Overdraft Protection as the transfer account
- Insured to the maximum allowed by FDIC
- Free OnLine Banking

Youth Savings

Features:

- No monthly account maintenance fee
- Variable interest earned
- Insured to the maximum allowed by FDIC
- Variable interest is calculated daily; compounded and credited monthly
- Combined statement
- Under age 18
- Free OnLine Banking
- Phone Banking – Access your account information by phone, 24 hours a day, 7 days a week

Time Deposit Accounts (CDs)

Regular Time Deposits

Features:

- Open with a minimum balance of $500
- Interest compounded daily.
- Short-term (90-364days) or long-term (12-60-months).

Jumbo Time Deposits

Features:

- Special terms and rates available for balances of $100,000 or more.
- Interest compounded daily.
- Terms as short as 7 days.

Individual Retirement Accounts

Traditional IRA

Features:

- Tax-deferred earnings until withdrawn.
- Eligible if under age 70 ½ and have received taxable compensation during the year.

- Deductibility based on participation in other retirement plans, modified gross income and income tax filing status.
- May include rollover contributions from other qualified retirement plans and IRAs.

Roth IRA

Features:

- Qualified earnings are tax-free. However, contributions are not tax-deductible.
- Eligible if modified gross income is within required limits.
- No mandatory distributions at age 70 ½.

Coverdell Education Savings Account

Features:

- Earnings are tax-free. However, contributions are not tax-deductible.
- Funds may be contributed by anyone within income limitations.
- Contribute until the year the child turns 18.

Health Savings Account (HSA)

Features:

- Working in conjunction with a High Deductible Health Plan (HDHP), a Health Savings Account (HSA) allows you to pay for current health expenses and save for future qualified medical and retiree health expenses on a tax-free basis. Unlike most health insurance plans, there is no "use it or lose it" clause associated with an HSA. At the end of the year, any unused balance in your account will be carried over to the following year, allowing you to build the fund to cover future medical expenses.
- Easy payments. Carry the convenient HSA Visa Check Card with you to pay all your qualified medical expenses. You can also use INTRUST HSA checks to pay the expenses.
- 24-hour access. Access your account any time with INTRUST OnLine Banking or by calling Customer Service.
- Tax-free contributions. All contributions to your HSA are tax-free up to the allowable limit.
- Tax-free withdrawals. With an HSA, your withdrawals for qualified medical expenses are never taxed.
- It's easy to contribute. Utilize direct deposit, online transfers, credit cards or make your deposits in person.
- More choice. Choose your doctor and pharmacy, using your account to pay for all related qualified medical expenses.
- Security for the future. Because your HSA is yours alone, you can keep the account with you if you change jobs or retire. Plus, any money you don't spend remains in the account at the end of the year.

Wealth Management Portfolio OnLine

- Review your trust and investment accounts online for up-to-date account activity. View balance, check pending trades, review market values and more.

INTRUST Private Wealth Management

Investment Management Services

- **Investment Philosophy-** INTRUST's investment philosophy is comprised of three main components:

    - **Objectivity**. INTRUST does not internally manage mutual funds, allowing us to be more objective in the investment selections to better suit each client's specific needs.
    - **Open Architecture**. INTRUST Wealth Management searches and engages the investment management style that suits each client's needs. INTRUST has a number of world-class portfolio managers, each with a different style, to choose from.
    - **Asset Allocation**. INTRUST believes asset allocation is the single most important factor in our investment strategy.
- **Tailored Financial Solutions**- INTRUST Wealth Management offers a variety of investment management services:
    - Premier Managed Accounts (Individual equity and bond portfolios)
    - Objectively Selected Mutual Funds
    - Tax-Exempt Bonds

Private Trust Services

For more than 90 years, INTRUST Private Wealth Management has assisted individuals and families in reaching their financial goals with tailored estate planning and fiduciary services.

- Trust Administration
- Charitable Trusts
- Legacy Planning
- Farm and Ranch Management
- Mineral Management Services
- Commercial and Residential Property Management

Brokerage Services

- If you are seeking the advice of an experienced, registered professional, an investment consultant at INTRUST Financial Services will work with you to develop a plan that fits your goals. We can help you make informed decisions about retirement planning, college planning, insurance and taxes.
- If you prefer to make your own investment decisions, INTRUST Financial Services offers access to online trading through LPL Financial Trade Direct. Enjoy instant access to your brokerage account so that you can make your self-directed investment decision anytime.
- Secure access to your brokerage account is available OnLine.

Retirement Plans

Features:

- Fiduciary Services – Discretionary Trustee versus Directed Trustee
- Participant Recordkeeping/Technology
- NestEgg University – Our solution to employee participant education
- (k) Score – INTRUST proprietary investment monitoring and replacement process

NestEggU.com

NestEgg U is a resource created to help you better manage and plan for your financial future, learn about your retirement savings plan, and access your retirement account online.

- Review your retirement plan balances, transfer between funds, change investment elections and more.

Home Mortgage Loans

- Purchase or Refinance
- Fixed and Variable Rate Mortgage Loans
- Conventional Fixed Rate, Jumbo Loan, Interest Only Loan, FHA/VA Government Loan, Swing/Bridge Loan, Balloon Loan, Construction Loan

INTRUST Home Equity Loan/Line

- A home equity loan is a one-time loan secured by the equity in your home. Receive your money in one lump sum and repay it in a fixed number of equal monthly payments.

INTRUST Relationship Equity Lines of Credit

- Secured by the equity in your home, a home equity line of credit is easily accessible when you need it. Use the line of credit over and over as you repay it.

Auto Loan

- Fixed rate loan for the purchase of a vehicle.

Unsecured Loans

- Fixed rate loan

INTRUST Bank Gift Cards

- INTRUST Visa® gift cards are ideal for all occasions: holidays, birthdays, graduations, weddings or just because.
- Choose from denominations of $25-$500 will be deposited onto the gift card to be used at a later date.
- Only the funds deposited onto the card can be used.
- Choose a personal greeting that will appear on the card (online orders only)
- Better than a store gift card – the Visa gift card can be used at millions of locations
- Funds expire with card. The card and funds are valid until the expiration date shown on the front of the card. You should use the funds before that date.
- A monthly fee of $2.50 will bill any time there has been 12 consecutive months of inactivity on the card.

INTRUST Visa® Check Card

Purchases are quick and easy with a free Visa Check Card. Funds are accessed through your checking account. Plus, you have access to a convenient network of INTRUST Bank ATMs that are always free to use. Your check card also comes with zero-liability fraud protection and 24/7 account monitoring.

- There is no annual fee or user fee at any INTRUST ATM.
- Use the INTRUST Check Card instead of writing checks. The purchase is automatically deducted from your INTRUST checking account.
- Accepted worldwide. Accepted at millions of merchants and ATMs worldwide.
- Card security. Verified by Visa protects your existing Visa check card with a personal password, giving you reassurance that only you can use your Visa card online.

INTRUST Bank Credit Card

A credit card is a payment card issued to users as a system of payment. It allows the cardholder to pay for goods and services based on the holder's promise to pay for them through a system of monthly payments at a later date. The issuer of the card creates a revolving account and grants a line of credit to the consumer (or the user) from which the user can borrow money for payment to a merchant or as a cash advance to the user.

- FREE rewards program lets you earn points every time you use your INTRUST credit card
- Earn points you can redeem for merchandise, travel, event tickets, special activities, university rewards, gift cards and cash back
- Complete fraud protection
- Free Personal Identity Theft coverage. $5,000 coverage that reimburses you for expenses resulting from identity theft
- Zero Liability Fraud Protection. Have peace of mind knowing that you will not be held liable for any unauthorized transactions
- **Verified by Visa** protects your existing Visa credit with a personal password, giving you reassurance that only you can use your Visa card online.

All the tools you need to manage your INTRUST credit cards is also available OnLine. View statements and transactions, make payments, check your INTRUST Rewards point totals and more! Manage your account immediately after you enroll.

INTRUST Mobile Banking

- Managing your finances is even easier and more convenient with INTRUST Mobile Banking. Available on your mobile phone or other mobile device, INTRUST Mobile Banking allows you to access and view your INTRUST accounts and recent account activity. You can also transfer funds between your accounts, deposit checks using your phone's camera, pay bills and find nearby banking centers and ATMs.

Personal OnLine Services

OnLine Bill Pay

- Single sign-on. Pay bills and access your INTRUST account information with just one user ID and password.
- Manage your payees. Send bill payments to any company that sends you a bill or any person or organization, such as a friend or charity, you wish to send a payment. Assign categories to each payee to make it easier to track expenses.
- Manage your payments. Pay one bill or multiple bills from one screen. Flexible scheduling options enable you to schedule your bill payments to occur one time or to repeat, to begin processing today or in the future. Keep tabs on pending payments and edit or cancel payments if necessary.
- Pay from multiple funding accounts. Select more than one INTRUST checking account from which to pay bills.
- Generate reports. Customize reports from a variety of criteria to quickly look up specific payments.
- Guaranteed on-time payments. INTRUST guarantees that your bill payments will be sent on time and for the dollar amounts you specify.

Customers with INTRUST Relationship Checking will receive OnLine Bill Pay FREE of charge for up to 20 online payments with an additional $ .30 fee for each additional payment.

Customers with INTRUST Select/Prep Checking will receive their first month free of charge. Afterwards, there will be a $4.25 fee each month for up to 20 payments. A $.30 fee will be charged for each additional payment.

Open an Account Online

- At INTRUST Bank, you can apply for and fund a new checking account, savings account or time deposit (CD) completely online! It's secure, fast and easy, whether you're applying for your first INTRUST Bank account or you're already an INTRUST Bank customer.

Personal OnLine Banking

- Bank anytime securely from anywhere you have Internet access. Pay bills, check balances, transfer funds, view check images, download statements, order checks and more – 24 hours a day.

TurboTax® Online(SM)

- TurboTax® is America's easiest to use do-it-yourself tax preparation software. See for yourself just how easy preparing your taxes can be with TurboTax® OnlineSM. Step-by-step guidance and other tax savings tools help you get the biggest refund you deserve.

External Transfers

- With external transfers, you can easily and securely move funds between your INTRUST Bank personal checking, savings, and money market accounts and your accounts at other financial institutions in the United States.

INTRUST Small Business Checking

Features:

- Monthly(1) account maintenance fee will be waived if any of the following are maintained:
  - $3,000 average collected balance in this account per monthly(1) cycle, or
  - An open INTRUST Merchant Services account depositing to this account(2), or
  - An active(3) INTRUST Business Visa® Check Card on this account(2)

INTRUST Business Interest Checking

Features:

- Unlimited access to the account while earning interest on the balance

INTRUST Business Checking

Features:

- Earnings credit

INTRUST Treasury Management Checking

Features:

- Earnings credit
- Optional Features Offered with Every INTRUST Business Checking Account

May be the right choice if you:

- Have a high amount of monthly account activity
- Would like to have your fees and services analyzed so they may be reduced through earnings credit

Every INTRUST business checking account offers a wide range of optional features, including:

- Business OnLine Services — This checking account is eligible for Business OnLine Banking - Information Reporting and Business OnLine Banking - Treasury Reporting. Compare all Business OnLine Services to see if this checking account/online service combo meets your online banking needs.
- INTRUST Business Visa® Check Card
- Business Overdraft Protection
- QuickBooks® Banking — Simplify your life by downloading transactions directly from your INTRUST checking and savings accounts. Check balances, transfer money, pay bills and more.

Business Time Deposits

Certificate of Deposit or "CD"

- Known as "Time Deposits", a CD is a savings account in which the deposit is held for a fixed term or in which withdrawals can be made only after giving notice or with loss of interest)

- Time deposits (CDs) combine the security of a guaranteed return from a savings account with the higher return associated with an investment.

Regular Time Deposits

- Open with a minimum balance of $500
- Interest compounded daily
- Short-term (90-364 days) or long-term (12-60 months)

Jumbo Time Deposits

- Special terms and rates available for balances of $100,000 or more
- Interest compounded daily
- Terms as short as 7 days

INTRUST Business Savings

Features:

- Earns variable interest, calculated on the daily collected balance, compounded and credited to the account per monthly cycle
- No monthly cycle account maintenance fee if a $300 minimum balance is maintained in this account each day of the monthly cycle
- No charge for the first 20 domestic deposited items per monthly cycle. Additional items are 20¢ each, including on-us items.

INTRUST Business Money Market Savings

Features:

- Variable interest rate is calculated on the daily collected balance, compounded and credited to the account monthly based on tiers
- No monthly account maintenance fee if a $5,000 minimum daily balance is maintained
- No charge for the first 20 domestic deposited items per month. Additional items are 20¢ each, including on-us items.

Business OnLine Services

OnLine Banking for Businesses

- INTRUST Bank offers three levels of online banking service. Choose the service that meets your needs, based on the transaction activity of your business accounts. Business OnLine Banking - Basic Reporting, the most basic service, is designed for accounts with limited transactions; Business OnLine Banking - Information Reporting is designed for accounts with moderate levels of transactions; and Business OnLine Banking - Treasury Reporting, the most robust service, is designed for high-volume corporate customers.

Lockbox OnLine

- This secure, online document viewing and storage system offers instant access to the remittance documents processed in your lockbox. Begin the A/R posting process as soon as the bank completes your lockbox work and eliminate the storage of paper documents.

Deposit OnLine

- INTRUST Deposit OnLine allows you to make deposits directly from your office eliminating the time and money it takes to deliver your deposits to the bank. Our technology offers you the ability to convert checks into images for deposit at INTRUST Bank. Speed up collection of your deposits, eliminate mail float and increase availability with INTRUST Deposit OnLine.

Positive Pay

- Reduce your exposure to fraud risk. Positive Pay detects check discrepancies and enables you to decide whether to pay the items or return them.

INTRUST Corporate Card

The INTRUST Corporate Card is a tool to help you consolidate your travel & entertainment expenses, earn rewards, or finance other business expenses.

- Save time, cut costs, improve cash flow with a revolving line of credit
- Earn rewards with INTRUST Rewards or Commercial Card Rebate Program
- Monthly statements and reporting to simplify record-keeping
- Visa benefits including auto rental coverage, travel assistance, and Zero Liability fraud protection
- Online account management through INTRUST Corporate Credit Card OnLine, allowing administrators the option of managing multiple accounts. View statements, transactions, your current balance and credit line, make payments, check your INTRUST Rewards point totals and more.

INTRUST Visa Purchasing Card

Designed to help streamline the internal purchasing process, the INTRUST Visa Purchasing Card is the solution to help you save time and gain control over your purchasing costs.

- Minimize expense and maximize effectiveness
- Less paperwork, reduced labor costs
- Management reporting available
- Online account management through INTRUST Corporate Credit Card OnLine, allowing administrators the option of managing multiple accounts
- Earn rewards with INTRUST Rewards or Commercial Card Rebate Program

Commercial Loans

Term Loans
Any business purpose
- Expansion or acquisition
- Purchase of equipment or other fixed assets
- Purchase of commercial vehicle
- Increase of inventory

Flexible repayment terms, with budgeted loan payments at competitive rates

Lines of Credit
Seasonal, cyclical and fluctuating cash needs
- Purchase of inventory
- Finance of accounts receivable
- Covering of unexpected expenses
- Cash flow management

Both revolving and non-revolving options
Interest-only monthly payments based on a variable interest rate
Automated pay down and advance system available
We tailor the credit solution to the needs of your business. Therefore, the structure of the loan, including the term, rates and fees, varies and is dependent upon the particular transaction.

Small Business Loans

Whether your business is large or small, INTRUST offers customized credit solutions that are always a perfect fit. We offer a variety of lending services including term loans, lines of credit, real estate and a full line of Small Business Administration (SBA) options.

Term Loans
Any business purpose
- Expansion or acquisition
- Purchase of equipment or other fixed assets
- Purchase of commercial vehicle
- Increase of inventory

Flexible repayment terms, with budgeted loan payments at competitive rates

Lines of Credit
Seasonal, cyclical and fluctuating cash needs
- Purchase of inventory
- Finance of accounts receivable
- Covering of unexpected expenses
- Cash flow management

Both revolving and non-revolving options

Interest-only monthly payments based on a variable interest rate
Automated pay down and advance system available

Real Estate Loans

INTRUST Bank's commercial real estate lending experts can help you with your next real estate project, offering a wide range of competitive commercial real estate products and services to help your business grow and prosper and provide you with convenience, flexibility and peace of mind.

Commercial Construction

- Construction of commercial properties
- Owner occupied properties
- Investment properties

Expansion or renovation
Flexible interest-only monthly payments
Competitive interest rates with both fixed and variable rate options
SBA 504 loan program may be available

Purchase

- Acquisition of commercial properties
- Owner occupied properties
- Investment properties

Competitive interest rates with both fixed and variable rate options
SBA 504 loan program may be available

Refinance

- Refinance of commercial buildings and investment properties
- Competitive interest rates with both fixed and variable rate options

Residential Construction

- Construction of residential properties
- Owner financing
- Builder financing
- Land acquisition & development
- Flexible interest-only monthly payments
- Competitive interest rates with both fixed and variable rate options

We tailor the credit solution to the needs of you and your business. Therefore, the structure of the loan, including the term, rates and fees, varies and is dependent upon the particular transaction.

Agri-Business Loans

Rely on INTRUST Bank to structure a line of credit, term loan or real estate loan to fulfill your individual need:

- Commercial livestock operations
- Production and commodity loans
- Grain storage and warehousing businesses
- Farmer owned cooperatives
- Agri-business equipment, manufacturing and sales
- Agricultural support businesses providing inputs and service
- Value added and agricultural processing firms
- Farm real estate

Letters of Credit

A commercial letter of credit is a widely used financial instrument that bridges the gap between buyer and seller with the neutrality and strength of a bank. In effect, the letter of credit performs the dual roles of mitigating credit risk and of being a vehicle for payment. These are common instruments, but complex as well, so having experienced international bankers there to guide you is essential.

Export Letters of Credit
In setting terms of sale to a foreign buyer whose creditworthiness has not yet been established, requiring payment through a letter of credit is a prudent decision. Choosing the right bank to help you through the process is also a prudent decision. Exporters who know the importance of strategic partnerships recognize INTRUST letter of credit specialists as an essential resource.

