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13 **UNITED STATES DISTRICT COURT**
 14 **NORTHERN DISTRICT OF CALIFORNIA**
 15 **SAN FRANCISCO DIVISION**

12	United States of America,)	CASE NO.: 13-cv-0133 WHO
)	
13	Plaintiff,)	BAZAARVOICE’S APPENDIX A OF
)	CUSTOMER TESTIMONY
14	v.)	(DEPOSITION AND TRIAL)
)	
15	Bazaarvoice, Inc.,)	Complaint Filed: January 10, 2013
)	Judge: William Orrick
16	Defendant.)	Trial Date: September 23, 2013
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1 1) *Abercrombie & Fitch Co. ("Abercrombie")*

2 1. Abercrombie & Fitch is an apparel company and is number 45 on the IR500 in
3 2012. DX1579.

4 2. [REDACTED]
5 May Tr. 19:4-21.

6 3. Abercrombie & Fitch does not have R&R on its e-commerce site Abercrombie.com.
7 May Tr. 16:2-5. Abercrombie & Fitch has chosen not to use R&R on its website despite receiving
8 sales calls in the past year from Bazaarvoice, Pluck, Gigya, Reevo, and TurnTo. May Tr. 15:18-
16:5.

9 4. Abercrombie and Fitch believes that "from [its] perspective and [the deponent's]
10 personal experience, there are options based upon R&R and UGC." May Tr. 25:25-26:8.

11 5. [REDACTED] May Tr. 44:3-10. Abercrombie & Fitch
12 believes that "the ability to build your own solution today is considerably easier today than it was
13 four years ago." May Tr. 13:8-13.

14 6. Abercrombie & Fitch believes that PowerReviews focused on small to mid-sized
15 customers while Bazaarvoice focused on larger organizations that value a service-based offering.
16 May Tr. 20:14-25.

17 7. [REDACTED]
18 May Tr. 44:19-45:4.

19 8. Abercrombie & Fitch believes that the merger "has not" "affected Abercrombie &
20 Fitch in [its business]." May Tr. 25:14-17

21 2) *Abe's of Maine*

22 9. Abe's of Maine, an Internet retailer of electronics, uses Bazaarvoice for R&R
23 functionality. Yudin Tr. 12:11-19, 8:11-16

24 10. Reevo attempted to secure Abe's of Maine as a customer in December 2012 and
25 January 2013. Yudin Tr. 43:6-44:24; DX1159. Abe's of Maine believed that the Reevo product
26 "was the same thing as Bazaarvoice." Yudin Tr. 15:20-16:2.

27 11. During contract negotiations, Abe's of Maine told Bazaarvoice that it had had
28 preliminary discussions with Reevo. Yudin Tr. 17:13-18:20. Abe's of Maine communicated to
Bazaarvoice that the price being proposed by Reevo was much lower than that being offered by
Bazaarvoice, and that a price decrease would be necessary to maintain the relationship. Yudin Tr.
17:13-18:20. Bazaarvoice agreed to lower Abe's of Maine's price [REDACTED]
[REDACTED] a price that was "on par" with the price offered by Reevo. Yudin Tr. 18:17-23,
19:19-21:3.

1 **12.** Abe’s of Maine renewed its contract with Bazaarvoice in spring 2013. Yudin Tr.
19:23-20:6. Abe of Maine’s 2013 agreement with Bazaarvoice [REDACTED] included
2 additional features, such as syndication, that were not included in its previous agreement for
3 [REDACTED] Yudin Tr. 22:4-22.

4 **13.** Abe’s of Maine is “not concerned” about the acquisition. The acquisition has not
5 harmed Abe’s of Maine. Yudin Tr. 23:14-22.

6 3) *Acer, Inc. (“Acer”)*

7 **14.** Acer is a computer and consumer electronics manufacturer. Masciola Tr. 12:15-16.
8 Acer sells notebooks, desktops, televisions, smartphones, projectors, and tablets. Masciola Tr.
12:23-25. [REDACTED]
9 [REDACTED] Masciola Tr. 26:1-28:12, 58:18-59:2.

10 **15.** Acer considered both Bazaarvoice and alaTest for ratings and reviews functionality
11 before deciding upon Reevo. Masciola Tr. 46:25-47:16. The documents show that Roberto
12 Mainardi, Director of eCommunication and eTechnology at Acer, “is comfortable and likes
13 Reevo.” Mainardi “likes the UI [“user interface”], he likes the measured impact they’ve seen as
14 part of the [Reevo] pilot to date . . .” DX0263.

15 **16.** Acer informed Bazaarvoice in June 2012 that they selected Reevo for ratings and
16 reviews. In response, Bazaarvoice offered its ratings and reviews solution [REDACTED]
17 [REDACTED] Acer declined Bazaarvoice’s offer. DX0654.

18 **17.** Acer believes that Bazaarvoice’s acquisition of PowerReviews does not affect its
19 business at all. Masciola Tr. 67:9-13.

20 4) *Alternative Apparel*

21 **18.** Alternative Apparel is an apparel company targeting men and women. Kwok Tr.
22 9:5-10. Alternative Apparel contracted with Bazaarvoice for R&R between December 2009 and
23 September 2012. Kwok Tr. 32:14-18. In 2012, Alternative Apparel decided to start using
24 Amazon Webstore as its e-commerce platform and for ratings and reviews functionality. Kwok Tr.
25 25:24-26:5, 26:11-27:2.

26 **19.** Alternative Apparel does not pay anything additional for R&R from Amazon
27 Webstore. Kwok Tr. 41:18-24. Alternative Apparel was able to migrate to the Amazon Webstore
28 the reviews gathered through Bazaarvoice. Kwok Tr. 29:14-30:9.

20. Alternative Apparel looked at several vendors during its selection process for an e-
commerce platform and ratings and reviews provider. Kwok Tr. 27:3-8. Alternative Apparel
selected Amazon Webstores over other vendors because it was easy to implement, it was a low
financial investment, and it is powered by Amazon, which is “best in class”. Kwok Tr. 28:24-
29:13.

21. Alternative Apparel has been satisfied with its decision to use Amazon Webstore
for R&R. Kwok Tr. 37:17-38:9.

1 **22.** Alternative Apparel would have a number of choices for ratings and reviews if it
2 became unhappy with the ratings and reviews solution provided by Amazon Webstores. Kwok Tr.
3 40:14-18, 55:11-16. If Alternative Apparel became unhappy with the R&R offerings it receives
4 from Amazon Webstores, it could switch to an alternate provider such as Pluck or possibly build
5 ratings and reviews in-house. Kwok Tr. 40:19-41:8.

6 **23.** Alternative Apparel believes this lawsuit is “unfounded” and that she didn’t “think
7 Bazaarvoice has a monopoly on R&R by any means.” Kwok Tr. 40:1-11.

8 5) *American Eagle Outfitters*

9 **24.** American Eagle Outfitters was identified in the DOJ’s March 1 Rule 26
10 Disclosures. Plaintiff’s March 1 Rule 26 Disclosures.

11 **25.** American Eagle Outfitters is an apparel retailer. Holland Tr. 10:10-15. American
12 Eagle uses Bazaarvoice for its R&R functionality. Holland Tr. 17:11-16.

13 **26.** American Eagle would consider building an in-house R&R solution if it were faced
14 with a price increase for R&R. Holland Tr. 23:10-24:4.

15 **27.** American Eagle did not consider using PowerReviews for ratings and reviews.
16 Holland Tr. 25:19-22.

17 **28.** American Eagle believes Bazaarvoice’s product is stronger following its
18 acquisition of PowerReviews and for that reason does not believe that the acquisition has had any
19 effect on American Eagle. Holland Tr. 27:3-18.

20 6) *Astral Brands*

21 **29.** Astral Brands sells natural skin care and makeup products worldwide, primarily to
22 women. Trial Tr. 1342:10-12. Astral Brands operates several websites including
23 purminerals.com and cosmedix.com. Hughes Tr. 9:3-9:11.

24 **30.** In August 2012, Astral Brands switched from Bazaarvoice to Rating-System for
25 R&R and Q&A. Trial Tr. 1342:23-1343:4.

26 **31.** Bazaarvoice offered Astral Brands additional SEO capability in an attempt to retain
27 it as a customer after Astral Brands informed Bazaarvoice that it intended to switch to Rating
28 System for R&R and Q&A. Hughes Tr. 130:6-131:3.

32. Astral Brands selected Rating-System, in part, due to the fact that it had a number
of recognizable brands as customers. Hughes Tr. 75:5-76:4.

33. Astral Brands has been satisfied with Rating-System as a provider of R&R and
Q&A. Trial Tr. 1343:5-8.

34. Astral Brands pays Rating-System [REDACTED] for its services. Trial Tr.
1343:9-11. Until August 2012, Astral Brands paid Bazaarvoice [REDACTED]. Hughes Tr.
63:2-64:9; GX0053.

1 **57.** Bed Bath & Beyond was identified in the DOJ's March 1 Rule 26 Disclosures.
2 Plaintiff's March 1 Rule 26 Disclosures.

3 **58.** Bed Bath & Beyond is a specialty store that sells home furnishing products.
4 Waltzinger Tr. 11:5-17. Bed Bath & Beyond uses Bazaarvoice for R&R functionality. Waltzinger
5 Tr. 27:20-25. Bed Bath & Beyond selected Bazaarvoice for R&R functionality in 2009.
6 Waltzinger Tr. 19:2-6.

7 **59.** In 2012, Bed Bath & Beyond renewed its agreement with Bazaarvoice. Waltzinger
8 Tr. 32:3-19. At that time, Bed Bath & Beyond did not investigate any ratings and reviews vendors
9 besides Bazaarvoice. Waltzinger Tr. 36:9-13.

10 **60.** Mr. Waltzinger, the Bed Bath & Beyond deponent, has not canvassed the market to
11 see whether there are additional R&R providers beyond PowerReviews or Bazaarvoice.
12 Waltzinger Tr. 98:2-5. Mr. Waltzinger admitted that he does not keep abreast of the developments
13 in the R&R sphere. Waltzinger Tr. 100:15-21.

14 **61.** Mr. Waltzinger did not know whether Bed Bath & Beyond had mentioned a
15 competitive alternative to Bazaarvoice in 2012 when negotiating the price of its contract with
16 Bazaarvoice. Waltzinger Tr. 112:20-113:5.

17 **62.** When Bed Bath & Beyond renewed its contract in 2012, it negotiated a proposed
18 33% price increase down to an 11% price increase and in exchange Bazaarvoice agreed to modify
19 the contract to lift the cap on moderation and provide Bed Bath & Beyond with unlimited
20 moderation. Trial Tr. 585:20-586:13.