Import Letters of Credit
As a vehicle of payment for foreign goods and services, the letter of credit serves the primary need of the vendor, but it can also be structured as an important financing tool for the importer. INTRUST letter of credit specialists are an excellent source of information when structuring import purchases with optimum efficiency.

Treasury Management

Cash Management
INTRUST provides automated borrowing and investment solutions to help you maximize your return on working capital. **Sweep accounts** and **Zero Balance Accounts** offer convenience and a competitive yield with low risk.

- A Sweep Account is a system where daily cash needs are determined based on total debits and credits posting to the accounts from a line of credit or an investment
- A Zero Balance Account provides you with the ability to use several purpose accounts – payroll, depository and expenses, for example – to consolidate the company's cash into one primary account.

Collections
Speed up your accounts receivable (A/R) cycle to quickly convert sales into deposits. INTRUST Treasury Management collection services help you improve cash flow, manage critical A/R information in real time, improve security controls and eliminate unnecessary debt.

- **Lock Box-** Turn receivables into productive available cash faster than through the traditional collection system by using a lockbox. Your receivables are mailed to a post office box. INTRUST retrieves the contents each day, and processes all of your receivables. Lockbox provides extensive remittance and deposit information while eliminating the processing time spent by your staff.
- **Deposit OnLine-** Our remote deposit capture product, INTRUST Deposit OnLine, allows you to speed up collection of your deposits, eliminate mail float and increase availability by depositing checks from your desktop.
- **Vault Services-** INTRUST offers a full array of vault services, including an automated coin and currency ordering system for change orders.
    - To ensure that your accounts are reconciled quickly and to reduce your risk of theft, your cash will be verified within 24 hours of receipt and your deposits will be credited to your account on the same day. We'll also mail your deposit adjustment notices on the same day the difference is posted on your account.

- If your business frequently deals in large amounts of cash, you know the time and effort involved in processing these funds, as well as the inherent security risks. With INTRUST's vault service, you can manage these processes more efficiently.

- **Merchant Services-** Quickly convert sales into deposits with INTRUST merchant services. For more than 25 years, INTRUST has provided businesses with the ability to accept credit cards as payment. Whether you are a sole proprietorship operating a retail store, a partnership in the service sector, or a corporate manufacturer selling business-to-business, you can increase your profitability.

Disbursements

Making payments at the right time is as important as collecting payments as quickly as possible. INTRUST disbursement services provide greater control over how and when cash moves out of your accounts.

- **Controlled Disbursement-** Bank's controlled disbursement account helps you forecast your company's daily cash position with greater accuracy. The final check presentment for our disbursement site occurs early each day so you can receive notification of your daily check funding requirements by approximately 10:30 a.m. (CST). Notification of the funds needed for your presented checks will help you with short-term cash flow forecasting.
- **Automated Clearing House Payments-** Use the Automated Clearing House (ACH) to disburse regular payments directly to employees' and vendors' accounts with pre-authorized credits. Faster transportation and processing saves you time and money and provides increased security from fewer touch points and automated controls.
- **Payroll Services-** INTRUST Bank's payroll options provide you with an efficient and easy way to pay your employees. Each option eliminates lost/stolen checks and boasts security, dependability and convenience.
  - **Payroll Card-** Each pay period, your employees' paychecks are deposited onto the Card
  - **Direct Deposit-** Each pay period, your employees' paychecks are deposited into their personal bank accounts at the financial institution of their choice.
- **Wire Transfer-** Online wire transfer service offered through INTRUST is just one of the safe and convenient online banking options that help make managing your money easier.

Risk/Information Management

Access to timely and accurate account information is critical in today's 24/7 business world. Having information when and how you want it are crucial to making informed business decisions. INTRUST offers Internet-based solutions that offer a convenient and secure way to monitor your transactions and protect our business from fraud.

- **Treasury Reporting-** Transfer funds, check balances, view transaction details, even view check images at the push of a button. Business OnLine Banking - Treasury Reporting is a Web portal allowing corporate customers to access their bank information. From one site, you have access to all the resources required to more effectively manage your funds, from viewing balance and transaction information to making transfers. Business OnLine Banking - Treasury Reporting provides you the efficiency to monitor your accounts at INTRUST from your desktop.
- **Positive Pay-** INTRUST Bank's Positive Pay service helps protect against losses due to check fraud by performing a daily reconcilement of issued checks against those presented for payment.

Any checks that do not match are rejected, and INTRUST will provide daily notification of the exceptions via the Internet. This notification will include an image of the item as well as the reason the check was identified as an exception. You will then have the ability to make pay/return decisions on each exception item.

INTRUST Bank's **ACH block and filter services** will scan your electronic transactions and automatically return any unauthorized entries to the originator. By returning unauthorized transactions, you will have advanced protection against electronic fraud that helps your company avoid potential financial losses.

- **ACH Debit Block-** INTRUST can structure the ACH block service to prevent certain types of ACH transactions.
    - Post no ACH entries. Blocks all incoming debits and credits to your account. Only transactions that you initiate will go through automatically; others will be returned as unauthorized.
    - Post only ACH credit entries. Receives only incoming credits from other parties – such as bill payment providers – and blocks all debits, which are returned as unauthorized.
    - Post only ACH debit entries. Allows only debits to your account and returns credits as unauthorized.
- **ACH Debit Filter-** Post only certain ACH debit entries. You may have vendors that debit your account from time to time for various reasons and you still want to accept those transactions. Because all ACH transactions have a company ID tied to them, we can structure the service so that companies with approved IDs can continue to post transactions to your account.
    - Debits not on your list of approved vendors will be filtered out into a report.
    - INTRUST Bank will notify you via phone of an attempted entry, allowing you the opportunity to make a decision on whether to return the ACH transaction as unauthorized.
    - Any INTRUST Bank generated entries to fund or provide settlement for INTRUST Bank ACH origination will still post.

International Banking

Letters of Credit
Complete letter of credit services for standby, export, import, and domestic transactions, including issuance, advising, confirmation, negotiation, and transfer.

Foreign Exchange
Comprehensive offering of exchange services (wires, drafts, forward contracts and foreign banknotes) in all major and most minor currencies, including spot, forward, and cash transactions.

International Payments
Advanced foreign payment services including straight through processing, same day settlement of euro clearings, and customized treasury management.

Trade Finance Services
Certified documentary credit expertise in financing import purchases, collecting foreign receivables and financing export sales.

Merchant Services

Processing Options
Our card processing solutions enable you to accept a variety of payment types. So let us help you in matching your unique payment needs to the optimal processing method. Whether you rent, purchase, or already own equipment, we can help.

- **Dial Pay-** Dial Pay allows you to authorize and electronically process credit card transactions using a touch-tone telephone. That means quick and easy acceptance of Visa, MasterCard & Discover by phone.
- **Terminals-** INTRUST Bank offers user-friendly processing terminals to fit any need, from land line to IP connections. If you already own a terminal, you may be able to continue using it or choose from our purchase or lease options.
- **Virtual Terminals-** A virtual terminal is a payment gateway that allows merchants to quickly authorize and settle one-time or recurring payment transactions through their PC. Using your computer and a standard internet browser you can log onto a virtual terminal website and process card transactions. It is a straightforward, real-time interface to the world of payment processing.
- **Point of Sale-** Point of Sale (POS) Software essentially replaces the cash register. Pont of Sale software turns any PC or PC-based POS system into a secure payment-accepting device. It supports a wide range of peripherals, making it easy to accept all payment types including credit, debit, EBT, checks, stored value/loyalty and purchasing cards.
- **e-Commerce-** Provide your customer the convenience of making card payments via your website by integrating e-Commerce card payment acceptance into you own website. With this payment solution, merchants can collect payments for merchandise sold on the Internet or for services provided.

QwickPay

Increase your payment acceptance options and save time with QwickPAY. QwickPAY is a smartphone-based payments application that accepts debit and credit cards from almost any location.

Collecting payments immediately improves your businesses efficiency by eliminating timely payment invoicing and transaction processing costs.

iPhone, iPad and Android users can swipe payment cards using a small, secure card reader that allows you to capture customers' signatures directly on your smartphone's touch screen. QwickPAY uses the highest level of card data encryption and security protocols to transmit information

- Real-time data protection with verification code help to protect your business from fraud
- Compliance updates are seamlessly integrated

Fraud & Security

You are the first line of defense against fraud. Minimize your exposure to fraudulent card transactions by taking the necessary steps to protect you and your customers.

- **Address Verification-** Address Verification is a service that compares the address and billing information provided by a customer at the time of a transaction, with the information the cardholder's issuing bank has on file, to help determine if the transaction is valid.

- **PCI Compliance-** PCI DSS, an abbreviation for Payment Card Industry Data Security Standard, was developed by the PCI Security Standards Council (founded by American Express, Discover Financial Services, JCB International, MasterCard Worldwide and Visa, Inc.) to enhance payment account data security. They established 12 basic data security standards to help fight fraud. These standards apply to all entities that accept, process, or store card information.
    - To assist you in becoming PCI compliant (an annual requirement), we have partnered with Trustwave, a company at the forefront of information security. Through Trustwave's TrustKeeper compliance portal, you'll have the tools you need to ensure you are compliant with PCI DSS.
    - If a merchant does not comply with or fails to correct a security issue, the merchant may be subject to steep fines and operating restrictions.
    - If a merchant knows or suspects a security breach, the merchant must take immediate action to investigate the incident, limit the exposure of cardholder data and notify INTRUST Bank.
    - If the merchant fails to notify INTRUST Bank of the incident, penalties of $100,000 per incident may be assessed.
    - If the merchant's card transaction data is compromised and not compliant at the time of the incident, the merchant is subject to fines, up to $500,000 per incident.
- **Fraud Schemes-** A fraud transaction could have one or more of these characteristics:
    - Unsolicited email or fax initiating an order
    - Shipping address to high fraud areas (Chicago, San Diego or Brooklyn)
    - Shipping outside the United States or to the Port of Miami
    - Large order for numerous duplicate items
    - Large transaction amount
    - Rush order
    - Order reflects poor grammar/English
    - Avoids using the online order form
    - Several card numbers are used
    - Disregard for high shipping costs
    - Use of a TDDY (telephone for hearing impaired)
    - Request for drop ship with overnight delivery
- **Security Code Verification-** The 3-digit security code is an important security feature for merchants who accept Visa (CVV2) and MasterCard (CVC2) as payment over the telephone or online. Located on the back of all cards, the security code consists of the last three digits printed on the signature panel. In the card-not-present sales environment, the security code is an excellent tool for verifying that the customer has a legitimate card in hand at the time of the order.

Merchant Business Center

Merchant Business Center makes a wide variety of merchant account information available to merchants through an internet-based product. Designed to save time and make you more productive by delivering information directly to your personal computer, Merchant Business Center gives you direct access to card transaction information that includes:

- Merchant Statements (13 months of history)
- Transaction, batch, authorization and research capabilities
- Ability to download research
- Cardholder account inquiries

These advanced features allow you to review summary level information or drill down to transaction details. Merchant Business Center greatly simplifies the wide variety of tasks needed to maintain financial control and manage your business.

In addition, Merchant Business Center is economical and great for merchants of all sizes.

Fees

- Single merchant ID, $6 per month
- Multiple merchant IDs, $15 per user/per month

Electronic Check Acceptance (ECA)
Streamline time consuming paperwork and reduce administrative expenses by utilizing Electronic Check Acceptance (ECA) to process checks electronically. ECA boosts the speed and accuracy of check acceptance and processing.

Processing checks through ECA allows retailers to accept checks quickly, easily and securely via an electronic check conversion service. It converts paper checks into an electronic payment, forwards the day's check transactions through the Automated Clearing House (ACH) network, and deposits the proceeds into your bank account. The streamlined process eliminates paper handling, while reducing deposit and returned check fees.

Key Benefits:

- Imaged or imageless equipment options
- Lower cost of accepting checks
- Simplified funds management
- Fewer returned items and their associated expenses
- Faster deposit + availability of funds
- Reduced bank fees + simplified retail back-office preparation + reconciliation
- Reduced processing errors through check imaging when used with the VeriFone Omni Vx510 or Vx570 Payment Terminal

All checks approved using the ECA service are covered by the Check Guarantee service, ensuring those checks will be paid at full face value, even if the checks are later returned (provided all procedures were followed). This not only reduces losses from bad checks, but also the hassle of trying to collect on returned items. By streamlining check acceptance and processing procedures, you lower your overall cost of accepting checks.

I Trust INTRUST

For all that you trust in life, there's a bank that shares your values.

Since our founding 136 years ago, INTRUST Bank has weathered every economic challenge, recession and depression to come our way. Not only that, we've also learned and grown stronger through the adversity. Today, while the stability of many other banks remains compromised, we remain strong. In spite of financial pressures in the market, our loan quality is sound and we are well-capitalized.

As always, our primary focus is on the well-being of our customers. Our emphasis on maintaining lasting relationships with our customers means we are always acting in their best interests. We will continue to be guided by these disciplined banking practices in order to foster the long-term success of our customers and the communities in which we serve.

Through adversity comes innovation. We will continue to invest in technologies that will provide our customers with services that enhance their financial needs. And, we will continue to operate in the safe and sound manner we always have. We invite you to learn more about why so many people say, "I Trust INTRUST".

Why trust INTRUST?

Five Reasons
It pays to put your trust in us.
Read the reasons

Our History
Trust where we've been and where we're going.
Read our history

EXHIBIT 2

I Trust INTRUST

Five reasons it pays to put your trust in us.

We're open for business.
We continue to make loans to meet the needs of our customers while maintaining strict and conservative lending practices.

We have had no subprime real estate exposure.
We have deliberately chosen to make traditional consumer and real estate loans to credit worthy borrowers.

We are strongly capitalized.
With more than $4 billion in assets, INTRUST's core capital levels substantially exceed all regulatory requirements to be considered "well-capitalized."

We are profitable.
We have consistently maintained profitability throughout our history because we have followed the fundamentals of banking.

We are not going anywhere.
Founded in 1876, we have always placed a strong emphasis on customer relationships and conservative, sound banking practices. Today, with 46 locations across Kansas, Oklahoma and Arkansas, these are the principles that have guided us to become one of the largest banks based in the Midwest. So, rest assured that INTRUST will always be here when you need us.

I Trust INTRUST

A brief history of INTRUST Bank and our vision for the future.

INTRUST History
Our 136-year history of overcoming economic challenges and growing stronger through adversity is proof we're a safe and solid financial institution. And we're not going anywhere.

INTRUST Quick Facts

- Founded in 1876
- More than $4 billion in assets
- Family-owned and run for four generations
- More than 45 locations in Kansas, Oklahoma and Arkansas

A family tradition.
During the late 1800s, Kansas was a state still known for its rowdy, Old West image. Though its vast, fertile resources were largely untapped, progress was just beginning to take root. Men with vision recognized the potential of the land and its people relocated to the area, so that as the new century began, Kansas began to really flourish. Nurturing those early seeds of progress was a bank that had planted its roots in Kansas in 1876 – one with big plans for the future. Over the next century, it would become a bank that would literally help build the state. At the helm of that bank was C.Q. Chandler II.

Chandler had come to Kansas as a young man with little more than solid principles – and the courage to dream. Over two decades, he became one of the state's banking captains. And in 1990, he took the helm of the bank that eventually became known as INTRUST. Originally chartered as the Farmers & Merchants Bank in 1876 and later known as the First National Bank in Wichita, INTRUST is the oldest homegrown Wichita bank in continuous existence. Over the course of the 20th century, INTRUST has been instrumental to the success and growth of many of the businesses around Kansas and the region – growing from dreams into industrial giants with assistance from the bank. And with its growth into communities across Kansas and Oklahoma, INTRUST is continually seeking ways to make banking more convenient and its customers more successful. Learn more about our history.

Looking forward.
INTRUST has grown to become the largest independent bank headquartered in Kansas. In spite of our growth, we're still known for the high premium we place on customer service. Perhaps it is this dedication to personalized banking service, passed on for more than four generations, that has allowed us to expand our business to more than 45 branch offices and 100 ATM locations throughout Kansas, Oklahoma and Arkansas. We place a strong emphasis on building relationships in the communities we serve and learning about the particular needs of all of our customers.

Not only has INTRUST weathered every economic challenge in its history, but we've also learned and grown stronger through the adversity. We're a safe and solid financial institution with the vision to not only recognize but to also adapt to periods of change in positive, timely ways. Today, with 136 years of experience under our belt and $4 billion in assets, the future of INTRUST Bank is looking exceptionally bright.

History

It was the late 1800s. Kansas was a state still known for its rowdy, Old West image. Its vast, fertile resources were largely untapped. But progress had taken root.

Men with vision recognized the potential of the land and the people who lived on it. As the new century began, Kansas began to flourish. And nurturing those early seeds of progress was one bank that had planted its roots in Kansas to stay. Over the century, it would become a bank that would literally help build the state. At the helm of that bank was C. Q. Chandler II.

Chandler had come to Kansas as a young man with little more than solid principles – and the courage to dream. Over two decades, he became one of the state's banking captains. And in 1900, he took the helm of the bank that eventually became known as INTRUST. Originally chartered as the Farmers & Merchants Bank in 1876 and later known as the First National Bank in Wichita, INTRUST is the oldest homegrown Wichita bank in continuous existence. Over the course of the 20th century, INTRUST has been instrumental to the businesses of Kansas and the region. Many companies have grown from mere dreams into industrial giants with the bank's assistance. And with its growth into communities across Kansas and now, Oklahoma, INTRUST gives the people in the region it serves a bank that is continuously seeking ways to make banking more convenient and its customers successful.

This photo, from 1890, shows the interior of what would eventually become the original location of INTRUST Bank.

The First National Bank Logo

Kansas was his springtime of hope.

C.Q. Chandler's name became synonymous with Kansas banking. He knew the state, the people and their potential. He also understood that a bank's health was tied to the economic health of the communities it serves. So, with a keen eye for identifying unmet needs, and an unwillingness to sacrifice principles for revenue, Chandler's bank helped finance the needs of communities across the grass-swept Kansas plains.

During this era, the cattle industry was Kansas' signature industry. Chandler recognized the importance of people succeeding in a business that could thrive in the state and he was aggressive in supporting cattle ranchers. "I have loaned money on cattle for 15 years, and I consider no security in the West better," he wrote near the turn of the century.

Another one of Chandler's most notable traits was his genuine interest in people and building relationships. He always remembered: "You do business with people, not companies." When his business interests forced him to commute more and more, Chandler became the proud owner of the first automobile sold in Wichita. His car, the talk of the town, allowed the banker to continue doing business face to face.

Chandler had a will and determination that also led to progress. He was instrumental in bringing southwestern Kansas its first telephone service. He founded the Wichita Orthopedic Clinic. He organized the Kansas Society for Crippled Children, an agency that helps children with disabilities reach their potential by providing financial assistance to their families. His work with KSCC has been continued by each generation of the Chandler family.

C.Q. Chandler II, 1864-1943

Passing on his principles was important to Chandler. Throughout the century, the heritage established by this banking pioneer has been passed down to each generation in his family. While each new generation has upheld Chandler's principles and vision, each has also made their own mark on the Kansas landscape.

EXHIBIT 3

The bank grew as Kansas grew.

After earning his banking spurs at the First State Bank in Gage, Oklahoma, Charles J. Chandler, the second generation, came to his father's bank where he would soon help lead it into a new era in banking service for its customers. Over the two decades following World War II, a "Consumer Revolution" took place. People wanted installment credit so they could purchase new cars, refrigerators and air conditioners. Charlie helped create a consumer loan department. To further focus on consumer

A leader in banking's "consumer revolution", INTRUST introduced the drive-up window to Kansas in 1953. Charles J. Chandler (left) receives congratulations from then Wichita mayor Walt Keeler.

needs, he announced plans for Wichita's first drive-in bank in 1952. And during the 60s, he oversaw the bank's move to automation of services, a pioneering effort among Wichita banks.

Charlie was also a leader in the community. He became the youngest person in the United States to head a Community Chest drive. He founded the Junior Achievement organization in Wichita. And in 1967, he was presented a commemorative medal by Congress in recognition of his leadership and contributions to the agricultural industry.

A Willingness to Adapt to Change

With the appointment of C.Q. "Chuck" Chandler III to president of the bank in 1971, a third generation of Chandler leadership began. Chuck's career started in the bank's correspondent division, where he traveled to rural areas as a "bank scout." The year 2000 marked Chuck's 50th year with the bank. In his leadership roles, Chuck helped usher in electronic banking, cash management and instant credit. He also led the bank to adopt a more liberal approach in support of Small Business Administration ventures, making INTRUST one of the leading small business lenders in the nation. In 1975, Chuck announced a major expansion for the bank: two branch banks in east and west Wichita, the first step toward becoming the bank with the most locations in Wichita. And because he felt strongly that "a bank can have all the money and all the computers in the world and still be out of business," Chuck led a move to find and train the best people to provide personal banking.

The bank's first computerized data entry system installed in 1962, is a far cry from the sophisticated technology used today.

Bullish on the Region and its Future

The test of banking endurance has now been placed on the shoulders of the fourth generation of Chandlers. Under C.Q. "Charlie" Chandler IV, INTRUST has grown to become the largest independent bank headquartered in Kansas. Yet with its growth, the bank is still known for the high premium it places on customer service. Charlie has continued his father's dedication to providing personalized banking, building a network of more than 45 branch offices located in Kansas and Oklahoma, and more than 100 ATM locations. INTRUST is also recognized as a leader in banking technology, a mantle borne out with the bank's development of Internet banking services on its Web site, intrustbank.com. Charlie also represents the fourth generation of bank leadership that recognizes the value of his roots. Under his leadership, INTRUST has continued to place a strong emphasis on building relationships in communities they serve, and learning about the particular needs of their customers.

136 years. Four generations. One Bank was there.

Today, the name of Chandler's bank is INTRUST. It is a bank that has not only weathered every great business recession, but grown stronger from the adversity. It is a bank that has had the vision to recognize periods of change and adapt to them in positive, timely ways. It is a bank with its roots planted firmly in the region. And it is still operated by the same family who knows the people here, and is willing to put their faith in the people and their dreams.

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I trust INTRUST.

Corporate Values

in-trust': to commit to another in confidence
Webster's Dictionary

Mission & Purpose | Commitments | Character Qualities

Mission
To be the best community bankers in the markets we serve and to be a company of character in all that we do.

Purpose
To consistently contribute to the well being of our Customers, Employees, Shareholders, Strategic Partners, and the Communities we serve.

EXHIBIT
4

Corporate Values

in-trust': to commit to another in confidence
Webster's Dictionary

We will contribute to the **Well Being of INTRUST Customers** by:

- Providing products and services of significant value in their lives.
- Delivering excellent service at a fair price.
- Handling their financial affairs in a trustworthy, professional, private and ethical manner.
- Finding proven solutions tailored to achieve their financial goals.

We will contribute to the **Well Being of INTRUST Employees** by:

- Celebrating their inherent character, value and potential for significant contribution.
- Discovering, developing and recognizing their unique gifts and talents.
- Treating them honestly, fairly and with respect.
- Providing pleasant, productive and safe work environments.

We will contribute to the **Well Being of INTRUST Shareholders** by:

- Providing an exemplary company within which to invest, manifested in integrity and professionalism.
- Delivering competitive returns.
- Creating long-term value, both financial and personal.
- Supplying timely information regarding the company and their investment.

We will contribute to the **Well Being of INTRUST Strategic Partners** by:

- Communicating clearly our purpose, mission, commitments and goals in order to maximize their opportunity to achieve significant success through our relationship.
- Providing feedback and market information which will allow for continuous improvement of their products and services.
- Maintaining long-term relationships consisting of trust, respect and mutual benefit.
- Paying a fair price for excellent products and services.

We will contribute to the **Well Being of INTRUST Communities** by:

- Investing resources to promote the importance of character development in community life.
- Providing leadership in economic development activities.
- Assisting the economically, socially and physically challenged.
- Promoting personal volunteerism by all employees.

Corporate Values

in-trust': to commit to another in confidence
Webster's Dictionary

Great relationships are established and strengthened by individual and shared character qualities. Customers, employees, shareholders, strategic partners, and communities focused on building character provide the greatest prospect for growth and mutual benefit.

Therefore, INTRUST Bank will consistently seek, celebrate and continually develop these character qualities in all of our relationships:

- **Humility.** Recognizing that everyone is a work in process, and understanding our own strengths and weaknesses while acknowledging the significant worth and contribution of others.
- **Respect.** Assuming the value of others and treating them as we would like to be treated.
- **Faithfulness.** Protecting the reputation and assets of others.
- **Discretion.** Ensuring the confidentiality of our relationships, and understanding the consequences of words, actions and attitudes.
- **Responsibility.** Striving to do what we commit to, accurately, dependably and on time.
- **Honesty.** Relating to all people in a sincere, clear, and straightforward manner, knowing what is right and true.
- **Compassion.** Being understanding, forgiving, kind and helpful toward others.
- **Decisiveness.** Being prepared to the point of confidence in making timely decisions.
- **Initiative.** Recognizing and doing what needs to be done, and striving to continuously improve all we do.
- **Wisdom.** Knowing what is right and using available resources to make decisions, seeking advice when necessary.
- **Fresh Thinking.** Approaching the future with respect for the past, while creating innovative solutions for a rapidly changing environment.
- **Positivity.** Looking for the best in every situation and in all people.

Corporate Identification Standards

INTRUST
Bank

EXHIBIT
5

CONFIDENTIAL

Introduction

The INTRUST corporate identity system is designed to project a professional, high quality image that continually strengthens the equity in, and recognition of, the INTRUST name.

The cornerstone of the identity system is our corporate signature, comprised of the abstract "I" symbol and the logotype (a customized lettering of the INTRUST name).

The Basic Standards section of this manual defines and demonstrates the use of the corporate signature—its colors, positioning relative to other design elements, accommodation of descriptors for subsidiaries and activities, and supporting typography. Adherence to these standards is essential.

Later pages explain and illustrate how to apply these basic standards to a wide variety of high visibility communications, including stationery, forms and facility signs. Guidelines are also provided for collateral and advertising materials.

The success of the identity program requires that all employees and suppliers charged with designing or producing materials bearing the INTRUST signature closely adhere to the standards and guidelines set forth in this manual. Foremost is the requirement that all signature applications be reproduced only from the approved artwork provided. Master artwork, in the form of either reproduction sheets or EPSF software for computers, is available from Corporate Marketing.

This manual contains a representative sampling of applications. Use these examples, and the basic standards, as a guide in designing other existing or future applications not specifically addressed in the manual. If questions arise concerning interpretation of certain standards or additional applications, contact Corporate Marketing.

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In May of 1993, our new corporate identity was introduced. The name, INTRUST, enables us to unite all the companies in our system under a single, easily recognizable identity. The new signature dynamically positions us for future growth as a premier financial institution with a rich heritage and an even brighter future.

As defined by Webster, INTRUST means "the process of committing to another with confidence." It describes how we do business by uniquely portraying our character and the tradition of trust that has been our legacy to our customers for over 100 years.

Our new corporate identity is a valuable asset. It is essential that all reproductions of the name and logo are correct. Any lack of consistency, alterations, or improper use or placement of the graphic elements could compromise INTRUST's identity among our customers and potential customers.

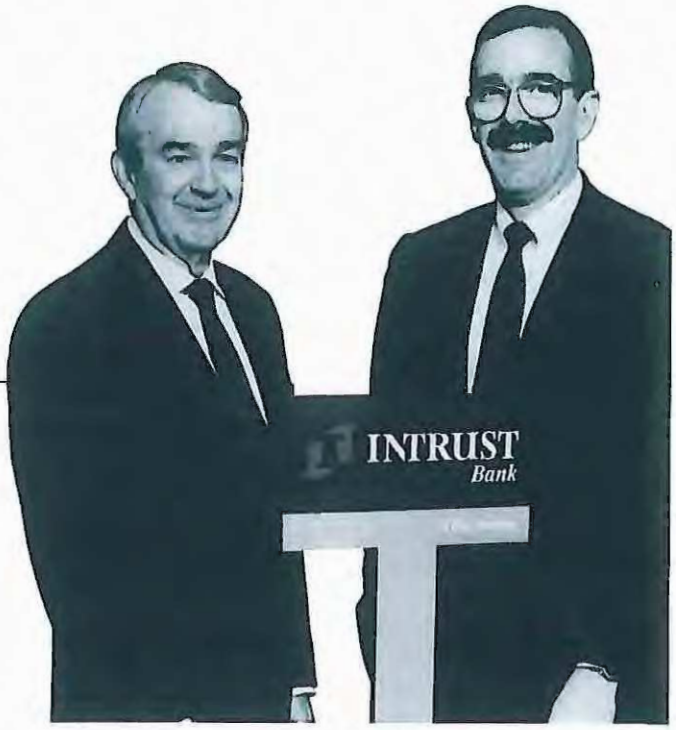
Therefore, to ensure the precision and consistency of our new corporate identity on all materials utilizing the INTRUST identity, the following Corporate Graphic Standards have been developed. It is important that these rules and guidelines are followed carefully and without exception so that our identity is represented correctly.

Please review this manual thoroughly. We all have a responsibility to stay within these corporate guidelines. If you have any questions regarding the interpretation of certain standards or applications, please contact Corporate Marketing.

Your quality performance combined with the INTRUST identity are a winning team.

C.Q. Chandler
Chairman of the Board
INTRUST Financial Corporation

C.Q. Chandler, IV
President
INTRUST Financial Corporation



CONFIDENTIAL

The INTRUST Corporate Signature

The INTRUST corporate signature is comprised of a logotype (a custom rendering of the INTRUST name) and an abstract "I" symbol. The corporate signature forms the basis for the INTRUST family of signatures that identify the organization's various entities and activities (see page 3). The corporate signature may be used only on applications that promote a system-wide identity. Materials promoting individual entities and activities must bear that entity's or activity's own signature.

The following mandatory standards apply to all the INTRUST signatures.

The custom logotype has been created expressly for INTRUST and cannot be recreated by conventional typesetting methods.

The logotype must always be accompanied by the symbol; the logotype must never be used alone. The symbol, however, may be used alone on a restricted basis for background patterns, letterhead watermarks, lapel pins, rooftop signage, and other applications specifically approved by Corporate Marketing.

The relative size and positioning of the logotype and symbol in relationship to each other must always be maintained. To guarantee this, the signature must always be reproduced only from approved reflective or EPSF digitized artwork.

Color is also a very important, and impactful element of the INTRUST identity. The INTRUST corporate colors—INTRUST Dark Blue, Green and Bright Blue—are used in the full-color example below. Subsequent pages in this manual will detail the proper use and control of the corporate colors in signature reproduction and design applications.

INTRUST

	PANTONE®* Equivalent:	Four-Color Process Equivalent:
INTRUST Dark Blue	PANTONE® 281	100% Process Cyan 70% Magenta 40% Process Black
INTRUST Green	PANTONE® 354	80% Process Yellow 90% Process Cyan
INTRUST Bright Blue	PANTONE® Process Cyan	100% Process Cyan

*PANTONE®, Inc.'s Check Standard trademark for color reproduction and color reproduction materials. The colors shown on this page and throughout this manual are not intended to match the PANTONE® Color Standards.

CONFIDENTIAL

The Corporate Signature Family

In addition to the corporate signature, there are two other types of signature treatments in the INTRUST signature family. The first type is the direct brand signature, illustrated in the first five examples below. The direct brand treatment consists of the corporate signature with the addition of a descriptor line for the individual entity or activity. The descriptor line appears in relation to the corporate signature in a standard typestyle, size and position. The activity descriptor need only to provide communicative disclosure of the entity name or activity. The full legal name is not required. When full legal disclosure is necessary, it is displayed in typeset copy away from the signature.

The last example indicates the graphic treatment that will be used by entities that, for legal reasons, cannot change their name to reflect a direct brand treatment. This proprietary brand treatment couples the INTRUST symbol with the entity name typeset in large and small capital letters in Times Bold.

Because the use of a stand-alone corporate signature and proprietary brands are very limited, the examples in this manual will focus on the standards and application guidelines for direct brand signatures. The signature construction and color characteristics of the corporate, direct and proprietary brand signatures have been designed to be very similar, therefore all information in this manual can be used for corporate or proprietary brand signature application. Although visual examples will not be provided, the manual narrative will outline the procedure for adapting a proprietary brand signature to the guidelines or design applications on each page. Creation of proprietary brand signatures must be coordinated with Corporate Marketing.

Detailed guidelines for the construction of direct brand and proprietary brand signatures are detailed on page 4.

INTRUST
Financial Corporation

Direct Brand Signature
Holding Company

INTRUST
Bank

Direct Brand Signature
Retail Bank

INTRUST
Mortgage

Direct Brand Signature
Subsidiary

INTRUST
Card Center

Direct Brand Signature
Division

INTRUST
24 Hour Banking

Direct Brand Signature
Service Activity

WILL ROGERS BANK

Proprietary Brand Signature

CONFIDENTIAL

Two relationships of the corporate signature to the descriptor have been approved for direct brand signatures. Signature Format A features a flush right alignment of the descriptor with the logotype. Format A should be used whenever possible.

Format B, a one-line signature, should be used only when there is not adequate vertical space to accommodate an appropriately sized Format A signature. As illustrated on succeeding pages, appropriate uses of Format B include form mastheads with very limited vertical space, copy heavy advertisements, and narrow building fascias. The descriptor is set in upper and lowercase Times Bold Italic. Alternative typestyles are not allowed.

The illustrations and captions below detail the established size and position of the descriptor for each signature format.

Signature Format A descriptors should be on a single line if possible. If the descriptor extends beyond the "N" in the logotype, a two-line descriptor or smaller (40% X) one-line descriptor is allowed.

Proprietary brand signatures may be constructed in one-, two- or three-line formats. The proprietary brand logotype is sized and positioned identically to the corporate signature symbol/logotype relationship.

Current policy guidelines regarding trademark registration display are available from Corporate Marketing. Trademark registration will only be applied to direct brand signatures. Proprietary brand signatures will display trademark registration within an accompanying legal disclosure. When applied, the trademark registration symbol will be sized independently of the signature to achieve a small, but legible size. A serif trademark symbol style is preferred.

Direct Brand Signature, Format A: The standard one- or two-line descriptor size is equal to 60% of the logotype cap height. If a particular descriptor line is impractical for a two-line presentation, the descriptor line may be sized at 40%, provided it would fit within the one-line length limitations. Upper and lower case Times Bold Italic is used for the descriptor copy.

Direct Brand Signature, Format B: The descriptor line appears in one line, sized to match the logotype cap height. Upper and lower case Times Bold Italic is used for the descriptor copy.

Proprietary Brand Signature, Three-Line Format: The proprietary brand logotype and corporate symbol relationship is identical to the symbol/logotype relationship in the corporate signature. One-, two- and three-line formats may be constructed. Large and small Times Bold capital letters are used for the proprietary brand names. The small capital letters are 80% of the large capital letters.

CONFIDENTIAL

Three renderings of the symbol have been created to facilitate full-color and one-color applications of all INTRUST signatures. Shown in their pure black and white art form below, the following guidelines must be followed to ensure their proper use.

The full-color signature rendering features a solid symbol image, that must be used to reproduce the signature in approved three-color and two-color techniques. (See pages 6 and 7).

In one-color applications, a level of contrast between the upper and lower portions of the symbol is desirable. To achieve this contrast, one-color signature renderings feature an angled linear tone applied to the lower segment. One-color artwork Version A is used in all applications where the signature measures 2-1/2" or larger. For smaller applications, Version B will be used. The number and thickness of the line rule elements have been reduced in Version B to ensure clean reproduction in smaller sizes.

If a signature must be applied in one-color, smaller than 1 inch in length, use of the full-color rendering is allowed due to the tendency of the linear tone to plug in extremely small sizes.

Only master artwork, available in reflective and EPSF digitized form (for computer use) will be used for all signature reproduction. Multiple generation artwork, that is to say copies of copies, must never be used.

Because of the wide variety of computer hardware and software used in our organization, computer reproduction of the signature must be carefully evaluated. Individual scanning of signature art, so that it can be used in computer design efforts, is not allowed. Only the approved EPSF digitized signature art can be used. Compatible software programs and high resolution Post Script printers are also necessary to ensure quality reproduction of the signature. All signature computer use will be authorized and coordinated by Corporate Marketing.