21 **63.** Bed Bath & Beyond has never performed a specific estimate of the costs of
22 switching R&R platforms. Waltzinger Tr. 81:20-82:24. Bed Bath & Beyond has never estimated
23 the initial or ongoing costs for building an R&R solution in-house. Waltzinger Tr. 85:19-86:13,
24 91:16-22.

25 *10) Belk*

26 **64.** Belk was identified in the DOJ's March 1 Rule 26 Disclosures. Plaintiff's March 1
27 Rule 26 Disclosures.

28 **65.** Belk is a department store retailer that sells men's, women's and children's apparel.
Chin Tr. 6:14-21. Belk uses Bazaarvoice for R&R functionality. Chin Tr. 14:4-6.

66. Belk never considered using PowerReviews as an R&R provider before the merger,
and would not have done so absent the merger. Chin Tr. 17:7-11, 17:18-18:10.

67. Belk does not consider PowerReviews to be an alternative to Bazaarvoice. Belk
would not have considered PowerReviews as an alternative to Bazaarvoice in the absence of the
acquisition. Chin Tr. 17:7-11, 18:3-10, 21:17-22:3.

68. Belk and Bazaarvoice renewed their agreement in August 2012. The renewed
agreement included R&R, among other services. Belk's price for the bundle of Bazaarvoice
solutions declined by more than 50 percent. DX1433 at ¶ 93.

1 **69.** Belk believes the acquisition “was not a concern” and has not had an effect on Belk.
2 Chin Tr. 21:17-19, 21:21-25, 22:3.

3 *11) Benchmark Brands*

4 **70.** Benchmark Brands was identified in the DOJ’s March 1 Rule 26 Disclosures.
5 Plaintiff’s March 1 Rule 26 Disclosures.

6 **71.** Benchmark Brands is a cataloger and online retailer of shoes and products.
7 Benchmark Brands owns and operates FootSmart.com. Gallagher Tr. 7:17-8:4. Benchmark
8 Brands is number 176 on the IR500 in 2012. DX1579; Gallagher Tr. 9:3-12.

9 **72.** Benchmark Brands uses Bazaarvoice for R&R. Gallagher Tr. 13:6-13:10.
10 Benchmark Brands considered a number of providers for R&R at its most recent contract renewal
11 with Bazaarvoice in March 2012, but it did not regard PowerReviews as a viable option.
12 Gallagher Tr. 24:1-11.

13 **73.** Benchmark Brands believes R&R is a “commodity in the marketplace.” Gallagher
14 Tr. 21:19-22:7.

15 **74.** Benchmark Brands believes the acquisition has had no negative impact on its
16 business and has not affected its negotiation leverage with Bazaarvoice. Gallagher Tr. 17:6-10,
17 17:18-24.

18 **75.** Benchmark Brands “feel[s] that there are other options in the market” post
19 acquisition. Gallagher Tr. 17:18-24. Companies have options for alternative R&R solutions,
20 including “freeware applications” and “build it yourself.” Gallagher Tr. 14:23-15:4.

21 *12) B&H Photo Video Audio (“B&H Photo”)*

22 **76.** B&H Photo is a retailer of photography, videography and entertainment equipment
23 that is ranked number 165 in the 2012 IR500. Meisels Tr. 6:20-24; DX1579. In 2012, B&H
24 Photo’s annual revenues were between \$1 and \$2 billion, the majority of which were online
25 revenues. Meisels Tr. 8:25-9:9.

26 **77.** B&H Photo is a legacy PowerReviews customer. Meisels Tr. 12:24-13:6. However,
27 B&H Photo believes that Bazaarvoice’ hosting technology is superior to PowerReviews’ hosting
28 technology. Bazaarvoice’s product is more of a SaaS-based platform, where all of the content is
hosted by Bazaarvoice. In contrast, PowerReviews transfers review content to its customers via
FTP file transfer. Meisels Tr. 15:14-23, 16:2-10. Bazaarvoice’s platform is more reliable, and
there is a lower chance of failure. Meisels Tr. 17:10-22.

78. B&H Photo has been looking into alternatives to PowerReviews for the past six
months. B&H Photo believes it has viable alternatives to PowerReviews for ratings and reviews.
Trial Tr. 1858:22-25. B&H Photo has met with Pluck, Rating-System, Reevo and TurnTo. Trial
Tr. 1853:24-25, 1854:11-14.

79. B&H Photo believes Pluck is a viable option. Trial Tr. 1856:19-21. B&H Photo
received a demonstration of Pluck’s capabilities and information about the company and its

1 customers. B&H considers Pluck to be focused on a “broader” solution set than just ratings and
2 reviews, with a solution geared towards “social commerce as a whole,” including “good
3 functionality on ratings and reviews.” Trial Tr. 1854:15-1855:2. Pluck’s message that social
4 commerce is broader than just ratings and reviews resonated with B&H Photo because customers
5 are changing their behavior and are tending to share feedback more instantaneously than in the
6 past. Trial Tr. 1855:3-1856:6. B&H Photo believes that “commoditization” is occurring within
7 ratings and reviews. Trial Tr. 1856:7-17.

8 **80.** B&H Photo considers Reevoov a viable option for ratings and reviews. Trial Tr.
9 1857:17-19. B&H Photo has received a product demonstration from Reevoov, and liked the
10 features of Reevoov’s solution. B&H Photo describes Reevoov as “doing a good job on reviews.”
11 Reevoov’s “differentiation point,” according to B&H Photo, is that it is “very innovative on how to
12 get customers to respond to reviews” and “share their experiences.” Trial Tr. 1856:22-1857:16.

13 **81.** B&H Photo would consider undertaking a “co-development” effort with Rating
14 System, either an in-house solution partnering with Rating System or taking the Rating-System
15 functionality and customizing it to fit B&H Photo’s specific needs. Trial Tr. 1857:20-1858:9.

16 **82.** B&H Photo would “definitely” build ratings and reviews in-house if it does not
17 find a satisfactory commercial solution. Trial Tr. 1859:1-15; Meisels Tr. 19:21-20:5. B&H Photo,
18 which has between 100 and 200 employees in its IT department, has far more capacity than is
19 required to build ratings and reviews, as B&H Photo has built its entire web infrastructure in-
20 house. Trial Tr. 1848:10-12, Meisels Tr. 19:21-20:5.

21 **83.** B&H Photo has no concerns regarding the pricing for R&R post acquisition. Trial
22 Tr. 1860:8-11. B&H Photo doesn’t believe it has lost any negotiating power or leverage on pricing
23 for R&R following the acquisition. Trial Tr. 1860:15-20. B&H renewed its contract with
24 PowerReviews/Bazaarvoice shortly following the acquisition and received “a lot of the other
25 products that PowerReviews didn’t offer,” and the price for this functionality “wasn’t substantially
26 different.” Trial Tr. 1862:2-20.

27 **84.** B&H Photo believes Bazaarvoice’s acquisition of PowerReviews created many of
28 syndication capabilities that were not available previously, because the network is larger and
29 capabilities are a lot more robust. Meisels Tr. 26:7-16. Post acquisition, B&H Photo sees a larger
30 number of vendors on the syndication network. Trial Tr. 1859:22-25. Nevertheless, B&H Photo
31 finds syndication “much less important than Bazaarvoice wants to believe it is.” Trial Tr. 1860:1-7.

32 **85.** Amazon recently acquired DP Reviews, “a very popular photography blog and
33 discussion board” about photography. B&H Photo believes that this acquisition has impacted its
34 business by putting “a lot of pressure on [B&H Photo] to excel in the way [it does] reviews”
35 because Amazon has prices and inventory that “no one can meet or beat.” B&H Photo considers
36 the reviews it has on its site to be an advantage over Amazon. B&H Photo believes Amazon has
37 “raised the bar” in terms of expectations from an R&R vendor. Trial Tr. 1850:13-1851:20

38 **86.** B&H Photo does not believe the acquisition has harmed B&H Photo. Trial Tr.
39 1860:12-14.

40 *13) Big Dot of Happiness*

1 **87.** Big Dot of Happiness is an online party supplies retailer. Yukel Tr. 7:2-5; Trial Tr.
2 1657:22-24.

3 **88.** Big Dot of Happiness used PowerReviews on bigdotofhappiness.com for ratings
4 and reviews from 2009 to February 2013. Yukel Tr. 16:14-17:16; Trial Tr. 1661:7-15. In
5 February 2013, Big Dot of Happiness began using Magento as both its e-commerce platform and
6 for ratings and reviews functionality on bigdotofhappiness.com. Yukel Tr. 13:21-24, 16:3-22;
7 Trial Tr. 1661:7-15.

8 **89.** Big Dot of Happiness switched from PowerReviews to Magento for ratings and
9 reviews in part because the Magento e-commerce platform has ratings and reviews functionality
10 built-in and there are no additional fees for ratings and reviews. Yukel Tr. 18:17-19:1; Trial Tr.
11 1662:7-21.

12 **90.** Big Dot of Happiness was able to migrate the reviews it collected using
13 PowerReviews to the Magento platform. Yukel Tr. 20:22-21:10; Trial Tr. 1663:19-25. The
14 importing process took about an hour. Trial Tr. 1664:1-3.

15 **91.** Big Dot of Happiness believes it is a benefit that ratings and reviews are integrated
16 into the Magento platform. Magento’s ratings and reviews are “actually built into the back end of
17 the [Magento] system so it integrates really smoothly with the entire functionality at the back end
18 of the site.” Big Dot of Happiness also has “more control on the front end” with Magento, and is
19 able to “customize the look and feel” of the site better. Trial Tr. 1662:22-1663:11.

20 **92.** Magento’s ratings and reviews solution fits Big Dot of Happiness’ needs. Big Dot
21 of Happiness believes that the Magento R&R solution is a viable alternative to the Bazaarvoice
22 R&R offering. Yukel Tr. 20:11-12, 28:4-7; Trial Tr. 1666:4-10.

23 **93.** Bazaarvoice’s acquisition of PowerReviews has not harmed Big Dot of Happiness.
24 Trial Tr. 1666:11-14.

25 *14) Big Fish Games, Inc. (“Big Fish Games”)*

26 **94.** Big Fish Games was identified in the DOJ’s March 1 Rule 26 Disclosures.
27 Plaintiff’s March 1 Rule 26 Disclosures.

28 **95.** [REDACTED] Big Fish Games is number 137
on the 2012 IR500. DX1579; Heverley Tr. 16:4-18.

96. [REDACTED] Heverley Tr. 24:7-19,
49:8-12. [REDACTED] DX0006.

97. [REDACTED] Heverley Tr.
76:24-77:19.

 [REDACTED] Heverley Tr. 102:23-103:17. [REDACTED]
[REDACTED] Heverley Tr. 103:4-12.