Full-Color and One-Color Artwork Versions

INTRUST
Bank

Full-Color Signature Artwork: Use for three-color and two-color reproduction techniques, or one-color signatures smaller than 1" in length.

Larger than 2 1/2"

INTRUST
Bank

One-Color Signature Artwork, Version A: Use for one-color signatures measuring 2-1/2" or larger in length.

For use from 1" to 2 1/2"

INTRUST
Bank

One-Color Signature Artwork, Version B. Use for one-color signatures from 1" to 2-1/2" in length.

CONFIDENTIAL

Positive Color Reproduction

The visual impact and recognition of INTRUST signatures is greatly enhanced by the use of the corporate colors. The use of the corporate colors, either in positive or reverse applications, is always recommended.

The positive and reverse reproduction examples below and facing page, listed in their order of preference, are approved for all formats of corporate, direct brand and proprietary brand signatures.

An accurate density match to the INTRUST colors is necessary to achieve a consistent, recognizable color signal for full effectiveness. Weak or excessive application of color will greatly effect the appearance. Always match the color swatches provided on pages 41 and 42 to ensure an accurate match. Paper stock color may also effect the INTRUST colors, particularly of the Bright Blue and Green. Printing on bright white paper stock is recommended, as grey and other color stocks tend to dull the INTRUST color appearance.

A. Positive Three-Color Signature: All typography is INTRUST Dark Blue. The upper portion of symbol is INTRUST Bright Blue. The lower portion of symbol is INTRUST Green.

INTRUST Bank

A.

B. Positive Two-Color Signature: All typography is INTRUST Dark Blue. The upper portion of symbol is 50% screen value of INTRUST Dark Blue. The lower portion of symbol is INTRUST Green.

INTRUST Bank

B.

C. Preferred Positive One-Color Signature: The entire one-color signature is INTRUST Dark Blue.

INTRUST Bank

C.

D. Optional Positive One-Color Signature: The entire one-color signature is black.

INTRUST Bank

D.

CONFIDENTIAL

Specialty applications (not shown) such as embossing or metallic foil stamping are allowed for formal or decorative applications where a corporate color statement is not necessary or appropriate. Do not use contrasting techniques to differentiate the logotype and symbol. The entire signature should be reproduced in a common technique, using the appropriate one-color signature rendering, depending on size.

The approved four-color process formula match for the corporate colors is specified on page 2. Minor adjustments of the formula to accommodate various screen technologies is allowed if necessary to achieve an accurate match.

Reverse Color Reproduction

E. Reverse Three-Color Signature: All typography reverses white from the INTRUST Dark Blue field color. The upper portion of symbol is INTRUST Bright Blue. The lower portion of symbol is INTRUST Green.

F. Reverse Two-Color Signature: All typography reverses white from the INTRUST Dark Blue field color. The upper portion of symbol is 50% screen value of INTRUST Dark Blue. The lower portion of symbol is INTRUST Green.

G. Preferred Reverse One-Color Signature: The entire signature reverses white from the INTRUST Dark Blue field color.

H. Approved Reverse One-Color Signature: The entire one-color signature reverses from any dark color that provides adequate contrast for reverse imagery.

CONFIDENTIAL

Signature Staging

Signature "staging" refers to the manner in which the signature is sized, positioned and fit into the intended application.

INTRUST signatures should be sized to achieve unmistakable recognition, but not be overstated. Do not assume that sizing the signature as large as the application can accommodate will enhance the effectiveness of the signature presentation. A moderately sized signature surrounded by an area free of other typography and visual elements will provide effective recognition, as well as project the understated, professional image we desire.

The diagrams below illustrate the minimum clear area that must always be maintained around the signature perimeter to ensure that it is set apart from surrounding visual competition. A more generous clear area is always preferred and will only further enhance signature recognition.

Although a direct brand signature is used here, the 1X clear area is applicable to corporate signature or proprietary signature applications as well.

Always select the most effective position within the design for signature display. The most effective signature position should be considered during the initial design process, and not be an after thought that may force the signature into whatever space is left available.

The layout of the signature and surrounding design elements should be complimentary. Direct brand Format A and B signatures are very adaptable to centered and flush right alignments with other elements. In all cases, particularly when copy elements appear in close proximity to the signature, a balanced, intentional relationship must be established.

Signature Format A Clear Area

Signature Format B Clear Area

CONFIDENTIAL

Typographic style is an essential ingredient in maintaining the INTRUST image. Corporate signatures are constructed based on established typography specifications. All high visibility applications, from stationery to signs, require consistent type treatments to create an immediately identifiable INTRUST "look."

The Times Roman type family has been established as the primary corporate support typestyle. Available in a wide range of styles and weights, Times Roman is specified throughout this manual for copy requirements in signature construction, stationery, print and facility signs.

Illustrated below is a selection of Times Roman styles. Guidelines and examples throughout this manual will provide either firm specifications or style recommendations for the appropriate use of Times Roman in a wide variety of applications.

In copy heavy application, it may not be desirable to use Times Roman for the entire design. A neutral sans serif style, such as Helvetica or Univers (not shown), may be used to create a level of contrast, and to provide added emphasis to the Times Roman elements.

Also provided below are the basic typesetting specifications for corporate address blocks and personalizations that will be applied to stationery, forms and other print materials. Subsequent pages will reference these specifications for individual designs.

Support Typography

Times Roman

ABCDEFGHIJKLMNOPQRSTUVWXYZ
abcdefghijklmnopqrstuvwxyz 123456789

Times Roman Bold

ABCDEFGHIJKLMNOPQRSTUVWXYZ
abcdefghijklmnopqrstuvwxyz 123456789

Times Roman Italic

ABCDEFGHIJKLMNOPQRSTUVWXYZ
abcdefghijklmnopqrstuvwxyz 123456789

Times Roman Bold Italic

ABCDEFGHIJKLMNOPQRSTUVWXYZ
abcdefghijklmnopqrstuvwxyz 123456789

Corporate Support Typestyle: The Times Roman family is available in a range of weights and styles beyond the examples shown to the left. Condensed or extended style variations are also approved for use.

INTRUST Bank, NA
Box One
Wichita, KS 67201-0001
Telephone 316 383-1111

INTRUST Financial Corporation
105 N. Main
Box One
Wichita, KS 67201-0001
Telephone 316 383-1111
Fax 316 383-1828

Will Rogers Bank
5100 N.W. 10th Street
P.O. Box 75533
Oklahoma City, OK 73147-0533
Telephone 405 949-6500
Fax 405 949-5690

Employee Name
Employee Title
Direct Telephone (optional)

Address Block Typesetting Specifications: For all standard print applications, the address blocks are 8pt. Times Roman Italic, flush left, with 2pt. line leading. The first line displays the full legal name, with INTRUST appearing in all capital letters. All other information is cap and lower case

Certain applications such as the Fax Transmittal and larger oversize envelopes will call for a slightly larger 9 pt. or 10 pt. sizes (not shown). For these address blocks, the 2 pt. line leading and style specifications are maintained, and the copy size is simply enlarged.

Personalization Block Typesetting Specifications: Personalization blocks are 8pt. caps and lower case, flush left, with 2pt. line leading. The name is typeset in Times Roman Bold Italic and the title and direct telephone number (optional) are Times Roman Italic.

CONFIDENTIAL

Signature Misuse

Correct use of the signature basic standards is not only essential to the integrity of our identity, but also to our legal right to exclusive use of our name, logotype and symbol.

Illustrated below are likely misuses or misinterpretations of the signature basic standards. This range of examples is by no means exhaustive, but clearly indicates modifications that are unacceptable and weaken the communicative value of the signature.

Most potential for misuse can be eliminated by always reproducing the signature from approved reflective or EPSF digitized artwork software.

A. Do not transpose the established color breaks of the symbol or the logotype.

B. Do not create unapproved signature formats.

C. Do not alter the established size relationship of the symbol and logotype.

D. Do not use the logotype alone in any application.

E. Do not use unauthorized typestyles for the signature descriptor line.

F. Do not retypeset the custom logotype.

G. Do not create special effects signatures on print applications.

H. In positive applications, do not fill in the negative area of the symbol. It should always appear in the same color as the background or paper stock.

A.

B.

C.

D.

E.

F.

G.

H.

CONFIDENTIAL

INTRUST Bank

I.

INTRUST Bank

J.

INTRUST Bank

K.

INTRUST Bank

L.

INTRUST Bank

M.

INTRUST Bank

N.

Now there are extended hours available at your nearby INTRUST *Bank* !

O.

P.

Intrust Bank

Intrust Bank

Q.

INTRUST Bank

R.

I. Do not allow the symbol alignment to become misregistered in print applications.

J. Do not apply the signature to patterned or textural backgrounds that effect its readability.

K. Do not alter approved artwork renderings. In this case, the linear tone of the one-color signature has been modified.

L. In reverse applications, do not drop out the negative areas of the symbol.

M. Do not add embellishments to the signature in an attempt to further enhance its visual effectiveness.

N. Do not apply the signature to an expressed shape that may appear to be an integral part of the identity.

O. Do not use the signature as part of a phrase or paragraph. Advertising tag lines may be added, but only per the guidelines on page 24.

P. Do not reproduce the signature in a technique that does not provide adequate contrast.

Q. When referred to in text copy, do not typeset, or typewrite INTRUST in upper and lowercase letters. It should always appear in all capital letters.

R. Do not visually separate the symbol and logotype by color or graphic elements.

CONFIDENTIAL

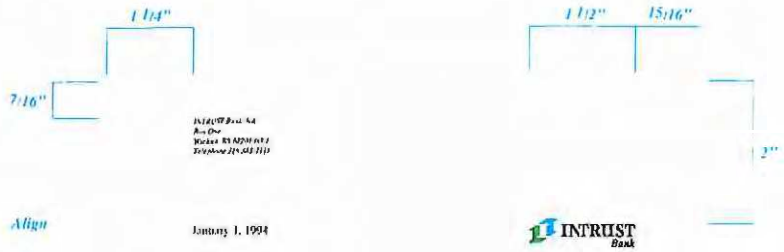
Stationery System Objectives

The layout, or positioning, of all elements that appear on INTRUST stationery, including typed or word processed information, has been carefully designed to reinforce the professionalism and distinctiveness of the INTRUST identity.

As important as the printed design is, materials such as letterheads, envelopes and mailing labels are not complete until the typed or word processed information is applied. The pre-printed imagery and applied information should function as a unified whole.

As demonstrated by the letterhead example below, the established margins and block left typing style integrate all of the visual elements to communicate a sense of control and professionalism.

All stationery related materials featured in this manual are illustrated to include layout, color, typesetting and secretarial standards necessary to the maintenance of the stationery system. Typing instructions are explained in detail in the body of the letter below.



January 1, 1994

Secretarial Staff
INTRUST Bank, N.A.
Box One
Wichita, KS 67201

Dear Secretary

This letter is being used to show how the corporate "block left" structure is applied to the standard 8-1/2" x 11" letterhead format.

Your left margin should be set at 1-1/4", and your right margin at 1". With this setting your left margin will vertically align with the preprinted address appearing at the top of the page. This preferred alignment will add a sense of order and simplicity to the relationship of typed and preprinted elements.

Begin typing approximately 2" from the top of the page so that the top of the date line and INTRUST signature align as shown. There are three blank lines between the date and inside address. Paragraphs should be double spaced, and should not be indented. Allow at least four spaces for the signature between the closing and name. Double space for initials and enclosures.

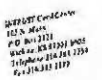
The INTRUST name should be typed in all capital letters, with single word spacing before "Bank," as shown in the address block at the top of this page. When additional pages are required, use only approved matching, blank second sheets. Page headers on second sheets begin 7 lines (1-1/8 inch) below the top of the page. Text begins 3 lines (1/2 inch) below the page header. All other alignments, spacing, and specifications match the letterhead first sheet.

Sincerely,

C.Q. Chandler IV
President

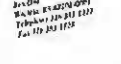
CQC/cg

A.



D.

C.



CONFIDENTIAL

The Letterhead System

The INTRUST letterhead system is illustrated at the bottom of this page, and on the left facing page. The letterhead design features signature Format A and is printed in full corporate colors. The address block is typeset per specifications listed on the bottom of page 9. Complete production specifications (paper size, color and stock, ink colors) are provided on page 19.

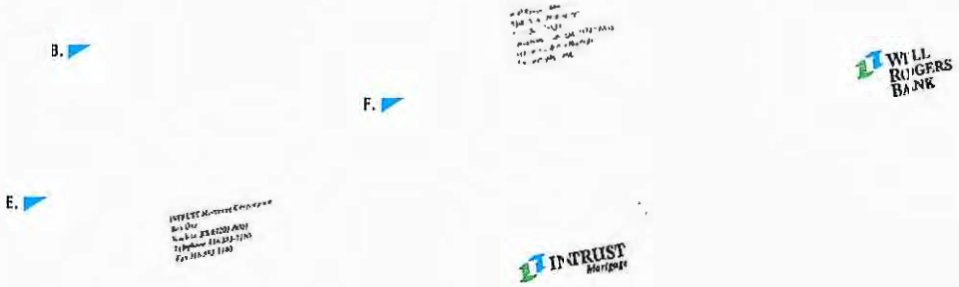
The standard layout framework is adaptable to all direct and proprietary brand INTRUST signatures. Proprietary brand signatures should be applied so that the symbol size and position matches that of the direct brand signature size specified in the diagram below. Two- or three-line proprietary brand signatures may be used (see "Will Rogers Bank" example).

A. 8-1/2" x 11" standard letterhead layout.

B. 5-1/2" x 8-1/2" executive letterhead layout.

C.-E. Direct brand signature letterhead application.

F. Proprietary brand signature letterhead application.



CONFIDENTIAL

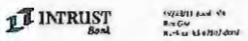
Correspondence Envelopes

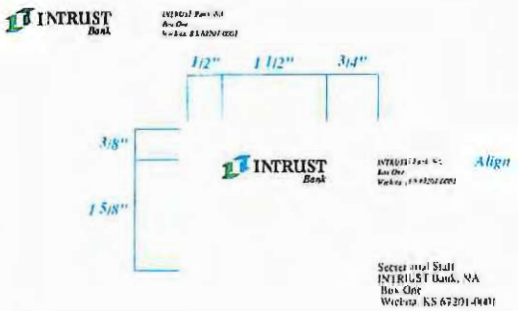
Correspondence envelopes will feature the same signature, address block (without phone numbers or personalizations), color treatment and paper stock as the letterhead they are coupled with.

Proprietary brand signatures will be applied to this design by matching the size and position of the direct brand signature symbol. Two- or three-line signature formats may be used. The address block must maintain the specified distance from the signature.

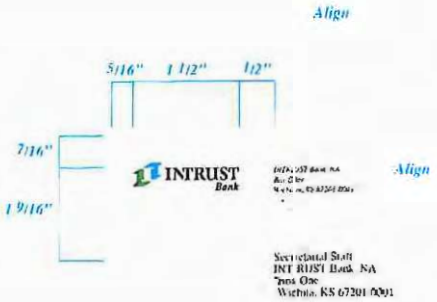
This envelope layout may also be used to produce cost-effective, two-color and one-color envelopes for general use purposes. For these applications, matching the letterhead stock is not necessary. Bright white paper stock must be used when using the INTRUST colors.

The address block is typeset per the guidelines on page 9. Complete production specifications are provided on page 19.





Standard #10 Correspondence Envelope: A three-color envelope will be used in combination with the standard letterhead shown on page 12. Two- or one-color envelopes may be produced for general use purposes only



Executive Envelope: The executive envelope design will only be produced in three-colors for use with the 5-1/2" x 8-1/2" executive letterhead shown on page 13.

CONFIDENTIAL

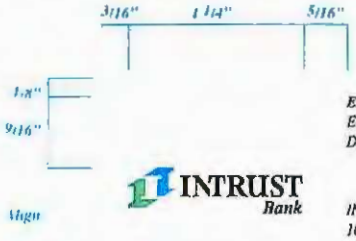
Business Cards

All elements appearing on the business card design are sized and positioned per the diagrams below. Business cards use the three-color signature Format A. Note carefully that the size of the signature is smaller on the business card than the standard 1-1/2" size used on other stationery materials.

Business card personalizations will include the employee direct phone number in the last line of the personalization block. Multiple phone listings within the personalization are not allowed. The general office phone number and fax number are listed in the address block.

As demonstrated below, this layout can be adapted to accommodate a proprietary signature, which should match the symbol size and position as the brand signature whenever possible. If necessary, a slight adjustment to the position of the personalization and address blocks is allowed in order to maintain a minimum of 5/16" between the signature and copy.

The address and personalization blocks are typeset per the guidelines on page 9. Complete production specifications are provided on page 19.



Employee Name
Employee Title
Direct Telephone

INTRUST Bank

INTRUST Bank, NA
105 N. Main
Box One
Wichita, KS 67201-0001
Telephone 316 383-1111

Standard Business Card layout: The established business card design is adapted to the full range of direct brand proprietary brand signatures.

Employee Name
Employee Title
Direct Telephone

INTRUST Card Center

INTRUST Card Center
105 N. Main
P.O. Box 2721
Wichita, KS 67201-9805
Telephone 316 383-1354

Align

Employee Name
Employee Title
Direct Telephone

INTRUST Financial Corporation

INTRUST Financial Corporation
105 N. Main
Box One
Wichita, KS 67201-0001
Telephone 316 383-1111
Fax 316 383-1828

Employee Name
Employee Title
Direct Telephone

WILL ROGERS BANK

Will Rogers Bank
5100 N.W. 10th Street
P.O. Box 75533
Oklahoma City, OK 73147
Telephone 405 949-6500
Fax 405 949-5690

Employee Name
Employee Title
Direct Telephone

INTRUST Mortgage

INTRUST Mortgage Corporation
123 N. Main
Box One
Wichita, KS 67201-0001
Telephone 316 383-1160
Fax 316 383-1140

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Miscellaneous Envelopes

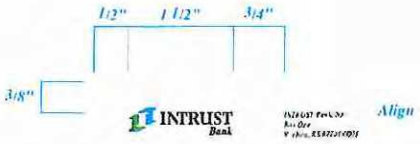
Whenever possible, window envelopes will incorporate the signature and address block layout established for the #10 correspondence envelope. On small window envelopes, the side-to-side relationship of the signature and address block may extend the imagery into the postal validation area. If this is the case, use the stacked signature/address configuration diagramed below.

Bright white paper stock is recommended for all window envelopes, particularly when the corporate colors are used. Three-color printing is preferred whenever possible, although approved two-color and one-color reproduction techniques may be used for cost effectiveness. Use INTRUST Dark Blue for one-color applications. Use black ink only when colored paper stocks are required. When printing in one-color, be sure to use Version B of the one-color signature (see page 5).

For additional security and opacity, a 30% screen of INTRUST Bright Blue may be used on window envelope interiors.

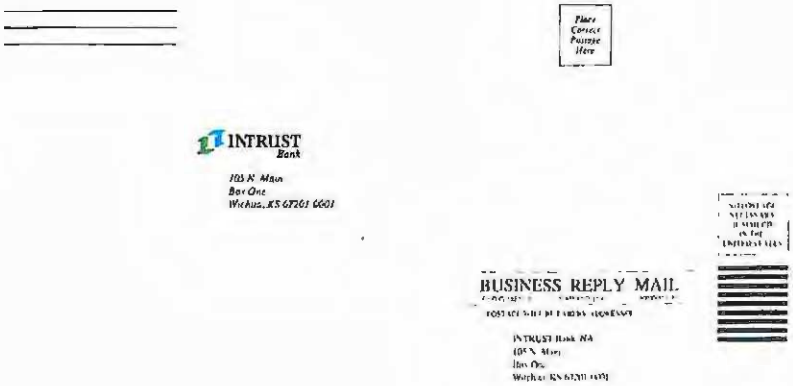
Courtesy reply and business reply envelopes will be designed to meet all U.S. Postal Service requirements. Times Roman should be used for all typesetting. Signature Format A will be used above the address block whenever possible. All approved three-, two- and one-color reproduction techniques may be used for business and courtesy reply envelope production.

All address and personalization blocks are typeset per the guidelines on page 9. Complete production specifications are provided on page 19.



Window Envelopes: Two relationships of the signature and address blocks are approved for in order to accommodate for large and small envelope sizes.

Courtesy Reply and Business Reply Envelope Cards: The design of these materials must adhere to all current U.S. Postal Service requirements. Times Roman should be used for all typesetting.



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Oversize Envelopes and Mailing Labels

Oversize envelopes will mirror the basic appearance of the signature and address block position on the #10 correspondence envelope.

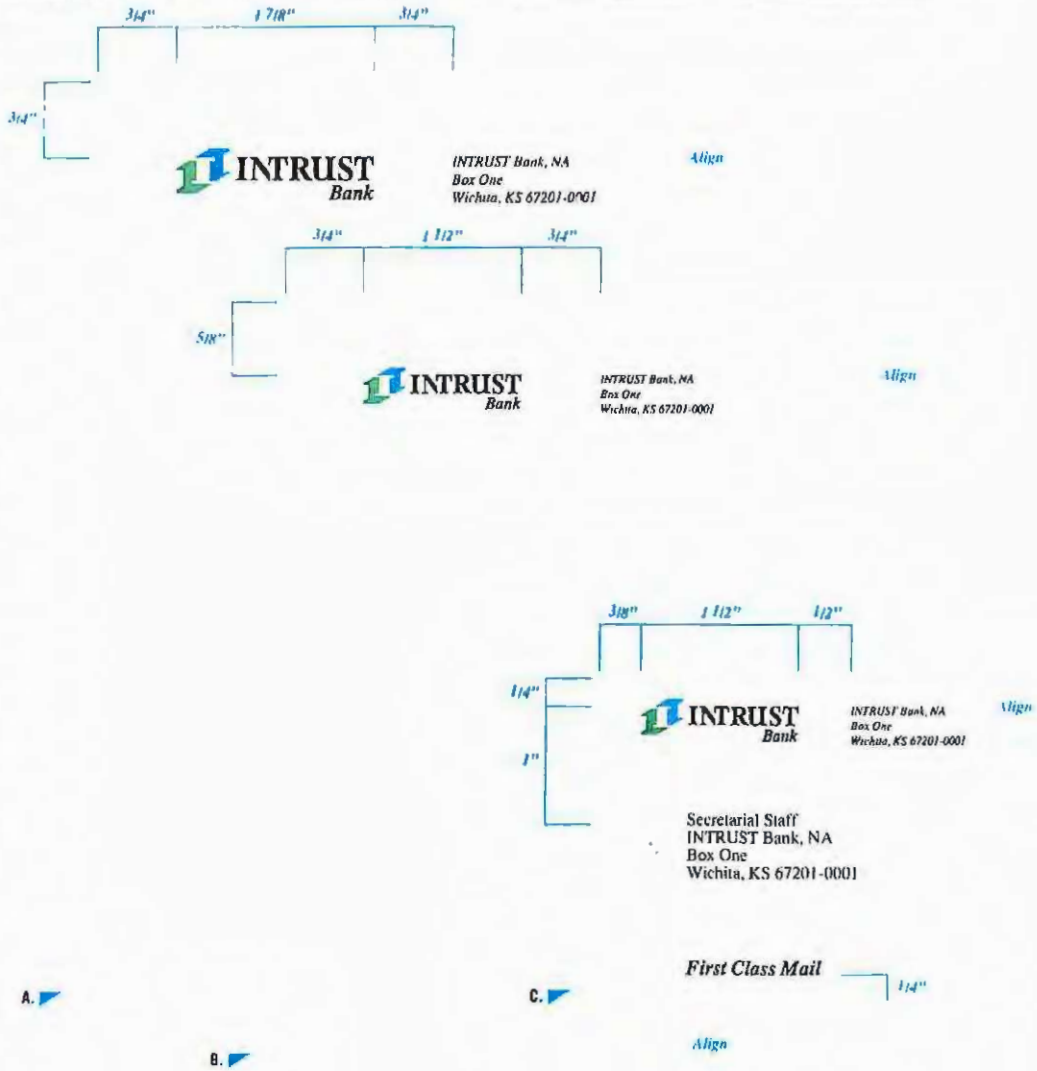
Two signature/address block sizing options apply to oversize envelopes. On envelopes larger than 9" x 12" (Example A), a larger 1-7/8" signature and 10 pt. address block will be used. On envelopes 9" x 12" or smaller (Example B), a 1-1/2" signature and 8 pt. address block will be used.

Bright white bond or kraft paper stock is recommended for envelopes carrying the corporate identification. Oversize envelopes may be printed in approved three-color, two-color and one-color signature reproduction techniques (page 6). Use INTRUST Dark Blue for one-color applications. Use black ink only when color paper stock is required. When printing in one-color, be sure to use Version B of the one-color signature (see page 5).

The standard 3" x 5" mailing label design will be produced in full corporate colors. The mailing label design may be adapted to the smaller label size necessary for multi-label sheets used with laser printers.

To avoid redundancy of the INTRUST identity, and for cost effectiveness, pre-printed mailing labels will be used only on blank, unidentified envelopes and packages. Pre-printed oversize envelopes will use only blank white labels or directly apply the mailing address.

All address and personalization blocks be typeset per the guidelines on page 9. Complete production specifications are provided on page 19.



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News Release and Fax Transmittal

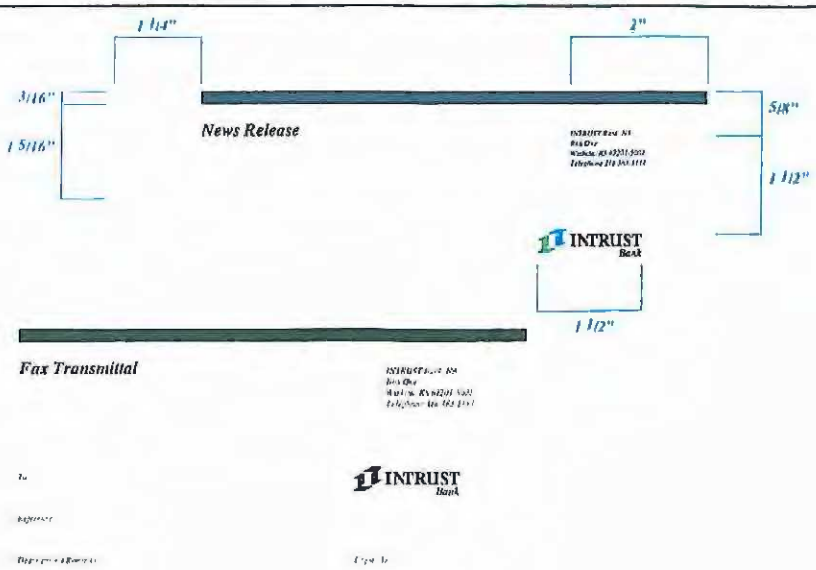
Illustrated below are the established News Release and Fax Transmittal designs. These materials have been developed to reflect the basic character of the letterhead system, while producing a structured masthead area for document title display.

The standard size of position of the signature, address block and document title are accented by 1/8" band which bleeds top and right. To achieve a higher level of visual impact, the News Release has applied an angled linear pattern to the masthead area in a screen of INTRUST Bright Blue. This unique pattern, designed expressly for INTRUST, is discussed in detail on page 22.

The News Release will print in three-colors as illustrated. The Fax Transmittal will print in one-color, black.

These established designs can be used as a style target for other internal or external correspondence items that require a document title and a higher level of visual impact than is provided by the letterhead.

The address block on the News Release is typeset per the guidelines on page 9. To facilitate clear transmission, the address block and secondary copy on the Fax Transmittal are typeset in a slightly larger point size than standard. Complete production specifications are provided on page 19.



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Production Specifications

The following production specifications are current to the publication of this manual. To facilitate on-going efforts to maintain an efficient and cost-effective print system, certain materials and reproduction techniques may be subject to change. Specific paper grades are provided to indicate color, finish and quality requirements. All specifications must be verified by Corporate Purchasing prior to production.

Signature sizes specified are for the direct brand signature application. Proprietary brand signatures will be sized to match the symbol in the direct brand signatures once it is sized for application.

Page 12
Standard Letterhead

Size: 8-1/2" x 11"

Color: Three-color signature Format A prints INTRUST Dark Blue, Green and Bright Blue. Address block prints INTRUST Dark Blue.

Paper Stock: Gilbert NeuTech, Ultra White, laid finish, 24 lb. bond.

Reproduction: Offset Lithography.

Design Elements: 1-1/2" signature Format A, full-color artwork. Address block typesetting per specifications on page 9.

Page 13
Executive Letterhead

Size: 5-1/2" x 8-1/2"

Color: Three-color signature Format A prints INTRUST Dark Blue, Green and Bright Blue. Address block prints INTRUST Dark Blue.

Paper Stock: Gilbert NeuTech, Ultra White, laid finish, 24 lb. bond.

Reproduction: Offset Lithography.

Design Elements: 1-1/2" signature Format A, full-color artwork. Address block and personalization typesetting per specifications on page 9.

Page 14
#10 Stationery Envelope

Size: #10 - 4-1/8" x 9-1/2"

Color: Three-color signature Format A prints INTRUST Dark Blue, Green and Bright Blue. Address block and personalization prints INTRUST Dark Blue.

Paper Stock: Gilbert NeuTech, Ultra White, laid finish, 24 lb. bond.

Reproduction: Offset Lithography.

Design Elements: 1-1/2" signature Format A, full-color artwork. Address block typesetting per specifications on page 9.

Page 14
General Use Envelopes

Size: #10 - 9-1/2" x 4-1/8", and various sizes.

Color: Signature Format A prints in approved two-color and one-color techniques. Address block prints INTRUST Dark Blue.

Paper Stock: Gilbert NeuTech, Ultra White, laid finish, 24 lb. bond.

Reproduction: Offset Lithography.

Design Elements: 1-1/2" signature Format A, using appropriate full-color or one-color signature artwork. Address block typesetting per specifications on page 9.

Page 14
Executive Envelope

Size: #6 1/4 – 6" x 3-1/2"

Color: Three-color signature Format A prints in INTRUST Dark Blue, Green and Bright Blue. Address block prints INTRUST Dark Blue.

Paper Stock: Gilbert NeuTech, Ultra White, laid finish, 24 lb. bond.

Reproduction: Offset Lithography.

Design Elements: 1-1/2" signature Format A, using appropriate full-color or one-color signature artwork. Address block typesetting per specifications on page 9

Page 15
Business Card

Size: 3-1/2" x 2"

Color: Three-color signature Format A prints in INTRUST Dark Blue, Green and Bright Blue. Address block prints INTRUST Dark Blue.

Paper Stock: Gilbert NeuTech, Ultra White, laid finish, 80 lb. cover.

Reproduction: Offset Lithography.

Design Elements: 1-1/4" signature Format A, full-color signature artwork. Address block and personalization specifications on page 9

Page 16
Window Envelope

Size: Various

Color: Signature Format A prints in approved three-color, two-color and one-color techniques using INTRUST Dark Blue, Green and Bright Blue. Address block prints INTRUST Dark Blue. Interior safety pattern (optional) prints in a 30% screen of INTRUST Bright Blue

Paper Stock: Bright white bond.

Reproduction: Offset Lithography.

Design Elements: 1-1/2" signature Format A, using appropriate full-color or one-color signature artwork. Address block typesetting per specifications on page 9.

Page 16
Courtesy Reply Envelope

Size: Various.

Color: Signature Format A prints in approved three-color, two-color and one-color techniques using INTRUST Dark Blue, Green and Bright Blue. Address block and line rules print INTRUST Dark Blue.

Paper Stock: Bright white bond.

Reproduction: Offset Lithography.

Design Elements: 1-1/2" signature Format A, using appropriate full-color or one-color signature artwork. Address block is 12 point Times Roman Italic, upper and lowercase, flush left with 2 point line leading. Line rules are 1/2 point.

Page 16
Business Reply Card

Size: Various.

Color: INTRUST Dark Blue, Green and Bright Blue. Address block and line rules print INTRUST Dark Blue.

Paper Stock: Various.

Reproduction: Offset Lithography.

Design Elements: Per U.S. Postal Service design guidelines. Use Times Roman for all typography.

Page 17
Oversize Envelopes

Size: Various.

Color: Signature Format A prints in approved three-color, two-color and one-color techniques using INTRUST Dark Blue, Green and Bright Blue. Address block prints INTRUST Dark Blue. Use black only for one-color applications when colored paper stock is required.

Paper Stock: White bond or kraft.

Reproduction: Offset Lithography.

Design Elements: 1-1/2" or 1-7/8" signature Format A using appropriate full-color or one-color signature artwork. Address block is 8 point or 10 point size based on envelope sizes discussed on page 17.

Page 17
Mailing Label

Size: 5" x 3"

Color: Three-color signature Format A prints INTRUST Dark Blue, Green and Bright Blue. Address block prints INTRUST Dark Blue.

Paper Stock: MacTac Starliner Novelty, 60 lb. Crack n' Peel, Bright White or comparable.

Reproduction: Offset Lithography.

Design Elements: 1-1/2" signature Format A, full-color artwork. Address block typesetting per specification on page 9.

Page 18
News Release

Size: 8-1/2" x 11".

Color: Three-color signature Format A prints INTRUST Dark Blue, Green and Bright Blue. Address block and News Release title print INTRUST Dark Blue. Linear pattern prints 5% of INTRUST Bright Blue.

Paper Stock: Gilbert NeuTech, Ultra White, laid finish, 24 lb. bond.

Reproduction: Offset Lithography.

Design Elements: 1-1/2" signature Format A, full-color artwork. Address block typesetting per specifications on page 9. Title is 24 point Times Roman Bold Italic, upper and lowercase. Top band is 1/8". The linear pattern is constructed per guidelines on page 23.

Page 18
Fax Transmittal

Size: 8-1/2" x 11".

Color: Black.

Paper Stock: Bright white bond.

Reproduction: Offset Lithography.

Design Elements: 1-1/2" signature Format A, one-color artwork. Address block is 9 point size based on specifications on page 9. Title is 24 point Times Roman Bold Italic, upper and lowercase. All other copy is 9 point Times Roman Bold Italic, upper and lowercase. Top band is 1/8".

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Forms Masthead Construction

INTRUST forms and checks are designed to reinforce the identity goals of consistency and professionalism. Much like the design system established for stationery, forms and checks are designed around a common framework and utilize consistent signature placement and typographic style.

Design consistency begins with the form masthead. While the form body content will vary greatly from form to form, all materials will generally require the display of the corporate signature, address block and form title.

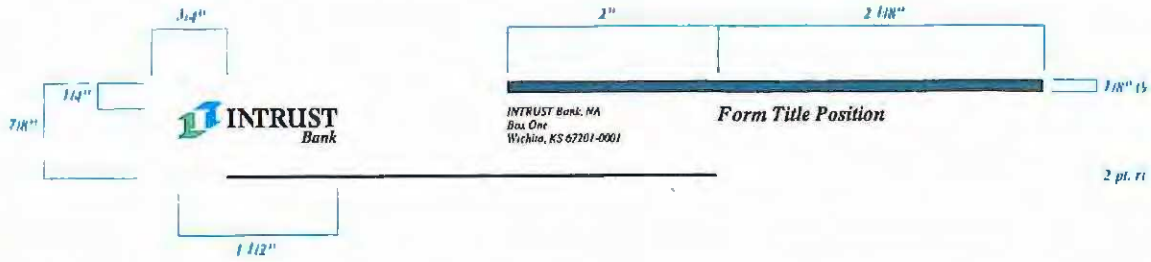
Illustrated below is masthead layout for the INTRUST forms system. The larger masthead grid (Example A) will be used on forms that measure form 7-1/2" to 11" wide and the smaller masthead grid (Example B) will be used for measurements from 5 1/2" wide to less than 7-1/2". For demonstration purposes, the example grids are based on 8-1/2" and 5-1/2" form widths.

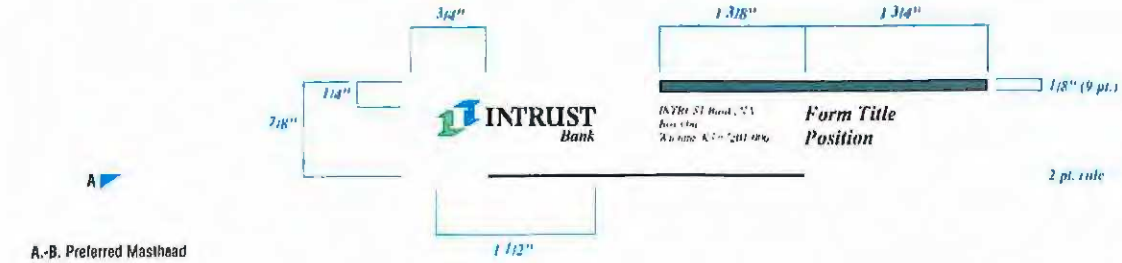
Modifying the grids for other form widths is accomplished by opening or closing the space in between the signature and address block. The 2 point line rule below will lengthen or shorten to maintain a vertical alignment wit the form title.