1 **98.** PowerReviews recognized that the customization requested by Big Fish Games did
2 not fit with the PowerReviews business model: “We are a multi tenant SaaS business, not a
3 custom IT house. And, like with Big Fish games, if there is lots of custom work, we really need to
4 seriously consider.” DX0390.

4 **99.** [REDACTED]

Heverley Tr. 90:4-18, 92:16-93:2.

5 **100.** [REDACTED]

6 Heverley Tr. 49:14-50:19. [REDACTED]

7 Heverley Tr. 95:3-19.

8 **101.** [REDACTED]

Heverley Tr. 57:9-11.

9 **102.** [REDACTED]

10 Heverly Tr. 96:24-97:11.

11 **103.** [REDACTED]

12 Heverley Tr. 88:15-89:10.

13 *15) Birdsafe*

14 **104.** Birdsafe is an online pet supply retailer headquartered in Winchester, Virginia.
15 Arbogast Tr. 5:15-17, 6:4-11.

16 **105.** Birdsafe uses the Volusion e-commerce platform. Arbogast Tr. 9:12-15. In fall
17 2012, Birdsafe stopped using PowerReviews’ review solution, and switched to the review solution
18 built into the Volusion e-commerce platform. Arbogast Tr. 11:3-21. Volusion provided Birdsafe
19 with most of what Birdsafe had been using with PowerReviews, but at no additional cost to
20 Birdsafe. Arbogast Tr. 11:13-16.

21 **106.** In late 2012, Volusion announced a partnership with Yotpo, and Birdsafe signed up
22 for Yotpo’s R&R functionality thereafter. Arbogast Tr. 11:3-21. Birdsafe continues to use
23 Yotpo’s ratings and reviews solution today. Arbogast Tr. 11:17-21. Yotpo, like Volusion,
24 provides Birdsafe with automatic product integration, because Yotpo is connected to the Volusion
25 platform through Volusion’s API. Arbogast Tr. 16:7-17.

26 **107.** Birdsafe believes that the acquisition has not had an impact on its company.
27 Arbogast Tr. 27:10-14.

28 *16) BJ’s Wholesale Club (“BJ’s”)*

108. BJ’s has retail stores where it resells products, food and general merchandise. BJ’s
also sells its products online, at www.bjs.com. Trial Tr. 446:24-447:15.

1 **109.** BJ's currently uses PowerReviews for R&R functionality. Cunningham Tr. 25:13-
2 16. BJ's selected PowerReviews for ratings and reviews services in 2010. Trial Tr. 460:21-25,
3 465:12-16.

4 **110.** BJ's selected PowerReviews over both Bazaarvoice and in-house ratings and
5 reviews. Cunningham Tr. 25:13-16, 37:25-38:5. Since 2009 or early 2010, BJ's has not
6 considered or looked at whether it could build its own in-house solution. Trial Tr. 468:3-6.

7 **111.** BJ's continues to receive ratings and reviews services from PowerReviews today.
8 Trial Tr. 467:1-4. BJ's receives first-pass moderation of reviews from PowerReviews. BJ's
9 performs second-pass moderation in-house before publishing reviews on its website. Trial Tr.
10 465:20-466:7. BJ's believes that moderation is "fairly simple." Trial Tr. 466:8-10.

11 **112.** BJ's chose not to syndicate reviews because "[it] wanted to ensure that [it] had a
12 solid foundation of ratings and reviews from [their] own members first." Cunningham Tr. 32:16-
13 33:2. In addition, BJ's understood that it was a "relatively new functionality" and "wanted to
14 ensure that it was a trustworthy method of receiving and submitting reviews before [it] added
15 [syndication] to [its] Website." Cunningham Tr. 33:3-9. To this day, BJ's still does not receive
16 syndicated content. Cunningham Tr. 33:10-13; Trial Tr. 468:25-469:16 (BJ's did not view
17 syndication as an important feature when it launched R&R, and wanted to retain reviews directly
18 from its own customers); Trial Tr. 465:17-19 (BJ's did not want syndication when it selected PR
19 in 2010).

20 **113.** BJ's renewed its agreement with PowerReviews in 2013. Trial Tr. 466:22-25.
21 When BJ's renewed its agreement with PowerReviews, BJ's was aware that Bazaarvoice had
22 acquired PowerReviews. Trial Tr. 467:10-17.

23 **114.** Prices under BJ's agreement with PowerReviews have not changed in any way.
24 Trial Tr. 467:1-6. BJ's believes that the services it receives with respect to ratings and reviews are
25 acceptable. Trial Tr. 467:7-9.

26 **115.** If BJ's became unhappy with the services or products provided by its ratings and
27 reviews provider, it would consider other providers. Trial Tr. 464:14-21, 466:14-17. If BJ's
28 became unsatisfied with the services it was receiving under the PowerReviews agreement, it
would not extend that agreement. Trial Tr. 466:18-21.

116. BJ's is willing to consider alternatives when its contract with PowerReviews
expires; "[i]t's just best practice to look at what is available in the marketplace prior to signing a
legal contract for services for any period of time." Cunningham Tr. 26:9-21; Trial Tr. 466:14-17,
468:7-12 (BJ's would consider other vendors if unsatisfied with PowerReviews, or if not renewing
in 2014).

117. BJ's has not been harmed by Bazaarvoice's acquisition of PowerReviews. Trial Tr.
467:18-20.

17) *Blinds.com*

1 **118.** Blinds.com is an online retailer that specializes in window treatments and is
2 number 220 on the 2012 IR500 list. DX1579; Cotlar Tr. 8:16-18.

3 **119.** Blinds.com has used Bazaarvoice for ratings and reviews functionality since 2006.
4 Cotlar Tr. 19:21-20:7. Blinds.com never seriously considered PowerReviews for ratings and
5 reviews functionality. Cotlar Tr. 50:4-9.

6 **120.** Blinds.com has the ability to build an in-house R&R solution with comparable
7 functionality to Bazaarvoice. Cotlar Tr. 31:10-25. Blinds.com believes that an in-house R&R
8 solution would likely be superior to Bazaarvoice because it would be better integrated and have
9 better search engine optimization. Cotlar Tr. 30:19-31:2, 68:11-21.

10 **121.** Blinds.com estimates that building an in-house R&R solution would take
11 approximately three months. Cotlar Tr. 69:15-18. If Blinds.com were to build an in-house R&R
12 solution, it could use its internal team that currently moderates its Facebook and Twitter feeds to
13 moderate reviews. Cotlar Tr. 71:17-25.

14 **122.** Blinds.com believes Bazaarvoice's products, including ratings and reviews and
15 analytics, are "fairly commoditized". Cotlar Tr. 46:13-17. Blinds.com believes that there are
16 several good choices for R&R. Cotlar Tr. 46:21-24.

17 **123.** Blinds.com believes that in the "post merger world," the company has "lots of
18 options" for R&R including Pluck and Reevo. Cotlar Tr. 95:1-96:6. In response to a price
19 increase by Bazaarvoice, Blinds.com would consider switching to Reevo, Pluck and TurnTo, as
20 well as building ratings and reviews in-house. Cotlar Tr. 27:19-28:11.

21 **124.** Blinds.com is "optimistic" that "new features" and an improved product roadmap
22 will be added to Bazaarvoice's platform following the acquisition. Cotlar Tr. 40:18-20, 40:25-
23 41:3.

24 *18) Blue Nile*

25 **125.** Blue Nile was identified in the DOJ's March 1 Rule 26 Disclosures. Plaintiff's
26 March 1 Rule 26 Disclosures.

27 **126.** Blue Nile is an online jewelry retailer and is number 71 on the 2012 IR500.
28 DX1579; Sainsbury Tr. 11:22-24, 16:21-17:7.

127. Blue Nile uses an in-house R&R solution, which it developed in 2002 or 2003.
Sainsbury Tr. 18:3-15, 20:19-23.

128. In 2010, Blue Nile hired Bazaarvoice to host its ratings and reviews. Blue Nile was
not satisfied with the performance of the Bazaarvoice ratings and reviews product. Sainsbury Tr.
19:3-20:3.

129. Blue Nile dropped the Bazaarvoice ratings and reviews solution in Spring 2011 and
returned to its in-house R&R solution. Sainsbury Tr. 19:18-22, 20:19-23.

1 **130.** Blue Nile is satisfied with its in-house R&R solution and considers it to be superior
2 to the R&R functionality provided by Bazaarvoice. Sainsbury Tr. 22:16-24.

3 **131.** Blue Nile believes that the acquisition has had “no impact on Blue Nile.”
4 Sainsbury Tr. 34:20-23.

5 *19) The Bon-Ton Stores Inc.*

6 **132.** The Bon-Ton Stores, Inc. currently uses Bazaarvoice for R&R functionality.
7 Fernandez Tr. 24:14-18.

8 **133.** The Bon-Ton Stores believes that, because R&R software is “not all that difficult to
9 replicate,” there are likely “new vendors starting up today” and that this is not “a market that’s
10 drying up.” The Bon-Ton Stores could build an R&R solution in-house as a viable alternative to
11 Bazaarvoice. Fernandez Tr. 28:17-29:3, 49:5-15.

12 **134.** The Bon-Ton Stores considers ratings and reviews technology itself to be relatively
13 simple. Fernandez Tr. 19:22-20:19.

14 **135.** The Bon-Ton Stores is not “executing or driving any kind of syndication of any
15 sort of social media content.” Fernandez Tr. 30:25-31:4.

16 **136.** The Bon-Ton Stores was “not aware” of the acquisition harming Bon-Ton Stores in
17 any way. Fernandez Tr. 35:16-36:4.

18 *20) Broadcast Supply Worldwide*

19 **137.** Broadcast Supply Worldwide using PowerReviews for ratings and reviews in 2008.
20 Roalkvam Tr. 17:12-15.

21 **138.** In 2012, PowerReviews informed Broadcast Supply that it would be increasing its
22 rates from around [REDACTED] Roalkvam Tr. 23:1-25:15.

23 **139.** Broadcast Supply told PowerReviews that the rate increase “just wasn’t going to be
24 acceptable,” because there is not enough value in the product for Broadcast Supply to pay that
25 much. Roalkvam Tr. 23:18-24:8. Broadcast Supply informed PowerReviews it would look into
26 other vendors or building ratings and reviews in-house. Roalkvam Tr. 24:9-13.

27 **140.** In response, PowerReviews offered Broadcast Supply PowerReviews Express for
28 [REDACTED] Roalkvam Tr. 23:18-24:20.

141. Broadcast Supply does not use any syndication. Roalkvam Tr. 38:3-4.

142. Broadcast Supply believes that the acquisition “doesn’t appear to have had any
negative effect” on Broadcast Supply. Roalkvam Tr. 28:25-29:6.

21) The Buckle Inc.

1 **143.** The Buckle, Inc. was identified in the DOJ’s March 1 Rule 26 Disclosures.
2 Plaintiff’s March 1 Rule 26 Disclosures.

3 **144.** The Buckle Inc. (“The Buckle”) is a specialty clothing retailer and is number 221
4 on the 2012 IR500 list. DX1579; Pierson Tr. 11:4-6. The Buckle currently uses Bazaarvoice for
5 ratings and reviews functionality. Pierson Tr. 27:4-6.

6 **145.** When choosing its R&R vendor, with respect to both Bazaarvoice and
7 PowerReviews, The Buckle was concerned that the reviews would be hosted on proxy pages,
8 which put into question the SEO value of the reviews. Pierson Tr. 35:11-21.

9 **146.** The Buckle believes that they have options beyond Bazaarvoice for R&R. There
10 are “a handful of vendors that have been called to [their] attention” including Pluck and Gigya.
11 Gigya is especially appealing to The Buckle as it offered single social sign-in. Pierson Tr. 39:22-
12 40:7, 37:10-38:13.

13 **147.** The Buckle has the ability to build an in-house R&R solution. Pierson Tr. 28:14-
14 24.

15 **148.** Syndication is of no significance to The Buckle. Pierson Tr. 40:15-17.

16 **149.** The Buckle “didn’t think [the acquisition] affected [the Buckle] at all.” Pierson Tr.
17 45:2-9.

18 22) *Build.com*

19 **150.** Build.com is an online retailer of home improvement products. Trial Tr. 1162:13-
20 16.

21 **151.** Build.com uses Bazaarvoice for ratings and reviews on build.com, and Magento for
22 ratings and reviews on Build.ca and Homeoutlet.co.uk (soon to be Build.co.uk). Build.com also
23 has an in-house solution for Q&A. Trial Tr. 1167:22-1168:7; 1172:23-1173:4.

24 **152.** Build.com does its own moderation on the UK site that uses Magento and it takes
25 “a part-time person today a couple hours a week to do the moderation.” Trial Tr. 1168:13-24.

26 **153.** Build.com testified that there are diminishing returns to increasing the number of
27 reviews for a single product. Trial Tr. 1170:4-24.

28 **154.** Build.com is solicited by business processing outsourcing firms that offer to
moderate Build.com’s ratings and reviews once or twice a day. Trial Tr. 1175:9-19.

155. Build.com believes that ratings and reviews are a “commodity product.” Friedland
Tr. 21:22-23:16. Today, there are many ways to implement ratings and reviews, including “plug-
ins and free review software that anybody can install on their own Web site.” Trial Tr. 1170:4-24;
Friedland Tr. 36:15-37:2. Ratings and reviews are a “very, very simple technology.” Trial Tr.
1174:16-25.

1 **156.** Build.com believes that over time, Bazaarvoice’s price per review continues to fall.
2 This decline in price has not changed at all since Bazaarvoice’s acquisition of PowerReviews.
3 Trial Tr. 1172:11-19.

4 **157.** Build.com is paying less per review today than they were pre-merger. Trial Tr.
5 1186:15-1187:10.

6 **158.** If Bazaarvoice’s prices ever increased, Build.com could “just build it
7 [themselves]...” Friedland Tr. 23:21-24:22, 43:10-23; Trial Tr. 1173:16-1174:8. Build.com could
8 build the internal solution “very quickly, perhaps in a matter of days...” Friedland Tr. 18:5-15;
9 DX1391. An “enterprise Class 1” solution “might take as long as a month if you really want to
10 build it from scratch.” Trial Tr. 1173:24-1174:8.

11 **159.** Build.com believes that an internal solution could “be completed at a reasonable
12 cost.” Friedland Tr. 18:5-15. Build.com estimates that it could have a solution “up and running”
13 at an internal cost of approximately \$20,000 to \$30,000. Trial Tr. 1173:24-1174:8.

14 **160.** Build.com estimates that the cost to build an in-house R&R solution would be
15 approximately \$30-40,000, with a recurring cost of approximately \$5,000. Friedland Tr. 18:5-15;
16 DX1391.

17 **161.** Build.com would consider Reevo if Bazaarvoice were to raise prices. Friedland
18 Tr. 21:8-21.

19 **162.** Build.com would not need analytics from its R&R provider because its existing
20 analytics platform, Adobe, can provide social analytics. Friedland Tr. 38:20-40:4. Although
21 Bazaarvoice presses its social commerce analytics, “so does every other vendor.” Friedland Tr.
22 53:18-54:2. Build.com noted that “every other analytics vendor,” including Adobe, Coremetrics
23 (owned by IBM), and a number of startups offer social analytics capacity. Friedland Tr. 54:3-8.

24 **163.** Build.com does not see the “value in the syndication.” Friedland Tr. 14:24-15:2;
25 Trial Tr. 1170:25-1171:23.

26 **164.** Build.com does not believe that the acquisition has significantly reduced its
27 leverage in negotiating with Bazaarvoice. Trial Tr. 1174:13-25.

28 **165.** Build.com had no concerns with the acquisition, and has not been harmed by the
acquisition. Friedland Tr. 54:16-23; Trial Tr. 1174:9-1175:8; 1182:14-25.

23) *Cabela’s Inc.*

24 **166.** Cabela’s was identified in the DOJ’s March 1 Rule 26 Disclosures. Plaintiff’s
25 March 1 Rule 26 Disclosures.

26 **167.** Cabela’s is an outdoor retailer, number 45 on the 2012 IR500 list, specializing in
27 hunting, fishing, and camping. DX1579; Uhlir Tr. 10:25-11:6; 28:24-29:6.

28 **168.** Cabela’s uses Bazaarvoice for ratings and reviews. Uhlir Tr. 17:11-16.

1 **181.** Clorox was identified in the DOJ's March 1 Rule 26 Disclosures. Plaintiff's March
2 1 Rule 26 Disclosures.

3 **182.** Clorox has ratings and reviews on thirteen of its brand websites. Trial Tr. 277:3-
4 278:4. Bazaarvoice provides Clorox with this ratings and reviews functionality. Trial Tr. 278:10-
5 17.

6 **183.** Between October 2011 and February 2012, Clorox evaluated whether to replace
7 Bazaarvoice as the ratings and reviews provider for Clorox Brands. Trial Tr. 287:2-8. Clorox
8 assessed PowerReviews' ratings and reviews solution as part of this evaluation. Clorox chose not
9 to work with PowerReviews because PowerReviews was not able to provide or ensure acceptance
10 of Clorox's syndicated review content by retailers. Levin Tr. 77:11-78:5; Trial Tr. 316:1-22.

11 **184.** Clorox decided to remain with Bazaarvoice for ratings and reviews because it
12 valued the syndicated content Bazaarvoice could provide and did not believe that PowerReviews
13 could offer a similar service. Levin Tr. 77:11-78:5; Trial Tr. 296:11-297:6, 316:1-22.

14 **185.** Between February 2012 and July 2012, Clorox renegotiated the rates it would pay
15 Bazaarvoice. Trial Tr. 298:13-21. The Purchasing Department, and not the witness, had primary
16 responsibility for pricing negotiations. Trial Tr. 309:18-310:10. In July 2012, Clorox signed a
17 new rate card with Bazaarvoice. Prices decreased under the revised rate card. Trial Tr. 299:13-22.

18 **186.** Post-acquisition, Clorox can now syndicate ratings and reviews content to
19 PowerReviews retailers. The ability to syndicate content to PowerReviews' retailers post-
20 acquisition is a benefit and is helpful to Clorox. Levin Tr. 79:23-81:2; Trial Tr. 321:16-24,
21 1031:15-22. Clorox does not pay additional fees to Bazaarvoice in order to syndicate ratings and
22 reviews content to legacy PowerReviews' retailers. Trial Tr. 321:25-322:3.

23 **187.** Clorox has not performed an evaluation of the market since the October 2011 to
24 February 2012 timeframe. Levin Tr. 161:2-17. Clorox admitted that it could therefore not say
25 whether today Bazaarvoice was the only company that could suit the needs of Clorox for ratings
26 and reviews. Levin Tr. 161:2-17; Trial Tr. 314:19-315:11.

27 **188.** When Clorox conducts its next evaluation of ratings and reviews vendors, Clorox
28 will look at the vendors in the space at that time, and start the evaluation anew. Clorox will
consider Reevo and Pluck, if they remain vendors that provide those services. Trial Tr. 315:1-11.

29 *27) Coldwater Creek*

30 **189.** Coldwater Creek was identified in the DOJ's March 1 Rule 26 Disclosures.
31 Plaintiff's March 1 Rule 26 Disclosures.

32 **190.** Coldwater Creek is a women's apparel retailer and is number 134 on the 2012
33 IR500 list. DX1579; Williams Tr. 10:20-23; DX1680.

34 **191.** Coldwater Creek uses an in-house solution for R&R functionality. Williams Tr.
35 34:3-15. Coldwater Creek's in-house R&R solution was built by approximately three people over
36 1-2 months, working 80% of a 40-hr work week. Williams Tr. 35:19-36:9.

1 **192.** Coldwater Creek is satisfied with its in-house solution for ratings and reviews
2 because it gives feedback where feedback is needed, and it helps the customer to make an
informed purchase decision. Williams Tr. 44:18-45:1.

3 **193.** Coldwater Creek believes that Bazaarvoice offer more features than Coldwater
4 Creek needed and at too high a cost. Williams Tr. 56:6-9.

5 **194.** Coldwater Creek moderates ratings and reviews content in-house, using both an
6 automated mechanism and manual review. Williams Tr. 39:2-16. Coldwater Creek is satisfied
7 with its in-house moderation system, because “the system is simple, and it fulfills the needs of
what our marketing folks have requested for the site.” Williams Tr. 40:23-41:1.

8 **195.** Coldwater Creek utilizes Coremetrics and Google Analytics for analytics relating
9 to “customer paths” and customer use of its website. Williams Tr. 42:1-43:13.

10 **196.** Coldwater Creek had no opinion about whether the acquisition might affect
Coldwater Creek. Williams Tr. 46:16-19.

11 *28) Columbia Sportswear*

12 **197.** Columbia Sportswear is a manufacturer and provider of outerwear products. Evons
13 Tr. 10:2-10:6. Columbia Sportswear uses Bazaarvoice for R&R functionality. Evons Tr. 18:3-6.

14 **198.** Columbia Sportswear believes that there are vendors that provide the same R&R
15 functionality as Bazaarvoice on the market. Evons Tr. 24:2-17.