Certain variations of the preferred layout may be necessary to accommodate copy heavy content or operational restrictions. When the masthead area will not accommodate the 7/8" masthead depth, the 2 point rule may be moved up to 3/4", as.demonstrated by Example C.

If this adjustment does not satisfy the fit problem, Example D demonstrates how, signature Format B and a two-line address block is used to create the minimum allowable masthead depth. This variation can only be used on forms 8" or wider without reducing the length of the 1/8" band.

If printing restrictions do not allow band to bleed, a non-bleed design (Example E) may be created by trimming the band on the right and lowering all masthead elements.





A

A.-B. Preferred Masthead Layout

B

C.

C.-D. Acceptable Masthead Variations.

D.

E

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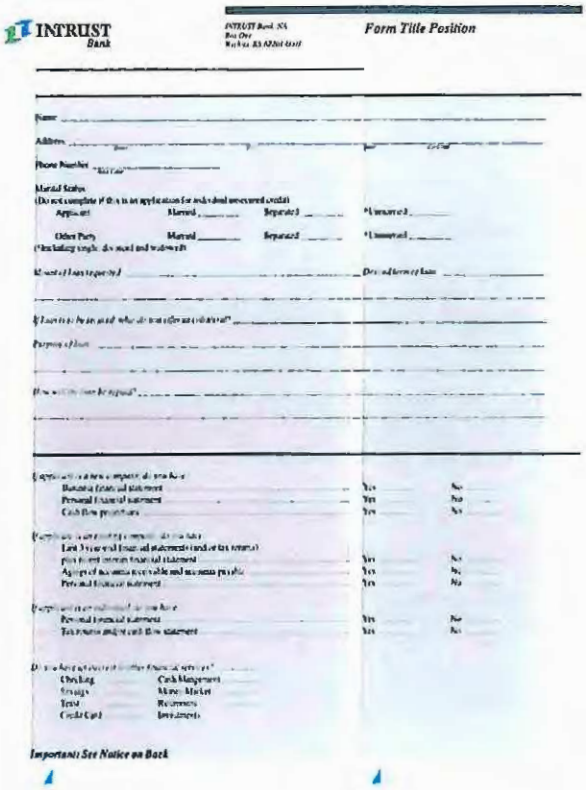
At times, established computer strike areas or other operational restrictions will not allow for the full application of the masthead elements or their established size and position. In those situations, follow the guidelines as closely as possible, focusing on proper signature use the reinforcing the basic style statement of the masthead design

The form body layout grid is created by vertical columns aligning with the position of the corporate signature, address block and form title. As shown in the "dummy" examples below, these columns establish the margins and positions to vertically align and organize the form body copy. Additional alignment points can be established if necessary.

Form Body Formatting

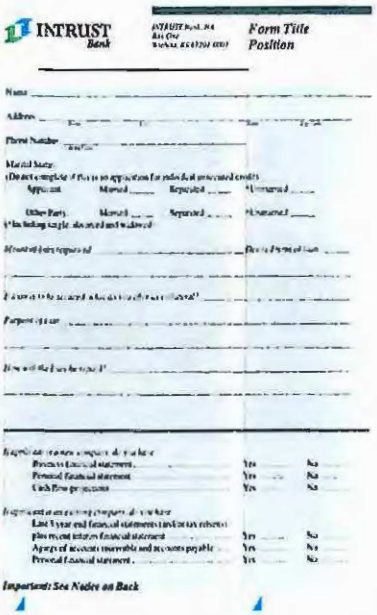
Times Roman should be used for all form body typesetting. An 8 pt. size is recommended although larger and smaller copy can be used to satisfy copyfitting and readability requirements. Times Roman Regular is used for general copy requirements. Times Roman Regular Italic, Bold, and Bold Italic may be used for sectional headings or copy requiring emphasis or contrast.

Use a minimal number of line rule weights for horizontal organization. 1/2 pt. and 3 pt. rules are recommended.



Left Grid Column

Right Grid Column



Left Grid Column

Right Grid Column

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Forms Examples

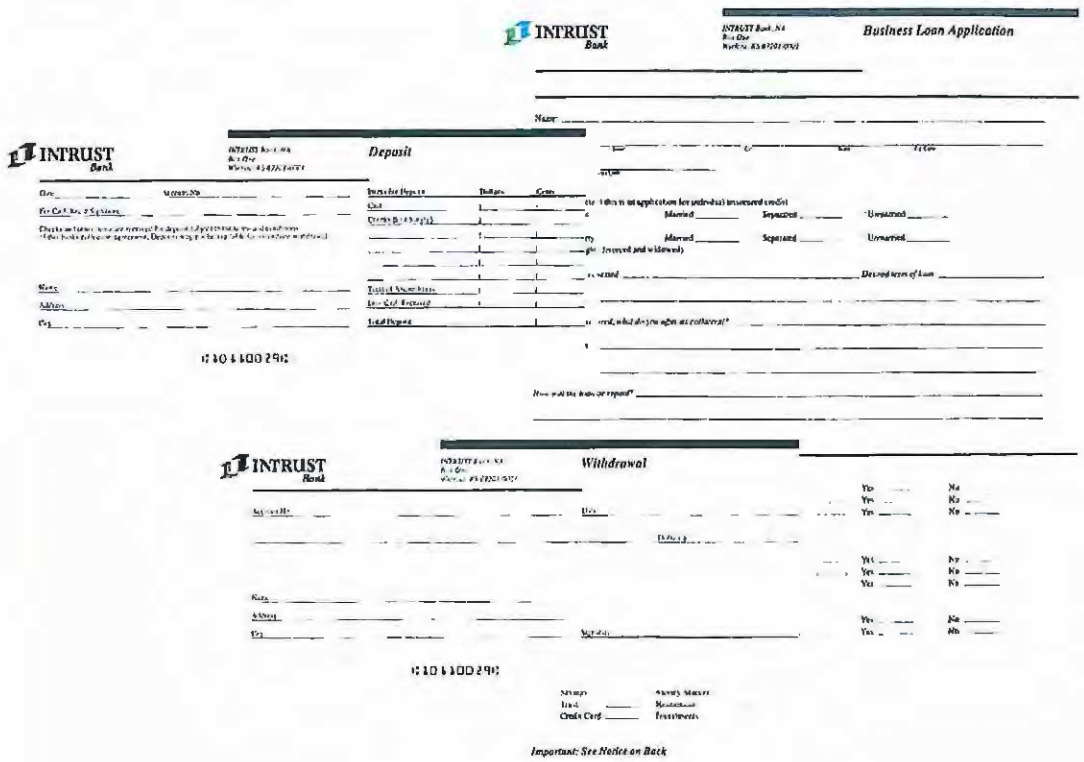
The examples below reflect a range of forms that have been designed per the masthead and form body guidelines on pages 20 and 21.

Select examples demonstrate how the masthead guidelines established for 8-1/2" and 5-1/2" form widths are adapted to larger and smaller form sizes.

Form production can incorporate all approved three, two and one-color signature reproduction techniques. The examples below demonstrate the proper color breaks for all design elements as they apply to each technique. The dominant color is INTRUST Dark Blue, which is used for all line rules and copy. The INTRUST Green and Bright Blue are generally reserved for the symbol reproduction, although these colors may also be used in small areas to provide visual emphasis or on accent color.

Background patterns will only be used when clear readability of overprinted information can be assured. Excessive ink coverage or inaccurate screen percentage matching will negatively effect the operational and functional effectiveness of the form.

Diagrammed below and on the facing page are the two background patterns that have been designed for appropriate form applications. The standard thick-to-thin linear safety pattern below will be used on checks, and other materials where a background would be appropriate for security or decorative purposes. To ensure readability of overprinted information, the pattern will print in a very light solid color or screen of a darker color (3% or 5% screens are recommended) A screen of INTRUST Bright Blue, Dark Blue or Black should be used unless specific color coding requirements drive the color selection. Non-corporate colors must be neutral and compatible if used in combination with INTRUST colors.



Standard INTRUST Safety Pattern: This pattern consists of angle line that begins at the pattern base as a 3.33 pt. line rule weight which tapers to a thinner 1/2 pt. thickness at the top edge of the pattern. The center point of each rule weight is on a 32° angle

The pattern is available in a range of standard depths. Custom size patterns are individually constructed from EPSF digital artwork, so that the thick-to-thin weight transition is perfectly maintained. Cropping or trimming large pattern art for smaller requirements is not allowed.

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The corporate image safety pattern shown below is constructed with a combination of thin line rules trapped within a thicker angled rule pattern. The thin rules are patterned to express a subtle reinforcement of the INTRUST symbol This pattern is only approved for use with the corporate image customer check (below) and MasterCard®, VISA® and special debit cards. The pattern may be used in a range of colors and should appear in a slightly darker or lighter shade of the background color.

The caption copy that accompanies both pattern samples details general construction and application guidelines.

INTRUST Corporate Image Safety Pattern: This pattern is a combination of .85 pt. and 1/4 pt. line rules set at a 32° angle The .85 pt. line rules are spaced 6.75pt. apart. A transition from thick line rule to thin line rule weight is made to define the upper and lower proportions of the

For individual applications, the entire pattern is enlarged or reduced to achieve the desired symbol image size. In effect this will thicken or thin the 2 pt. and 1/2 pt. line rule weights used in the original pattern construction.

Preconstructed, approved master artwork is available from Corporate Marketing

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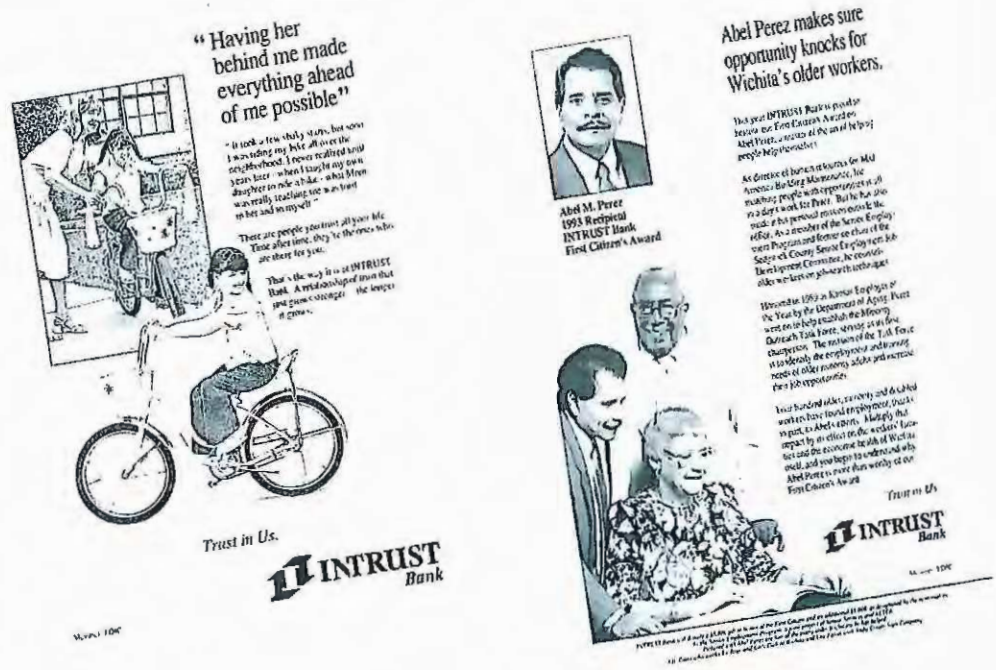
Advertising Applications

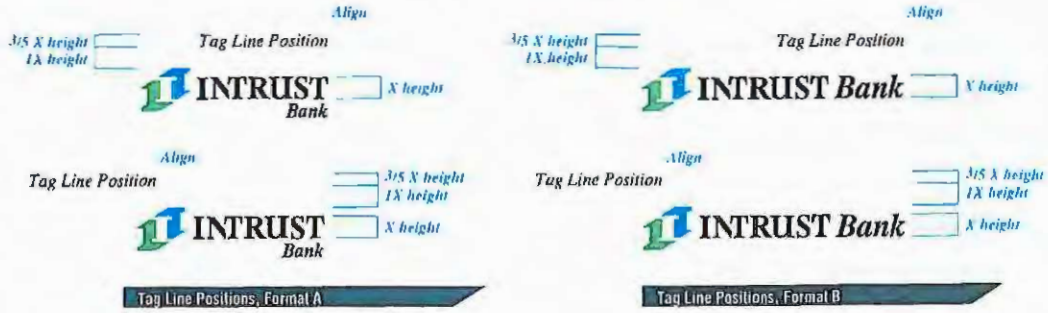
Advertising and promotional materials encompass a wide range of exposures that are continually changed and updated to reflect communication objectives. It is not possible to establish detailed design guidelines for all present and future applications, due to the flexibility that is necessary to adapt concepts to a variety of needs. There are however, two design requirements that must be adhered to for all applications. The first is the correct and consistent use of the corporate signature, colors and all basic standards regarding signature use. Second, while specific design guidelines are not established, it is essential that all applications reflect a high level of quality, strength and consistent reinforcement of the INTRUST identity.

It is very important, particularly in print advertising and collateral, to always provide an ample clear area around the signature so that it is clearly recognizable from the surrounding typography and visuals. Signature Format A is preferred for all applications, with Format B reserved for layouts with vertically restricted signature application area. All guidelines regarding three-color, two-color and one-color signature artwork versions must be followed.

Use of the corporate support typestyle, Times Roman, is recommended for headline and body copy in all applications. The wide variety of weights and styles provide ample design latitude, while strengthening the consistent visual impression that we desire. Alternate typestyles may be used only with the approval of Corporate Marketing.

Advertising tag lines may be used in conjunction with the signature, provided they do not violate the minimum signature clear area (page 8). Tag lines should be treated in a lighter, contrasting type weight and sized so that they do not dominate the signature. The examples below demonstrates acceptable typestyle, size and position relationships of the tag line of the two established signature formats.





Tag Line Positions, Format A

Tag Line Positions, Format B

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Advertising Applications

In print advertising exposures that are limited to a specific region or market, an affiliate geographic descriptor may be added to the signature. As diagrammed below, the copy is typeset in upper and lower Times Roman Bold Italic. It is sized smaller than the activity descriptor, in this case "Bank", and positioned below and flush right of signature Format A or B. The geographic descriptor is never sized larger or positioned closer to the signature than this diagram illustrates, and should not be used except in print advertising applications.

Proprietary brand signatures will apply all direct brand signature advertising guidelines. Due to varying line lengths of proprietary brand signatures, the recommended tag line positions may be adjusted to achieve a compatible, balanced relationship with the signature.

In all advertising, equal housing symbols, Member FDIC display, addresses and legal disclosures should be sized to achieve basic visibility requirements. Do not unnecessarily crowd the signature with these elements. Cleanly organize the information at the bottom of the advertisement in a manner that does not detract from the signature impact. A bottom left and right corner display of the Equal Housing symbol and Member FDIC copy is recommended as shown in the examples below.

Descriptor Position, Format A

Descriptor Position, Format B

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Video and Promotional Applications

Video signature applications are limited to the full-color positive and reverse signature. Do not use the one-color signature rendering due to the vibration that will effect the definition of the angled linear tone.

Specialty promotional items will require added diligence in the monitoring of reproduction quality. A wide range of reproduction techniques and materials are used to produce these items, and all suppliers must be continually instructed on the importance of quality signature reproduction and color matching. Specialty applications should promote the INTRUST corporate colors whenever possible. However, the full-color positive or reverse signature should be used only when the vendor can ensure accurate registration of the two symbol colors. An example of unacceptable signature registration is diagrammed on page 11, example K.

With the approval of Corporate Marketing, the symbol may be used alone on applications where reproducing the entire signature is not possible, such as lapel pins, ink pens or pocket clasps.

Use of the angled imagery technique may be added to advertising and promotional materials to further reinforce the INTRUST design style, but should be used sensitively so as not to overpower the signature image.

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The INTRUST Brochure System

The front cover of any INTRUST brochure should present a visually exciting invitation to proceed to the interior communication, as well as a firm reinforcement of the family appearance. This holds especially true for product brochures that are displayed together in lobbies and reception areas.

The INTRUST brochure system has been designed to project a consistent, recognizable style, while providing flexibility to develop unique designs that satisfy a wide range of visual and communication goals.

The examples below reflect the established cover and interior design framework that will be used for all core product literature as well as other print collateral that should project a strong INTRUST image.

The most recognizable element of the brochure system is the front cover visual application area, which is cropped at a 32° angle to accent the INTRUST symbol.

This visual area may be used to display a wide range of line art, high contrast, halftone and full-color imagery. Acting in support of the cover visual, the INTRUST signature, brochure cover title and interior layout adhere to established size, typesetting and layout grids.

The INTRUST corporate colors should be used whenever possible. INTRUST Dark Blue is applied as the primary background color and the signature appears in a three-color reverse. The brochure design can also apply a full range of non-corporate colors as long as all signature color reproduction standards are met.

The brochure interior has been designed to compliment the cover. A masthead band is applied along the top edge and may reproduce in any solid, patterned or textural treatment. Times Roman is used for all brochure copy requirements. Complete cover and interior design specifications are discussed on pages 28 and 29.

The design framework created for brochure covers and interiors will be used for INTRUST image collateral. A strong family relationship is expressed while providing a level of layout and color flexibility to satisfy a wide range of communicative requirements. The signature display, typographic style and angled crop of the cover visual application area are the key design ingredients of the framework.

Brochure Cover and Interior Guidelines

Illustrated below is the cover grid that is used as the starting point for all brochure design efforts. Based on a common 4" x 9" cover size, this grid can also be proportionally expanded for larger brochure sizes.

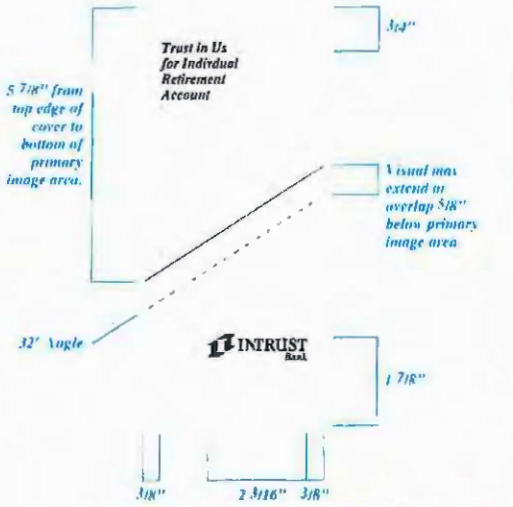
There are three key elements to maintaining the cover grid: the corporate signature size and position, the brochure title style and position, and the angled grid line indicating the area for the cover's visual application area.

A 2-3/16" Format A signature will be used on all cover sizes, and positioned in the lower right corner as diagrammed.

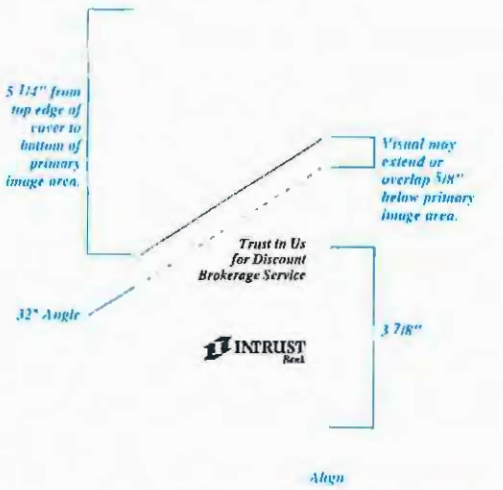
The brochure title, typeset in Times Roman Bold Italic, upper and lowercase, may be displayed at the top left (Grid A) or outside of the visual application area above the signature (Grid B). The title is formatted flush left for the Grid A position and flush right for the Grid B position.

Cover sub-titles, if necessary, can accompany the title copy or be placed in the alternate title position. When designing brochures for standing rack display, the Grid A title position should be used to ensure clear visibility of the brochure title.

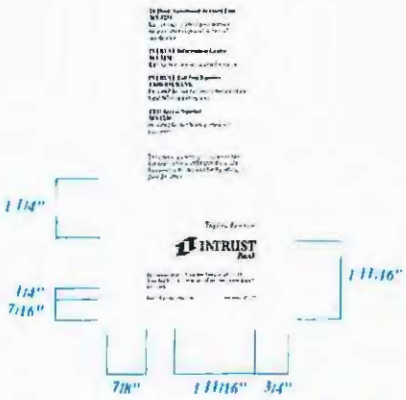
The application area grid is defined by a solid line and dotted "overlap area" which is provided to allow visual elements to extend slightly beyond the primary grid line and to create interesting layered, dimensional treatments. The grid lines do not have to be reinforced by a hard edge element or used along their full length. As long as the cover visual accents the grid angle so that the relationship to the symbol angle is evident, the cover framework is being followed properly.



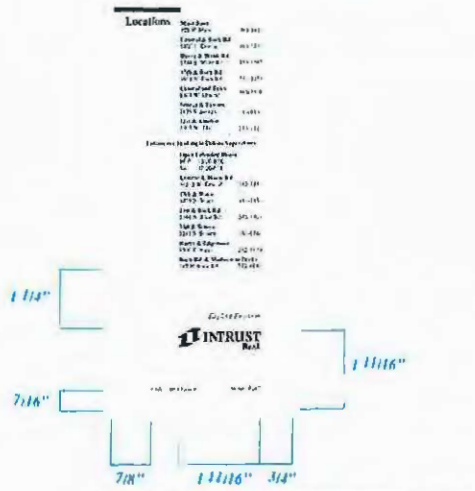
Front Cover Grid A, 4" x 9" Format



Front Cover Grid B, 4" x 9" Format



Back Cover Grid, 4" x 9" Format



Back Cover Grid Option, 4" x 9" Format

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Brochure back covers will display the INTRUST signature and tag line as illustrated on page 28, inventory number and "Member, FDIC." A single line of copy, providing the main bank address and telephone number may be displayed below the signature, but is not required. The remainder of the back cover may be used to display telephone hotline information listings and any necessary legal disclosures. On copy heavy brochures, the interior layout grid may be used on the back cover to accommodate any overflow copy from the interior pages.

Brochure interiors will be laid out using the two-column grid diagrammed below. Body copy sub-headings begin flush left along the first grid line. The body copy text is offset from the sub-headings, aligning flush left along the second grid line.

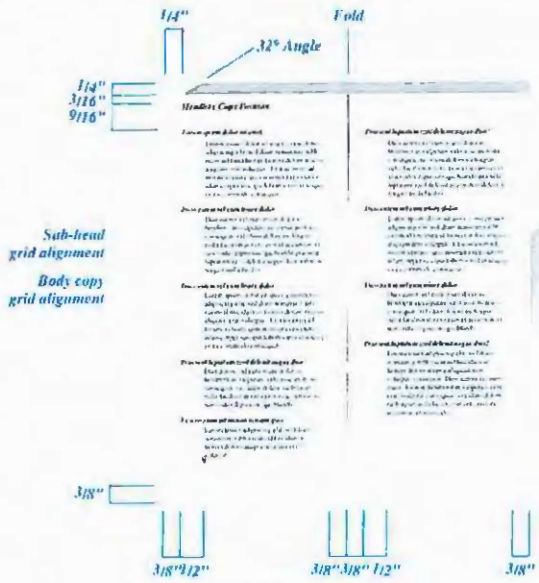
For brochures larger or smaller than the 4" x 9" size diagrammed here, all cover and interior grid lines are proportionally enlarged or reduced to match the preferred style as closely as possible.

The chart below provides a comprehensive listing of typesetting specifications for brochure covers and interiors. Note carefully, that a level of type size flexibility is provided to satisfy a variety of copy fitting requirements.

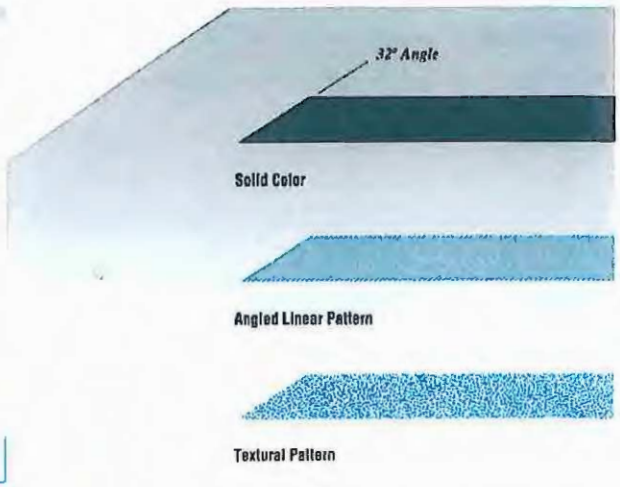
Brochure Cover and Interior Guidelines

Typography Specifications

	Typestyle	Size	Line Leading	Formatting
Cover Title	Times Roman Bold Italic, upper and lower case.	18-22 point	2 point	Front cover Grid A, flush left. Front cover Grid B, flush right.
Cover Sub-Titles	Times Roman Bold Italic, upper and lower case.	14-18 point	2 point	Front cover Grid A, flush left. Front cover Grid B, flush right.
Interior Titles	Times Roman Bold Italic, upper and lower case.	14-20 point	2 point	Flush left
Text Copy	Times Roman, upper and lower case. Times Roman Bold may used in text copy for emphasis	11 point recommended. Smaller and larger sizes are approved to satisfy copy fitting requirements.	2 point line leading, with 1/2 line paragraph spacing.	Flush left
Inventory Number, Member FDIC, Address & Telephone	Times Roman, upper and lower case.	7 point	1 point line leading recommended.	Per back cover grids.
Legal Disclosure	Times Roman Italic, upper and lower case.	11 point	2 point	Flush left per back cover Grid A.
Interior Masthead Band	Solid color, textural pattern, or 32° angle linear pattern.	1/4"	NA	32° angle trim on left edge.



Interior Grid, 4" x 9" Format



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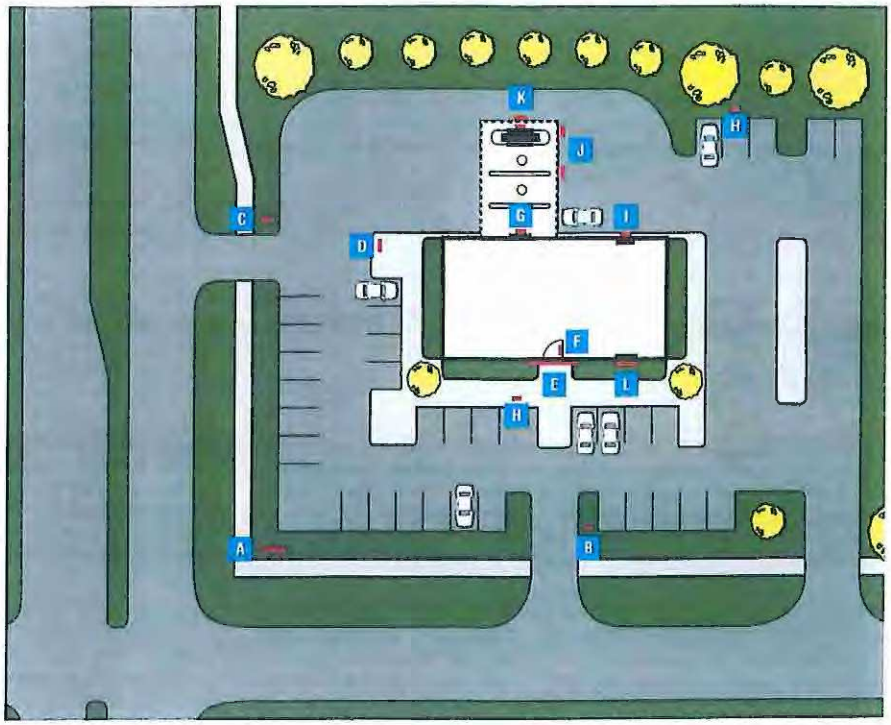
Sign Management Policy

INTRUST facility signs are one of the most publicly visible and recognizable exposures of the corporate identification. Facility signs are much more important than a method of identifying buildings. The sign's design, the degree of consistency with which they are applied to facilities, and sensitivity to community atmosphere, all make a collective statement about INTRUST's character and commitment to the communities we serve.

The next ten pages of this manual will illustrate the INTRUST sign and ATM family, and discuss the general design, fabrication and application criteria for each component. This information is not to be used for vendor bids or as construction documents. It is intended only as an overview to familiarize the reader with the range of approved sign and ATM designs and their proper use. Vendors are required to use the approved Design and Fabrication Control Documents available from Corporate Marketing.

In order to maintain the desired level of identity consistency, the guidelines below should be referenced during the sign planning and scheduling process. The site diagram illustrates a hypothetic branch environment and scheduling solution using the menu of primary, secondary and direction/regulatory signs that are available in the approved sign family. No other sign styles beyond those illustrated in this manual may be used, unless approved by Corporate Marketing.

- **A** Primary pylon
- **B** Directional pylon.
- **C** Directional pylon.
- **D** Directional pylon
- **E** Illuminated channel letters and symbol
- **F** Door vinyls with hours.
- **G** Drive-up windows vinyls with hours.
- **H** Regulatory parking sign.
- **I** Night depository plaque.
- **J** Informational plaques.
- **K** Drive-up ATM surround.
- **L** Walk-up ATM surround



1. Municipal sign codes and landlord requirements must always be verified in order to develop a realistic and effective scheduling plan.

2. Reference American with Disabilities Act (ADA) requirements. This legislation impacts sign and ATM planning in pedestrian accessible areas.

3. Schedule signs only on necessary sight lines. Oversigning a facility projects a poor image and lack of sensitivity to the community environment.

4. Select sign sizes that satisfy basic viewing distance requirements and are in scale with the building architecture.

5. Position wall-attached signs to integrate with and compliment the structural detail of the building.

6. Building color and finishing should not clash with or diminish the visibility of the sign color statement. Refurbish these areas in neutral finishes if sign attachment is necessary.

The INTRUST illuminated freestanding sign design features painted, opaque sign cladding with routed graphics that are flushed-in with translucent acrylic. Beneath the INTRUST Dark Blue primary sign face, a small, illuminated information panel is contained within the metallic gray base color to promote the presence of ATM facilities when they are located on the branch site.

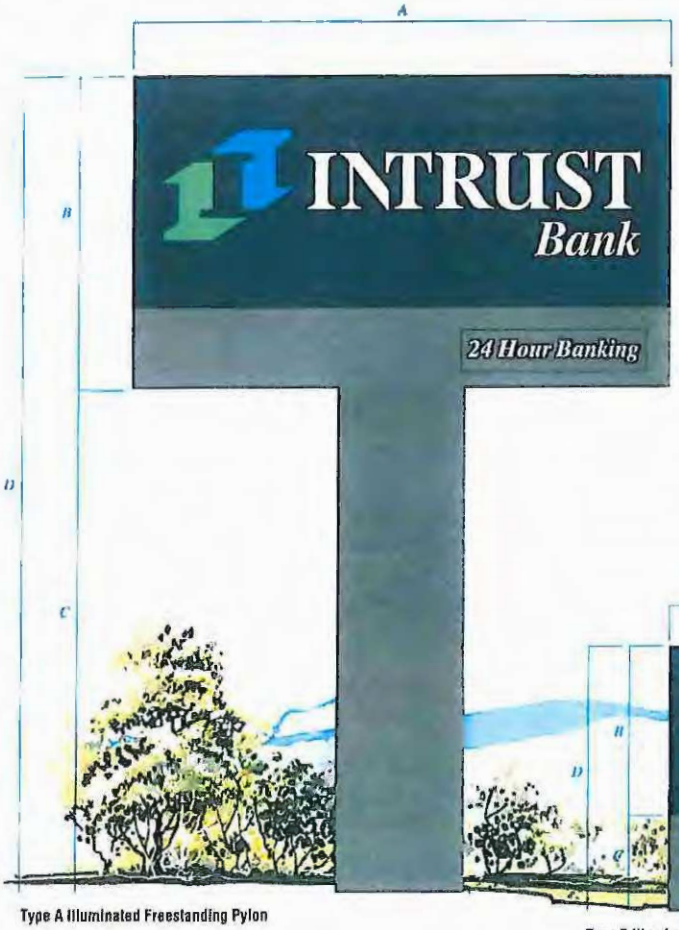
Illustrated below are the two approved freestanding sign options - the Type A pylon and Type B monument sign. When sign codes and the physical site allows for a freestanding sign 16 ft. or taller, the Type A pylon should be used as the primary facility identification.

The Type B monument sign will be used for primary identification when sign codes do not allow a Type A pylon, or if the site size or community atmosphere requires a smaller, somewhat understated freestanding identification.

The chart below provides all critical dimensions and square footage of each freestanding sign option. Use this chart to assist in the selection of the proper sign as it relates to sign codes and visibility requirements.

Freestanding Pylon and Monument Sign

Dimensions	20'-0" Pylon	16'-0" Pylon	Monument
A	13'-8"	10'-11 1/4"	10'-0"
B	7'-8"	6'-1 3/4"	4'-1 3/4"
C	12'-4"	9'-10 1/4"	2'-4 1/4"
D	20'-0"	16'-0"	6'-6"
Sq. Ft.	104 75'	67.25'	65'



Type A Illuminated Freestanding Pylon

Type B Illuminated Monument Sign

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Primary Wall-Attached Cabinet Signs

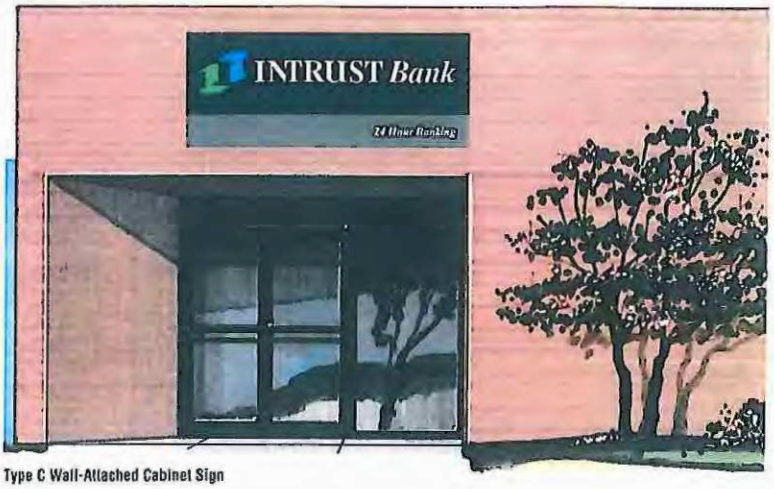
Illuminated wall-attached cabinet signs are used for building primary identification when a freestanding sign is not allowed or practical. They may also be used in combination with a freestanding sign to identify building elevations that are not in a direct line-of-sight to the freestanding sign.

The Type C cabinet sign utilizes signature Format B and is intended for narrow building fascia and roof lines. The Type D cabinet sign has the same proportions as the freestanding sign head, and should be used on large, unobstructed wall surfaces.

Both the Type C and D cabinet signs are available in configurations with or without additional area below the blue primary sign face for an ATM information panel.

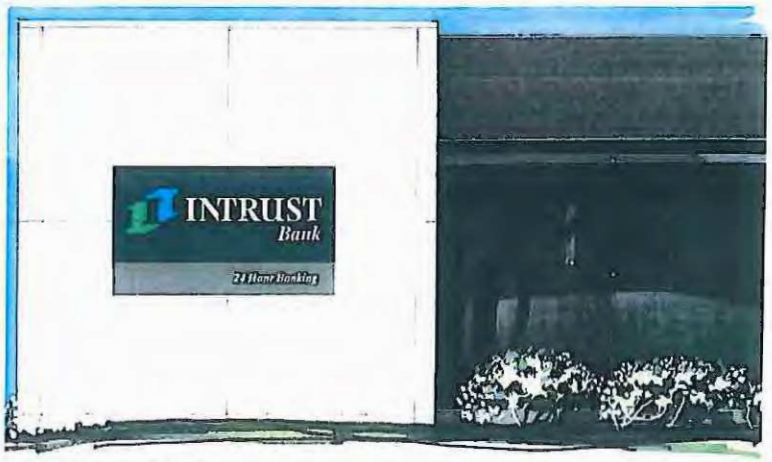
The charts below provide all critical dimensions and square footage of each wall-attached sign option. Use these charts to assist in the selection of the proper sign as it relates to sign codes, visibility requirements, and available wall space.