16 **199.** Columbia Sportswear has the technological ability to create an in-house R&R
17 solution and would consider doing so if that was its best option. Evons Tr. 24:18-25:24.

18 **200.** Columbia Sportswear would either build R&R in-house or switch to another
19 provider if Bazaarvoice increased its prices or if Columbia Sportswear became unsatisfied with
20 Bazaarvoice’s product. Evons Tr. 22:24-23:14.

21 **201.** Columbia Sportswear has no opinion as to whether the acquisition has had an effect
22 on Columbia Sportswear. Evons Tr. 31:7-11.

23 *29) Crabtree & Evelyn*

24 **202.** Crabtree & Evelyn is a manufacturer and distributor of personal care products. G.
25 Green Tr. 6:19-24.

26 **203.** Crabtree & Evelyn uses Pluck for R&R functionality on its US-facing website.
27 G. Green Tr. 23:13-18. Crabtree & Evelyn is contemplating launching a website in Canada and
28 would implement the same Pluck solution for that website. G. Green Tr. 32:25-33:5.

204. Crabtree & Evelyn did not have R&R on its website between 2009 and March 2013.
G. Green Tr. 10:9-12.

1 **205.** In 2012, Crabtree & Evelyn considered both Bazaarvoice and Pluck for R&R
2 functionality. G. Green Tr. 12:18-23. Bazaarvoice initially proposed pricing of approximately
3 \$200,000 per year for R&R and other functionality. G. Green Tr. 13:23-14:2. Bazaarvoice
4 lowered its price during negotiations after Crabtree & Evelyn informed Bazaarvoice that the cost
5 was prohibitive. G. Green Tr. 14:15-15:4.

6 **206.** After comparing Bazaarvoice's and Pluck's products, Crabtree & Evelyn
7 determined that Pluck offered the key functionality that Crabtree & Evelyn needed and was
8 comparable to Bazaarvoice. G. Green Tr. 28:23-29:8.

9 **207.** Crabtree & Evelyn selected Pluck over Bazaarvoice because Pluck's solution was
10 less expensive. G. Green Tr. 23:13-15.

11 **208.** Crabtree & Evelyn has been satisfied with the services offered by Pluck. G. Green
12 Tr. 23:16-18.

13 **30) Crate and Barrel**

14 **209.** Crate and Barrel was identified in the DOJ's March 1 Rule 26 Disclosures.
15 Plaintiff's March 1 Rule 26 Disclosures.

16 **210.** Crate & Barrel has been a Bazaarvoice customer since 2007. Seebeck Tr. 16:11-16.
17 In 2012, Crate & Barrel was paying Bazaarvoice [REDACTED] plus [REDACTED] in annual service fees.
18 Seebeck Tr. 25:10-26:5.

19 **211.** Crate and Barrel informed Bazaarvoice in early 2013 that it would be looking at
20 other ratings and review providers, including Pluck, Reevoo, and Viewpoints. Seebeck Tr. 23:7-
21 13; 24:10-15; *see also* DX0861 at BZ-01988525.

22 **212.** Crate & Barrel used the presence of Pluck as leverage to obtain a better price from
23 Bazaarvoice for R&R. Seebeck Tr. 32:24-33:5. Crate & Barrel informed Bazaarvoice that it was
24 "seriously considering" leaving Bazaarvoice and going with Pluck as a provider for R&R.
25 Seebeck Tr. 29:20-30:24.

26 **213.** In response, Bazaarvoice lowered the price it offered Crate & Barrel. Seebeck Tr.
27 31:9-14. Crate & Barrel renewed its services agreement with Bazaarvoice in 2013 at [REDACTED]
28 Seebeck Tr. 29:7-15. That amount is less than half of what it was paying Bazaarvoice previously.
DX1433 at ¶ 111.

214. Crate & Barrel believes that the presence of Pluck helped Crate & Barrel extract
price concessions from Bazaarvoice. Seebeck Tr. 33:15-19.

31) Dick's Sporting Goods

215. Dick's Sporting Goods was identified in the DOJ's March 1 Rule 26 Disclosures.
Plaintiff's March 1 Rule 26 Disclosures.

216. Dick's Sporting Goods is a full-line sporting goods retailer. Marraccini Tr. 9:23-
10:1.

1 **217.** Dick’s Sporting Goods uses Bazaarvoice for R&R functionality. Marraccini
Tr.15:23-16:4.

2
3 **218.** Dick’s Sporting Goods was initially a PowerReviews customer that switched to
4 Bazaarvoice because “[t]here were inherent limitations in the PowerReviews’ platform, and
5 Bazaarvoice had kind of filled the gap in the functionalities that we were looking for.” Marraccini
Tr. 34:25-35:9. Bazaarvoice allowed for additional functionalities not available on PowerReviews
6 including: social sharing; better SEO; more styling flexibility; more customization; and more
7 flexibility in the review module. Marraccini Tr. 35:10-36:3.

8 **219.** Dick’s Sporting Goods has considered syndication “multiple times and have chosen
9 not to do it multiple times.” Marraccini Tr. 30:10-16.

10 **220.** Dick’s Sporting Goods is satisfied with the serviced provided by Bazaarvoice.
Marraccini Tr. 19:3-8. Dick’s Sporting Goods is aware that there are other providers of R&R,
11 which it would consider if it was dissatisfied with Bazaarvoice. Marraccini Tr. 20:7-13; 21:19-
12 22:6.

13 **221.** Dick’s Sporting Goods believes that it has not been affected by the acquisition.
Marraccini Tr. 22:25-23:20.

14 *32) Dillard’s*

15 **222.** Dillard’s was identified in the DOJ’s March 1 Rule 26 Disclosures. Plaintiff’s
16 March 1 Rule 26 Disclosures.

17 **223.** Dillard’s is a full-line department store retailer focused on women’s apparel. 15:10-
18 17. Dillard’s uses PowerReviews for R&R functionality. Hodapp Tr. 37:17-19. Dillard’s does
19 not utilize the social measurement analytics functionality that it is provided by PowerReviews.
20 Hodapp Tr. 51:19-52:14.

21 **224.** Dillard’s paid PowerReviews ██████ in annual service fees in 2012. Hodapp Tr.
22 47:5-8. In December 2012, PowerReviews and Dillard’s renewed their services agreement for
23 ██████ annual service fees. Hodapp Tr. 44:24-45:3, 46:24-47:4.

24 **225.** Although Dillard’s testified the increase in price did not represent added service,
25 Hodapp Tr. 47:12-15, the December 2012 service order shows that Dillard’s received additional
26 services including syndication, Premium Support, Review Accelerator and Social Measurement.
27 BZ-02448260 (not an exhibit).

28 **226.** Dillard's has not conducted more due diligence to find out what other options there
are for ratings and reviews. Hodapp Tr. 66:12-16.

33) Drums on Demand

227. Drums on Demand makes computer software for musicians, song writers and
producers. Randle Tr. 5:23-6:4.

1 **228.** Drums on Demand’s e-commerce platform is powered by Shopify. Randle Tr.
13:16-23.

2 **229.** Drums on Demand considered “three or four different” R&R providers when it
3 switched to the Shopify e-commerce platform. Randle Tr. 18:2-15.

4 **230.** Drums on Demand ultimately selected Yotpo to power its R&R. Randle Tr. 14:3-8.
5 During the process through which it selected Yotpo, Drums on Demand reviewed the possibility
6 of using Bazaarvoice, but did not consider using PowerReviews. Randle Tr. 31:6-32:9.

7 **231.** Drums on Demand selected Yotpo because it is free for companies of Drums on
8 Demand’s size, because of its social media features, and because of its advanced review ranking
9 that prioritizes verified buyers, customers, and reviewers. Randle Tr. 18:20-19:9, 20:4-25

10 **232.** Drums on Demand handles moderation in-house and believes it is “a must” for
11 companies selling products that are “very specialized and specific, because you need to know
12 about the product to know whether it’s a legitimate review or not.” Randle Tr. 22:7-23:6.

13 **233.** Drums on Demand is “very pleased” with Yotpo’s solution. Randle Tr. 14:3-16:19.
14 Drums on Demand is impressed with the service offered by Yotpo, including its SEO capabilities.
15 Randle Tr. 14:12-16:19.

16 **234.** Drums on Demand believes the acquisition “hasn’t had any affect” on the company.
17 Randle Tr. 26:8-18.

18 **34) eBags, Inc. (“eBags”)**

19 **235.** eBags was identified in the DOJ’s March 1 Rule 26 Disclosures. Plaintiff’s March
20 1 Rule 26 Disclosures.

21 **236.** eBags is an online retailer with a focus on luggage and purses and is number 103
22 on the 2012 IR500. Cobb Tr. 7:25-8:22, 10:21-11:13. eBags’ revenues in 2011 were roughly \$105
23 million. Cobb Tr. 11:21-24. eBags’ revenues in 2012 were roughly \$122 million. Cobb Tr. 12:2-4.

24 **237.** eBags views Amazon’s ratings and reviews as being “at the top” as far as the
25 quality, the user interface, and they way that they curate their reviews. Cobb Tr. 26:13-17.

26 **238.** eBags uses an in-house R&R solution, which it first launched in March 1999.
27 Cobb Tr. 15:1-4. eBags’ in-house solution took four software programmers between one to two
28 months to build. Cobb Tr. 37:21-38:18.

239. eBags’ in-house solution requires minimal maintenance and offers “flexibility” and
“open text boxes” that eBags finds “more engaging, more revealing, and more interesting” than
PowerReviews. Cobb Tr. 35:20-36:9. eBags’ in-house solution allows customers to sort product
reviews, and to review different product criteria including appearance, durability, organization,
and price/value. Cobb Tr. 24:9-25:3, 28:24-29:5.

1 **253.** First Tennessee Bank believes that the acquisition will not harm First Tennessee
Bank. Beale Tr. 40:3-12.

2
3 *37) FootLocker*

4 **254.** Footlocker was identified in the DOJ's March 1 Rule 26 Disclosures. Plaintiff's
March 1 Rule 26 Disclosures.

5 **255.** Footlocker is an apparel company specializing in sporting goods. Lokes Tr. 12:23-
6 14:5. Footlocker uses Bazaarvoice for R&R across its various websites. Lokes Tr. 20:9-13.

7 **256.** Footlocker also considered implementing an in-house R&R solution. Lokes Tr.
8 28:9-14; 39:24-40:2. Footlocker views an in-house solution as a feasible option. Lokes Tr. 39:24-
40:2.

9 **257.** One of Footlocker's brands, Eastbay, will be developing an in-house R&R and
10 Q&A solution. Lokes Tr. 41:17-42:14.

11 **258.** Footlocker believes that Eastbay's in-house solution will meet Footlocker's needs
better than Bazaarvoice. Lokes Tr. 45:20-46:4.

12 **259.** If the Eastbay's in-house solution is successful, Footlocker would consider using an
13 in-house R&R solution on its other sites. Lokes Tr. 46:20-25.

14 *38) Fruit of the Loom*

15 **260.** Fruit of the Loom was identified in the DOJ's March 1 Rule 26 Disclosures.
16 Plaintiff's March 1 Rule 26 Disclosures.

17 **261.** Fruit of the Loom is an apparel manufacturer. Krebs Tr. 11:22-12:5. Fruit of the
Loom uses Amazon WebStore for ratings and reviews functionality. Krebs Tr. 31:11-24.

18 **262.** In 2011, Fruit of the Loom contracted with PowerReviews to first implement
19 ratings and reviews functionality on the fruit.com site. Krebs Tr. 22:15-25; Trial Tr. 1222:14-16.

20 **263.** In 2012, when Fruit of the Loom decided to start selling its products online, the
21 company selected Amazon Webstore as their ecommerce platform. Trial Tr. 1222:21-1223:8.

22 **264.** In Summer 2012, Fruit of the Loom switched from PowerReviews ratings and
reviews functionality to the ratings and reviews functionality provided by Amazon WebStore.
23 Trial Tr. 1224:3-1225:2; DX1418. Fruit of the Loom decided to use Amazon Webstore for R&R
24 because the functionality was included with the e-commerce platform, and because Fruit of the
Loom customers were complaining about its R&R from PowerReviews. Krebs Tr. 32:8-15.

25 **265.** Fruit of the Loom considers Amazon WebStore's ratings and reviews functionality
26 to be a substitute for PowerReviews' ratings and reviews functionality. Krebs Tr. 33:17-24.

1 **266.** In August 2012, Fruit of the Loom was happy with the R&R functionality provided
2 by Amazon Webstore. Fruit of the Loom remains satisfied with the R&R service. Trial Tr.
1225:8-17.

3 **267.** Fruit of the Loom does not have any concerns about the acquisition of
4 PowerReviews by Bazaarvoice. Krebs Tr. 34:17-21; Trial Tr. 1225:18-21.

5 **268.** The acquisition of PowerReviews by Bazaarvoice has not caused any harm to Fruit
6 of the Loom. Trial Tr. 1225:22-25.

7 **39) Gamefly**

8 **269.** Gamefly was identified in the DOJ's March 1 Rule 26 Disclosures. Plaintiff's
March 1 Rule 26 Disclosures at 12.

9 **270.** Gamefly is a subscription video game rental company and is number 150 on the
10 IR500 in 2012. DX1579; Hodess Tr. 9:10-13.

11 **271.** Gamefly uses an in-house R&R system. Hodess Tr. 22:11-13. Gamefly's in-house
12 R&R solution was built with "a pretty simple development effort" that was not "lengthy or
expensive." Hodess Tr. 24:19-25:1.

13 **272.** Gamefly's in-house R&R solution fits Gamefly's needs for R&R. Hodess Tr.
14 25:22-25.

15 **273.** Gamefly is "not really in the syndication business" and has "never really taken any
16 steps to engage in it." Hodess Tr. 40:14-17.

17 **274.** Gamefly believes that the acquisition currently "hasn't had any impact on Gamefly."
Hodess Tr. 29:11-12.

18 **40) Gander Mountain**

19 **275.** Gander Mountain is an outdoor equipment retailer. Hagemann Tr. 7:22-8:3.
20 Gander Mountain uses Bazaarvoice for R&R functionality. Hagemann Tr. 11:8-12:11; 12:19-
12:23.

21 **276.** Gander Mountain is not concerned about the acquisition. Hagemann Tr. 14:4-5.

22 **41) Gap Inc.**

23 **277.** Gap was identified in the DOJ's March 1 Rule 26 Disclosures. Plaintiff's March 1
24 Rule 26 Disclosures at 28.

25 **278.** Gap, Inc. is a global specialty retailers of clothing, accessories, and personal care
26 products for men, women, children and babies. Mahoney Decl. ¶ 2.

27 **279.** Gap Inc. uses Legacy PowerReviews to provide ratings and reviews services for the
28 Gap websites. Mahoney Decl. ¶ 5.

1 **280.** Gap Inc. has no competition concerns regarding Bazaarvoice's acquisition of
2 PowerReviews to date. Mahoney Decl. ¶ 6.

3 *42) Golfsmith*

4 **281.** Golfsmith is an online and in-store retailer of golf products. Maki Tr. 9:15-25.
5 Golfsmith uses Bazaarvoice for R&R functionality on its US and Canadian-facing websites. Maki
6 Tr. 13:3-5; Trial Tr. 1212:10-14.

7 **282.** Before renewing its most recent contract with Bazaarvoice in late 2011 or early
8 2012, Golfsmith considered switching to Pluck for ratings and reviews. Maki Tr. 18:23-19:4;
9 Trial Tr. 1213:4-11. Golfsmith undertook a "full investigation" of Pluck. The company met with
10 Pluck numerous times, had numerous calls and on-site visits, investigated Pluck's full suite of
11 products and engaged in contract negotiations. Trial Tr. 1214:4-13.

12 **283.** Golfsmith was "very impressed" with Pluck's R&R solution. The team at
13 Golfsmith was "blown away" by the "actual experience" of Pluck's R&R. Golfsmith felt that
14 Pluck was stronger than Bazaarvoice in some areas, particularly in tying all of the different tools
15 together for the user. Maki Tr. 19:15-23; Trial Tr. 1214:20-25. Golfsmith explained that
16 Bazaarvoice's platform does not allow the user to move seamlessly between Q&A and R&R. In
17 contrast, the Pluck platform offers "one unified experience," because all of the modules on Pluck's
18 platform are connected to each other. Trial Tr. 1215:1-19.

19 **284.** Golfsmith informed Bazaarvoice during contract negotiations that it was
20 considering switching to Pluck. Golfsmith conveyed to Bazaarvoice that it considered
21 Bazaarvoice's R&R solution to be a "commodity." DX0251 at BZ-00283756-00283757.
22 Golfsmith stated that Bazaarvoice would have to lower its price or lose the Golfsmith business to
23 Pluck. Maki Tr. 23:18-24:9; DX0251 at BZ-00283756-00283757.

24 **285.** Bazaarvoice responded to Golfsmith's demands by agreeing to a price that was
25 "significantly less" than what Golfsmith had been paying the previous year. Maki Tr. 23:2-8,
26 24:10-15; Trial Tr. 1215:22-25. Bazaarvoice initially quoted Golfsmith [REDACTED] Trial Tr.
27 1216:1-2. On learning that Golfsmith was considering Pluck, Bazaarvoice offered Golfsmith an
28 [REDACTED] Trial Tr. 1216:1-3.

286. Golfsmith views PowerReviews' R&R features and functionality as inferior to both
Pluck and Bazaarvoice. Golfsmith believes PowerReviews' technology is not as "robust" as
Bazaarvoice, nor did it fit Golfsmith's needs exactly. Maki Tr. 20:24-21:17; Trial Tr. 1216:20-
1217:2.

287. Golfsmith has considered building an in-house ratings and reviews solution from
time to time. Trial Tr. 1218:7-9. If the ROI of R&R decreased, Golfsmith would consider shifting
resources to some other social commerce tool such as Facebook. Maki Tr. 17:1-6.

288. Golfsmith does not believe that the acquisition of PowerReviews by Bazaarvoice
has harmed Golfsmith in any way. Maki Tr. 29:10-11, 29:14-16; Trial Tr. 1217:4-9. If
Bazaarvoice were to raise its prices, Golfsmith would have credible alternatives for ratings and
reviews. Trial Tr. 1217:10-13.

1 **289.** Golfsmith does not provide data to the IR500, therefore the IR500 infers “a lot” of
2 the relevant information. Golfsmith “can’t 100 percent say that everything that’s [on the IR500] is
3 accurate.” Maki Tr. 10:13-23.

4 *43) Green Mountain Coffee Roasters*

5 **290.** Green Mountain Coffee Roasters was identified in the DOJ’s March 1 Rule 26
6 Disclosures. Plaintiff’s March 1 Rule 26 Disclosures at 14.

7 **291.** Green Mountain Coffee Roasters is a CPG manufacturer that roasts, packages and
8 sells coffee and is number 81 on the 2013 IR500. Cadmus Tr. 10:18-11:5. Green Mountain
9 Coffee Roasters uses PowerReviews for R&R functionality. Cadmus Tr. 26:3-7.

10 **292.** Green Mountain Coffee Roasters “certainly could” build an in-house R&R solution.
11 Cadmus Tr. 38:11-15. Green Mountain Coffee Roasters would consider building an in-house
12 ratings and reviews tool if the price of ratings and reviews became an issue. Cadmus Tr. 38:11-21.

13 *44) Guess?, Inc.*

14 **293.** Guess? is a manufacturer and retailer of men’s and women’s apparel, footwear and
15 accessories. Koven Tr. 10:8-13. Guess?’s revenues are approximately \$2.6 billion. Koven Tr.
16 11:8-12.

17 **294.** Guess? is in the process of implementing Bazaarvoice for R&R functionality.
18 Koven Tr. 18:4-8. Guess? selected Bazaarvoice for R&R in the fall of 2012. Koven Tr. 23:20-23.

19 **295.** Guess? initially considered both PowerReviews and Bazaarvoice for R&R in
20 Summer 2012. Guess? did not seek a price quote from PowerReviews because Bazaarvoice was
21 “clearly the better choice” based on their technology. Koven Tr. 19:16-20:14.

22 **296.** Guess? found Bazaarvoice’s initial proposals “expensive.” Koven Tr. 34:12-20. In
23 response to Bazaarvoice’s initial proposals, Guess? told Bazaarvoice that it had a “very tight
24 budget.” Koven Tr. 37:6-38:10; DX1408 at 1.

25 **297.** Bazaarvoice lowered its proposed ASF from ████████ to ████████ Koven Tr.
26 33:12-16, 22:18-22. Guess? found Bazaarvoice to be “accommodating” to its price concerns.
27 Koven Tr. 40:15-19. Guess? felt they had flexibility in price when negotiating with Bazaarvoice.
28 Koven Tr. 40:9-14.

298. Guess? believes that the acquisition “hasn’t had an effect on Guess?.” Koven Tr.
44:22-25.

45) Hayneedle

299. Hayneedle was identified in the DOJ’s March 1 Rule 26 Disclosures. Plaintiff’s
March 1 Rule 26 Disclosures at 15.

300. Hayneedle is an online home furnishings retailer with over 200 websites, including
hammocks.com and dartboards.com. Moen Tr. 7:4-8; 8:19-25. Hayneedle also sells a subset of

1 their products on Amazon Marketplace and Walmart Marketplace. Trial Tr. 1628:9-13.
2 Hayneedle is number 85 on the 2012 IR500. DX1579; Trial Tr. 1627:23.