Sign Type	Width	Height	Depth	Sq. Ft.
C-1A (w/ATM panel)	13'-8"	5'-3¾"	1'-1"	72.5'
C-1B	13'-8"	4'-6¾"	1'-1"	62.25'
C-2A (w/ATM panel)	10'-0"	3'-10¾"	9"	39'
C-2B	10'-0"	3'-4¾"	9"	34'



Type C Wall-Attached Cabinet Sign

Sign Type	Width	Height	Depth	Sq. Ft.
D-1A (w/ATM panel)	10'-0"	5'-7¼"	1'-1"	72.5'
D-1B	10'-0"	4'-10¼"	1'-1"	48.75'
D-2A (w/ATM panel)	6'-10"	3'-10"	9"	26'
D-2B	6'-10"	3'-4"	9"	22.75'



Type D Wall-Attached Cabinet Sign

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Individual Letters

Individual wall-attached letters are used in lieu of cabinet signs when the high level of color impact provided by the cabinet sign is not necessary, or when applying signs to detailed, non-symmetrical wall surfaces. Also, certain landlord restrictions may limit tenants to individual letter treatments.

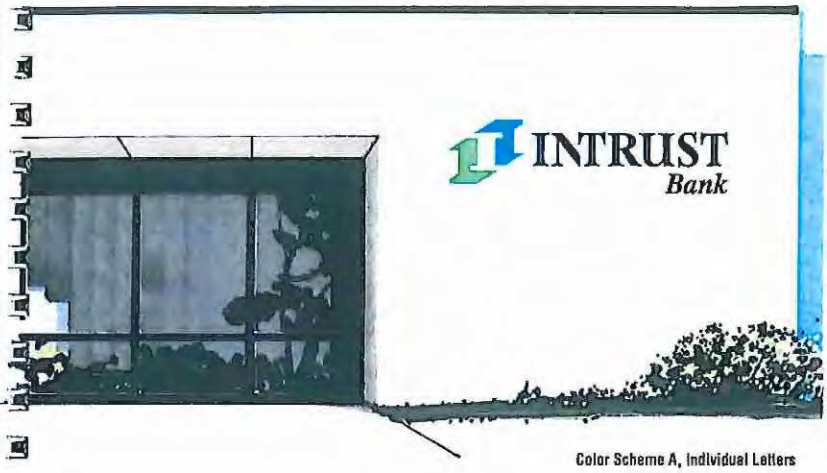
In most cases, individual letters act as secondary identity reinforcement on facilities with a prominent primary sign or signs.

Three standard signature sizes are available to satisfy visibility and installation requirements. The chart below lists all sizes based on the INTRUST capital letter height. Custom sizes may be fabricated to meet special conditions.

Individual letters are available in both Format A and B, which should be selected based on available application area and architectural integration.

Two color schemes are available - a full-color symbol with a blue logotype (Color Scheme A); and a full-color symbol with a white logotype (Color Scheme B). Use Color Scheme A on light value wall surfaces and Color Scheme B on dark value wall surfaces.

Individual letters are fabricated in both dimensional, non-illuminated (Type E) and illuminated channel (Type F) versions. Do not combine the two techniques in a single application.



Color Scheme A, Individual Letters

Sign Type	Cap Height	Length
Type E Non-Illuminated Letters		
E-1 (Format A, Color A or B)	12", 18", 24"	x8.653
E-2 (Format B, Color A or B)	12", 18", 24"	x12.224
Type F Illuminated Letters		
F-1 (Format A, Color A or B)	12", 18", 24"	x8.653
F-2 (Format B, Color A or B)	12", 18", 24"	x12.224

Color Scheme B, Individual Letters

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Entryway Identification

Illustrated below are the sign components used for pedestrian level identification and hours-of-operation display.

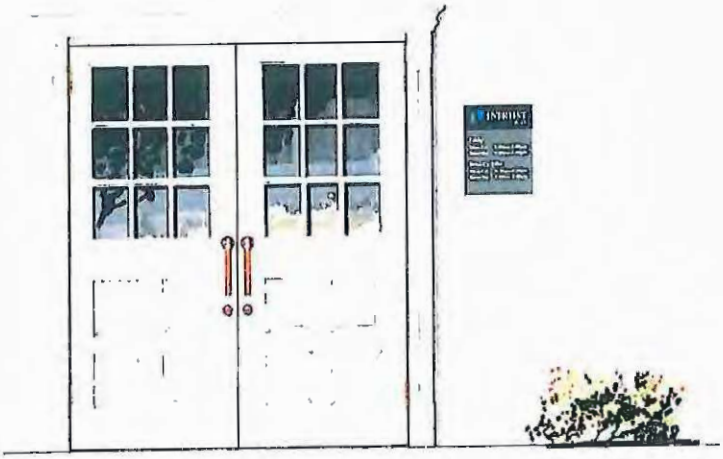
The Type G-1 window vinyls or Type H-1 hour plaque will be applied to all customer lobby entrances. The window vinyls are preferred, with the plaque reserved for application next to doors that do not have adequate glass for vinyl application. Type G-2 window vinyls (not shown) are applied to drive-up teller windows. A special G-3 glass safety pattern (not shown), consisting of a step and repeat symbol treatment, may be used on expansive glass entryways.

In order to project a professional image at the building entryway, decals approved for entryway application, such as MasterCard, VISA or FDIC, should be organized in a tight cluster and applied to a side-light glass panel, if available.

The Type H-2 wall plaque is used in a number of situations where pedestrian level identification is required. It may be applied at remote building entrances or in any location from which the building primary sign is not immediately visible to pedestrian traffic. This sign is also available with an extended lower panel that may be used to display a department or division name.

Type G-1 Door Vinyls

Type H-2 Identification Plaque



Type H-1 Hours Plaque

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Directional and Regulatory Signs

Directional and regulatory signs make up a large portion of the signs used at a typical branch. It is essential that they reflect the INTRUST color and typographic style.

The Type J directional pylon sign is available in non-illuminated and illuminated versions. Non-illuminated directionals use reflective vinyl for sign copy to enhance nighttime visibility. Directional signs may be single or double faced and are generally positioned perpendicular to the traffic flow.

The Type K plaques may be used to display a range of directional or regulatory messages. In order to adapt to a variety of installation position requirements, the plaque design can be wall mounted (K-1), pole mounted (K-2) or flag mounted (K-3).

Night depository identification and drive-up clearance signs will adhere to standard Type K-4 and K-5 designs (not shown).

Type J Directional Pylon Sign

Type K-1 Wall Mounted Plaque

Type K-3 Flag Mounted Plaque

Type K-3 Flag Mounted Plaque

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In-Store Mini-Branches

In-store mini-branches are used to improve the overall service of our banking network by providing customers with a streamlined offering of services, outside of the standard retail bank environment.

The size and configuration of mini-branches will ultimately vary, and the level of customization may be controlled by the landlord, therefore, a single facility masterplan is not established. The example environment pictured below demonstrates the overall image that is desired, and the sign components that are appropriate for use on a typical mini-branch elevation.

The dominant color statement of the mini branch environment will be INTRUST Dark Blue, which will be applied to the wall surface of drop ceiling fascias whenever possible. Other appropriate areas to detail in the blue would be teller line countertops and chair fabric. The colors of all other fixture and detail should be neutral, dark to light value grays that would compliment the dark blue.

The mini-branch environment is identified by signature Format B, fabricated in Type E non-illuminated dimensional letters. The signature is centered over the teller line. Left and right of the signature, additional dimensional letters may be applied as shown, to reinforce the ATM and banking service.

Freestanding mini-branch ATM's will be identified with a Type M surround or N-1 plaque.

Glass panels surrounding the manager's office will display the G-1 hours of operation vinyls, and may apply a sand-blasted or mock-etched translucent vinyl one-color symbol.

In-Store Mini-Branch

Full-Color Interior Dimensional Letters

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Interior Support Identification

The corporate identification can be reinforced at facility interiors in two approved techniques. Signature Format A may be applied on wall surfaces, behind teller lines or in reception areas. The signature is fabricated in individually cut, material thickness letter forms that are pin mounted to the wall surface. A three-color signature may be used if it is compatible with the interior color scheme.

For a more neutral, sophisticated image, the signature may be cut from architectural finish metals such as brushed aluminum, bronze or muntz metal. A single metal finish must be used for the entire signature. The one-color signature artwork is to be used and the negative areas of the angled linear tone should be etched into the metal surface to achieve a dimensional effect.

The symbol alone may be used on glass wall surfaces only. The image is sandblasted or applied in a mock-etched translucent vinyl material. The one-color signature symbol will be used for all glass applications.

One-Color Interior Dimensional Letters

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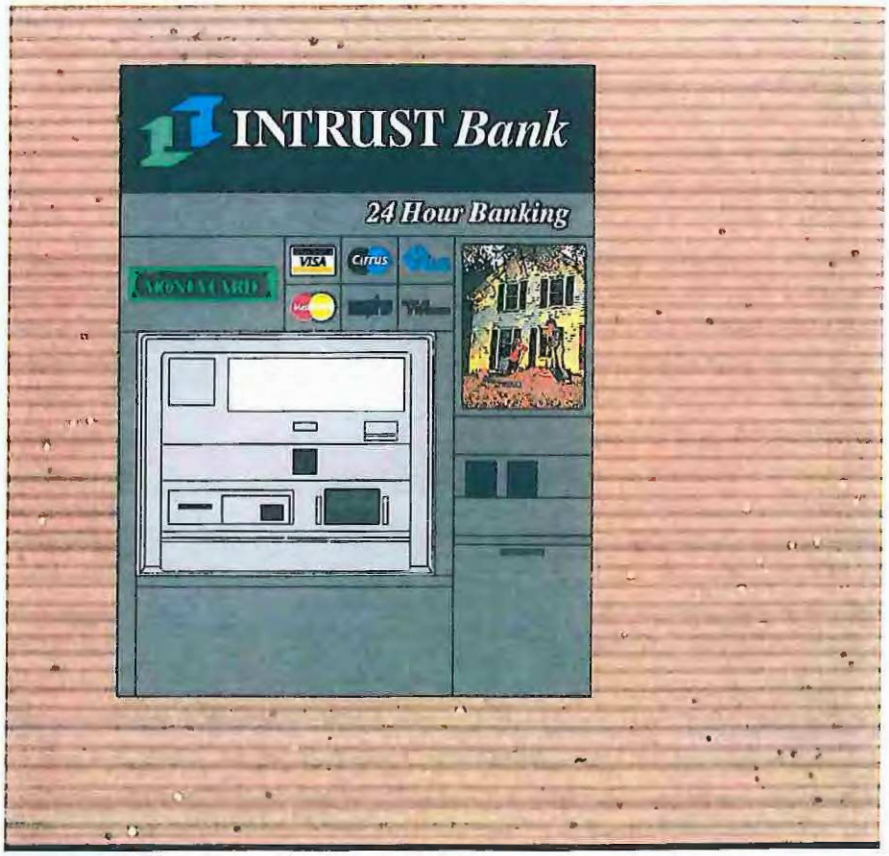
Thru-the-Wall ATM Surrounds

INTRUST thru-the-wall ATMs are identified by a Type L surround unit which contains a primary sign header panel, network identification panels, promotional frame, waste container, envelope bin and writing surface. The surround configuration is designed to satisfy all ADA requirements. The surround paint scheme incorporates the INTRUST Dark Blue and Metallic Gray used in the sign family. Left or right oriented configurations of the surround may be used to accommodate installation restrictions. The INTRUST surround is available in non-illuminated (L-1) and illuminated (L-2) versions.

Freestanding ATM's, such as the NCR 5070 model, shown on the adjacent page, will be identified by the Type M free-standing surround, or the Type N ATM plaque, illustrated on page 40.



Type L Thru-the-Wall ATM Surround

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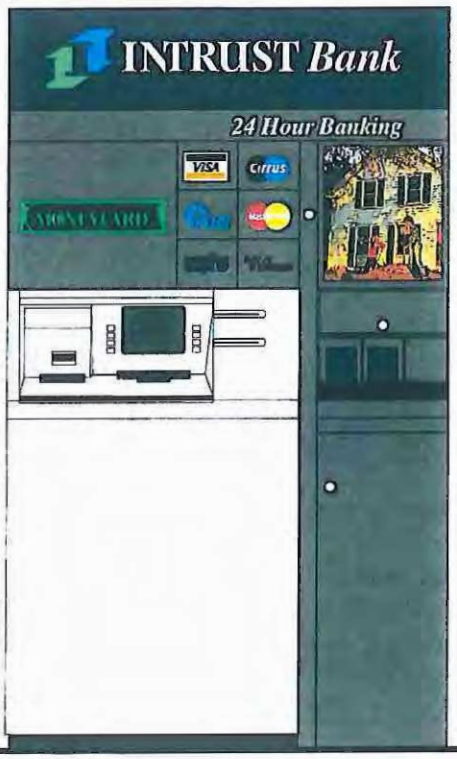
Freestanding ATM Surround



Type M Freestanding ATM Surround

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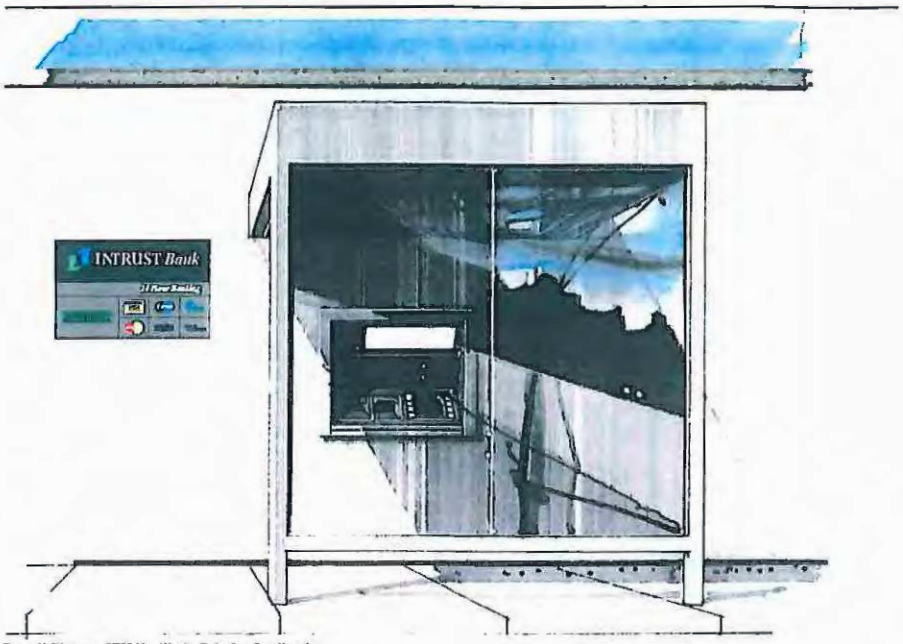
ATM Plaques

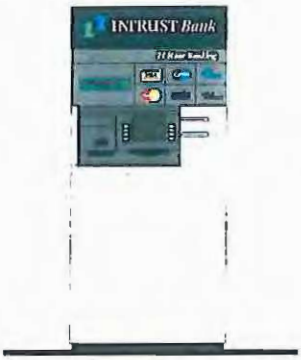
The Type N ATM plaque is a cost-effective, versatile component that may be used when the surround configurations illustrated on pages 38 and 39 are not appropriate, or when a wall-attached sign element is desired to direct traffic to an interior or weather enclosed ATM unit.

The plaque features the same color, signature and network identification elements applied to the full surround configurations.

The examples below demonstrate the Type N plaque adaptability to freestanding and thru-the-wall ATM's, as well as its use as an exterior ATM identity reinforcement. It is available in non-illuminated (N-1) and illuminated (N-2) versions.



Type N Plaque, ATM Vestibule Exterior Application



Type N Plaque, Freestanding ATM Application

Type N Plaque, Thru-the-Wall ATM Header Application

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The perforated color proof swatches below should be used to ensure accurate color match to the INTRUST corporate colors when applied to coated paper stock. Refer to current editions of PANTONE® Color Publications for ink formulations. Slight modifications to the approved ink formulas are allowed in order to compensate for reproduction variables such as printing technique or paper stock color and to ensure an accurate match to the proof swatches below.

Coated Color Proofs

INTRUST Dark Blue, INTRUST Green, INTRUST Bright Blue

In lieu of INTRUST Dark Blue, PANTONE®* 281C may be used. In lieu of INTRUST Green, PANTONE® 354C may be used. In lieu of INTRUST Bright Blue, PANTONE® Process Cyan may be used. Refer to current editions of PANTONE® Publications for correct color formulation and density match.

*PANTONE®, Inc.'s Check Standard trademark for color reproduction and color reproduction materials

INTRUST Dark Blue, INTRUST Green, INTRUST Bright Blue

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The perforated color proof swatches below should be used to ensure accurate color match to the INTRUST corporate colors when applied to uncoated paper stock. Refer to current editions of PANTONE® Color Publications for ink formulations. Slight modifications to the approved ink formulas are allowed in order to compensate for reproduction variables such as printing technique or paper stock color and to ensure an accurate match to the proof swatches below.

Uncoated Color Proofs

INTRUST Dark Blue, INTRUST Green, INTRUST Bright Blue

In lieu of INTRUST Dark Blue, PANTONE®* 281U may be used. In lieu of INTRUST Green, PANTONE® 354U may be used. In lieu of INTRUST Bright Blue, PANTONE® Process Cyan may be used. Refer to current editions of PANTONE® Publications for correct color formulation and density match

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INTRUST Dark Blue, INTRUST Green, INTRUST Bright Blue

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INTRUST Dark Blue, INTRUST Green, INTRUST Bright Blue

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