3 **301.** Hayneedle employs PowerReviews ratings and reviews across Hayneedle.com and
4 all its specialty sites. Trial Tr. 1628:21-1629:6. Hayneedle began using PowerReviews ratings and
5 reviews in the fourth quarter of 2007. Trial Tr. 1629:7-10

6 **302.** Hayneedle “absolutely” believes that new players have entered the ratings and
7 reviews space since 2011. Trial Tr. 1631:3-4. Hayneedle believes there are three to five viable
8 ratings and reviews providers today. Trial Tr. 1630:21-1631:2. Hayneedle has seen ratings and
9 reviews technology “advance[]” since 2011. Hayneedle believes that Pluck, Gigya and Reevo
10 are “doing things” that Hayneedle is interested in “from an innovation standpoint.” This has lead
11 to Hayneedle having conversations with these vendors. Trial Tr. 1631:6-10. Hayneedle
12 “absolutely” believes that technology will continue to innovate. Trial Tr. 1631:11-13

13 **303.** Hayneedle will conduct a Request for Proposal (“RFP”) when its current R&R
14 contract expires. Trial Tr. 1631:14-17. Hayneedle plans to send a new RFP to Pluck, Gigya,
15 Reevo and Bazaarvoice. Trial Tr. 1631:18-23. Hayneedle “absolutely” views Pluck, Gigya and
16 Reevo as viable ratings and reviews providers. Trial Tr. 1636:12-17.

17 **304.** Hayneedle met with Pluck in September 2013, at the Shop.org conference. Trial Tr.
18 1632:1-3. At Shop.org, Hayneedle received a demonstration of Pluck’s products and observed the
19 evolution of “advances” in Pluck’s solution. Trial Tr. 1632:10-15. Hayneedle was “impressed” by
20 Pluck’s demonstration. Hayneedle believes Pluck gives the consumer a “much easier interface to
21 upload video, upload stories, to upload perhaps an image of something that they created.” Trial Tr.
22 1632:16-23.

23 **305.** Hayneedle believes that Pluck “could be a viable solution[.]” Trial Tr. 1633:1-2.
24 Hayneedle considers Pluck’s solution “similar” to its current solution and believes that some of
25 Pluck’s features would be “additive” to the PowerReviews platform. Trial Tr. 1633:3-9. Utilizing
26 Pluck as a single vendor for multiple tools would benefit Hayneedle because it would streamline
27 the implementation process, time management and the vendor relationship. Trial Tr. 1633:21-
28 1634:2.

306. Hayneedle believes that Gigya has similar ratings and reviews capabilities as
PowerReviews. Trial Tr. 1634:19-1935:6. Hayneedle would find it potentially beneficial that
Gigya would be able to provide a combined social sign on and ratings and reviews functionality.
It would save Hayneedle time in implementation. Trial Tr. 1935:8-16.

307. Hayneedle sees Reevo’s R&R offering as “very similar” to that provided by
Bazaarvoice or PowerReviews. Trial Tr. 1635:17-20. The fact that Reevo was founded in the UK
and has a number of non-US customers does not “give pause” to Hayneedle. Trial Tr. 1636:1-11.

308. Hayneedle has also assessed the possibility of building an in-house ratings and
reviews solution. Trial Tr. 1638:5-7.

1 **309.** Hayneedle does not believe the acquisition of PowerReviews by Bazaarvoice has
2 harmed Hayneedle. Trial Tr. 1636:20-22. Hayneedle does not expect the acquisition to cause any
3 harm to Hayneedle. Trial Tr. 1636:23-24.

4 **310.** Hayneedle “would absolutely do everything to resist” a permanent price increase
5 by Bazaarvoice. Hayneedle would hold an RFP “to see what the market pricing really is for
6 similar products.” Trial Tr. 1636:25-1637:11. Hayneedle believes that the presence of other
7 vendors such as Pluck, Reevo and Gigya would give it “leverage” in pricing discussions with
8 Bazaarvoice. Trial Tr. 1637:12-14.

9 *46) hhgregg Appliances, Inc.*

10 **311.** hhgregg was identified in the DOJ’s March 1 Rule 26 Disclosures. Plaintiff’s
11 March 1 Rule 26 Disclosures at 15.

12 **312.** hhgregg is a retailer of appliances and electronics. Vitale Tr. 6:1-4. hhgregg used
13 PowerReviews for R&R from February 2011 through April 2013. Vitale Tr. 10:3-10:21. h.h.
14 gregg now uses Bazaarvoice for R&R. Vitale Tr. 9:17-9:21.

15 **313.** hhgregg can syndicate content to and from more companies since Bazaarvoice’s
16 acquisition of PowerReviews. The fact that hhgregg Appliances can syndicate to and from more
17 companies is beneficial to hhgregg Appliances. Vitale Tr. 12:3-14.

18 *47) The Home Depot Inc.*

19 **314.** The Home Depot was identified in the DOJ’s March 1 Rule 26 Disclosures.
20 Plaintiff’s March 1 Rule 26 Disclosures at 28.

21 **315.** The Home Depot is number 42 on the IR500 in 2012. DX1579. The Home Depot
22 is a Bazaarvoice ratings and reviews customer. Yaniv Tr. 18:5-7. In addition to Bazaarvoice, the
23 Home Depot uses Lithium’s “community based platform.” Yaniv Tr. 48:20-25.

24 **316.** The Home Depot did not see PowerReviews as a competitive alternative to
25 Bazaarvoice. The Home Depot felt that PowerReviews did not fit The Home Depot’s needs,
26 because PowerReviews did not have the capability to syndicate reviews from some of The Home
27 Depot’s major brands. PowerReviews’ inability to syndicate reviews from some of The Home
28 Depot’s major brands was the reason The Home Depot chose not to further explore PowerReviews
as a provider. Yaniv Tr. 24:4-14; 26:8-13.

317. The Home Depot chose Bazaarvoice as its R&R provider over PowerReviews
because PowerReviews lacked the necessary syndication network to provide The Home Depot
with reviews from its major brands. Yaniv Tr. 23:24-24:14.

318. The Home Depot believes that the acquisition has not impacted business at Home
Depot. Yaniv Tr. 31:18-25. The Home Depot has not seen a reduction in Bazaarvoice’s
innovation since Bazaarvoice’s acquisition of PowerReviews. Yaniv Tr. 36:8-17.

1 **319.** The Home Depot Salesforce opportunities list Pluck as a competitor on one
2 opportunity and internal build on a few other opportunities, whereas documents indicate that
3 Reeveo and Lithium have also competed for the account. DX1433 at ¶ 130.

4 48) *HSN, Inc.*

5 **320.** HSN was identified in the DOJ’s March 1 Rule 26 Disclosures. Plaintiff’s March 1
6 Rule 26 Disclosures at 16.

7 **321.** HSN is an online retail store and is number 26 on the IR500 in 2012. DX1579;
8 Reilly Tr. 8:20-9:12; 18:10-24. HSN uses an in-house R&R solution. Reilly Tr. 27:15-21. HSN’s
9 in-house R&R solution was developed by three to four people over four weeks. Reilly Tr. 28:1-18.
10 HSN had been a Bazaarvoice customer before it decided to implement an internal solution. Reilly
11 Tr. 38:21-39:1.

12 **322.** HSN’s in-house R&R solution “hits the mark” because HSN has been positioned to
13 make focused enhancements internally with minimal effort. Reilly Tr. 43:21-44:9. HSN’s in-
14 house solution has a sophisticated profanity filter and “pattern matching” for offensive phrases.
15 Reilly Tr. 33:1-6.

16 **323.** HSN believes that the acquisition does not impact and will not harm HSN. Reilly
17 Tr. 45:21-23, 45:25, 48:17-24.

18 49) *Hunter Fan*

19 **324.** Hunter Fan is a manufacturer of ceiling fans and other home environment products.
20 Doss Tr. 8:18-9:6. Hunter Fan uses an R&R tool provided by the Ektron e-commerce platform.
21 Doss Tr. 16:6-19.

22 **325.** Hunter Fan first implemented an R&R solution from its e-commerce platform
23 provider, Ektron, in 2009. Doss Tr. 16:16-17:2. Hunter Fan has never had to pay any additional
24 fees for the Ektron R&R solution. Doss Tr. 17:23-18:4.

25 **326.** In 2011, Hunter Fan looked at Bazaarvoice for R&R, but decided to stay with
26 Ektron. Doss Tr. 16:16-22, 19:1-17.

27 **327.** Hunter Fan is weighing developing a Q&A solution against other on-line priorities
28 for budget dollars, such as adding a blog to the website. Doss Tr. 23:13-24:5.

328. Syndication is “not a have to have for [Hunter Fan], especially since our ratings and
review portion of our site has not been our highest priority.” Doss Tr. 31:15-24.

 50) *Hydro-Photon*

329. Hydro-Photon is a manufacturer of portable ultraviolet light water purifiers.
Archambault Tr. 8:10-15.

330. Between 2011 and 2013, Hydro-Photon implemented PowerReviews’ R&R
solution. Archambault Tr. 34:8-35:8.

1 **331.** In 2013 Hydro-Photon considered Pluck, Lithium, Yotpo, Storify, and Reevo for
2 R&R. Hydro-Photo ultimately switched to a custom R&R plug-in developed by aheadWorks that
3 Hydro-Photon purchased through the Magento e-commerce platform. Archambault Tr. 34:22-
35:20; 38:4-39:6.

4 **332.** Hydro-Photon believes it was easy to implement and maintain the aheadWorks
5 R&R plug-in. Archambault Tr. 52:21-25.

6 **333.** Hydro-Photon is not using syndication at this time. Archambault Tr. 23:23-24:13.

7 **334.** Hydro-Photon is not concerned about the merger because there is viable
8 competition regardless of the acquisition. Archambault Tr. 51:4-5, 51:10, 51:20-23, 51:25.

9 *51) iHerb*

10 **335.** iHerb is a direct-to-consumer retailer of nutritional supplements, personal care
11 products, and other functional foods and beverages. Rose Tr. 7:25-8:5. iHerb uses an in-house
12 R&R solution. Rose Tr. 12:9-16.

13 **336.** Maintenance costs for iHerb's in-house R&R solution are not extensive because
14 "once it's built, it's built." Rose Tr. 31:17-32:7. iHerb uses approximately half of a full-time
15 employee's time to handle moderation in-house. Rose Tr. 13:24-14:7. iHerb is unsure whether it
16 would trust a third party to provide moderation services for its R&R; it prefers to moderate using
17 in-house resources. Rose Tr. 39:6-13.

18 **337.** iHerb's in-house R&R solution is "suitable" for its needs. Rose Tr. 13:9-15.

19 **338.** Syndication is not something "[iHerb has] ever talked about before." Rose Tr.
20 20:17-21. Although, iHerb believes that there is nothing to prevent iHerb from syndicating
21 reviews content if it wanted to. Rose Tr. 20:22-25.

22 *52) Ink Technologies*

23 **339.** Ink Technologies is a web-based e-commerce firm which sells printer consumables.
24 Davis Tr. 8:9-14, 9:1-16. Ink Technologies uses Rating System for R&R functionality. Davis Tr.
25 13:8-15. Ink Technologies selected Rating System as its R&R provider in fall 2012. Davis Tr.
26 13:16-21.

27 **340.** Ink Technologies considered Bazaarvoice, Gigya, Pluck and Reevo for R&R prior
28 to selecting Rating System. Davis Tr. 15:3-6. Ink Technologies chose Rating System for R&R
because it had the "core features" Ink Technologies was looking for "at the lowest price for that
particular functionality." Davis Tr. 15:7-18.

341. Ink Technologies is satisfied with Rating System as a provider of R&R. Davis Tr.
20:17-19. Ink Technologies is happy with the level of "sophistication" of Rating System's display
and elements. Davis Tr. 33:21-34:12. Ink Technologies is impressed with the "SEO friendly"
nature of the Rating System's R&R solution, and with how quickly the Rating System solution
allowed Ink Technologies to accumulate a "critical mass" of reviews. Davis Tr. 33:21-34:19;
22:9-23:17.

1 **342.** Ink Technologies chose not to use Rating System’s moderation services because it
2 prefers to have its own customer service team perform the moderation. Davis Tr. 35:9-21. Ink
3 Technologies believes that moderation from a third-party provider is “not a very valuable service,
if you have a customer service team.” Davis Tr. 52:3-5.

4 **343.** Ink Technologies believes that R&R can be done in-house and would consider
5 doing it “in a second.” Davis Tr. 23:21-24:21.

6 **344.** Ink Technologies considers the “jury [] still out” regarding syndication and has
7 “shied away from syndication because [it is] looking for a unique content on [its] websites.”
8 Davis Tr. 27:13-21.

9 **345.** Ink Technologies does not believe that its “options for ratings and review solutions
10 were injured by the acquisition.” Davis Tr. 28:21-24, 29:1.

11 *53) Intercontinental Hotels Group (“IHG”)*

12 **346.** IHG is a hotel chain located in over 100 countries. Morgan Tr. 8:22-24. IHG uses
13 Bazaarvoice for ratings and reviews functionality. Morgan Tr. 10:15-25. IHG uses one domain,
14 ihg.com, to serve its customers world-wide, with the exception of China, served by cn.ihg.com.
15 Trial Tr. 1357:6-16.

16 **347.** As part of a request for proposal (RFP) in October 2011, IHG met with five R&R
17 vendors in IHG’s Atlanta offices – TripAdvisor, Gigya, PowerReviews, Bazaarvoice and Reevo.
18 Trial Tr. 1358:17-1359:16; Morgan Tr. 11:1-12:18; DX0285.

19 **348.** IHG eliminated PowerReviews during its initial evaluation because it did not
20 believe that PowerReviews had sufficient experience in the travel space. Morgan Tr. 17:2-16.
21 IHG engaged in final negotiations with two vendors – Reevo and Bazaarvoice. Trial Tr. 1360:1-6.
22 Between Reevo and Bazaarvoice, Bazaarvoice was the less expensive solution. Morgan Tr.
23 19:17-19.

24 **349.** IHG has a private quality review program, called HeartBeat, which invites guests to
25 comment on their hotel stay with IHG. Trial Tr. 1357:23-1358:5. IHG considered using the
26 HeartBeat program to provide R&R on its website. Trial Tr. 1357:23-1358:5.

27 **350.** IHG believes that the “social space” is “changing pretty rapidly” and that therefore
28 when its contract for R&R expires it will be necessary to look at “a whole variety of vendors
because the requirements of what consumers want and the capabilities for what different vendors
have in their space probably would have changed dramatically.” Trial Tr. 1360:25-1361:7.

54) Jockey

351. Jockey was identified in the DOJ’s March 1 Rule 26 Disclosures. Plaintiff’s March
1 Rule 26 Disclosures at 17.

352. Jockey is a manufacturer and marketer of underwear products for men and women
and is number 309 on the IR500 in 2012. DX1579; Smith Tr. 7:13-16. Jockey uses PowerReviews
for R&R functionality. Smith Tr. 22:16-18.

1 **353.** Jockey would “obviously consider” building an in-house solution if it did not find
2 an acceptable commercial R&R solution. Smith Tr. 31:13-24.

3 **354.** Jockey is aware of R&R alternatives including Reevo and Pluck and has received
4 marketing materials from them. Smith Tr. 24:8-25, 25:5-26:2.

5 **355.** Jockey has noticed no changes since the merger, and that it was “told there would
6 be no plans for any things to changes,” following the merger. Smith Tr. 42:12-23.

7 *55) Johnsonville Sausage*

8 **356.** Johnsonville Sausage is a producer and retailer of sausage products. Mueller Tr.
9 6:5-6:9.

10 **357.** Johnsonville Sausage had been a Bazaarvoice customer before it decided to
11 implement an internal solution built by Tech by Design. Mueller Tr. 11:6-18. In fall 2012,
12 Johnsonville Sausage notified Bazaarvoice that it was considering terminating their agreement.
13 Mueller Tr. 12:24-13:2. Following this notification, Bazaarvoice lowered the price it would offer
14 to Johnsonville Sausage for renewal. Mueller Tr. 14:6-15.

15 **358.** Tech by Design built an R&R solution for Johnsonville Sausage for a one-time cost
16 of approximately [REDACTED] Mueller Tr. 14:21-15:8. Tech by Design provides
17 Johnsonville Sausage with both moderation and analytics of R&R content. Mueller Tr. 16:9-19;
18 22:23-23:9; 33:15-34:2.

19 **359.** Johnsonville Sausage believes the Tech by Design R&R functionality is
20 “comparable” to that of Bazaarvoice. Mueller Tr. 18:24-19:4.

21 **360.** Johnsonville Sausage did not believe that the acquisition had affected Johnsonville
22 Sausage. Mueller Tr. 19:23-20:2.

23 *56) Johnston & Murphy (Genesco)*

24 **361.** Johnston & Murphy was identified in the DOJ’s March 1 Rule 26 Disclosures.
25 Plaintiff’s March 1 Rule 26 Disclosures at 13.

26 **362.** Johnston & Murphy provides an array of footwear, apparel, luggage, leather goods
27 and accessories for men and women. DX1805 at ¶2. Johnston & Murphy currently uses
28 PowerReviews for ratings and reviews and question and answer functionality. DX1805 at ¶4.

363. Johnston & Murphy does not send or receive syndicated R&R content, nor does
 Johnston & Murphy see a compelling need to engage in syndication. DX1805 at ¶6.

364. If Bazaarvoice sought to increase prices, Johnston & Murphy would feel very
 comfortable seeking out and switching to a new vendor for ratings and reviews or question and
 answer services. DX1805 at ¶8.

57) Juice Nashville

1 **365.** Juice Nashville, a seller of cold-pressed juices, utilizes R&R from Yotpo. Waring
Tr. 7:7-16, 11:17-21. Juice Nashville began using Yotpo for ratings and reviews services in late
2 2012/early 2013. Waring Tr. 11:22-25.

3 **366.** Juice Nashville thinks Yotpo’s reviews are high quality, and Yotpo has “done an
4 excellent job.” Waring Tr. 21:9-14.

5 **367.** Juice Nashville employs Yotpo’s “Mail After Purchase” feature to send emails to
customers after they have made a purchase to request a review. Waring Tr. 19:18-20:6. Juice
6 Nashville thinks Yotpo’s “Mail After Purchase” feature is a “great feature” and Juice Nashville is
7 seeing a lot of activation because of it. Waring Tr. 20:7-12.

8 *58) Karmaloop*

9 **368.** Karmaloop is an online retailer of streetwear and is number 138 on the IR500 in
2012. DX1579; Knisely Tr. 7:3-13. Karmaloop is one of the Leading online retailers of streetwear
10 in the U.S. Knisely Tr. 7:6-7:7. Karmaloop’s annual revenues are roughly \$200 million. Knisely
Tr. 9:18-24

11 **369.** Karmaloop uses Facebook for reviews functionality. Knisely Tr. 15:14-16:13.

12 **370.** Karmaloop utilized PowerReviews for R&R services prior to March 2012. Knisley
13 Tr. 13:3-7. Karmaloop replaced PowerReviews with Facebook comments on Karmaloop.com
product pages, which gives customers the opportunity to write a comment about the product in a
14 Facebook comment box, which is then subsequently displayed on the Karmaloop.com website,
15 much like R&R. Knisley Tr. 15:23-16:6.

16 **371.** Karmaloop’s internal technology team has the ability to build an in-house R&R
17 solution. Knisley Tr. 29:13-21.

18 *59) K-Swiss*

19 **372.** K-Swiss is a footwear and apparel manufacturer. Ogle Tr. 7:8-10. K-Swiss uses its
Magento e-commerce platform for R&R functionality. Ogle Tr. 12:2-3.

20 **373.** K-Swiss switched from Bazaarvoice to Magento for R&R in July 2012. Ogle Tr.
21 12:5-13, 13:3-5.

22 **374.** K-Swiss selected Magento for R&R functionality because it was offered as an
integrated application with K-Swiss’ product catalog application on Magento. Ogle Tr. 14:12-17.
23 K-Swiss believes Magento suits its R&R needs. Ogle Tr. 16:18-20.

24 **375.** K-Swiss believes that the acquisition has had no effect on K-Swiss. Ogle Tr. 17:9-
25 11.

26 *60) L.L. Bean*

27 **376.** L.L. Bean was identified in the DOJ’s March 1 Rule 26 Disclosures. Plaintiff’s
28 March 1 Rule 26 Disclosures at 18.

1 **377.** L.L. Bean is a retailer specializing in outdoor goods and apparel and is number 18
2 on the IR500 in 2012. DX1579; Wilson Tr. 9:3-10:23. L.L. Bean uses Bazaarvoice for R&R on
its website. Wilson Tr. 37:6-9.

3 **378.** L.L. Bean is listed in the 2012 IR500 and is reported to have e-commerce revenue
4 of approximately \$1.7 billion in 2011, but that is “higher than its actual web sales” which “is
5 closer to half that figure.” Wilson Tr. 10:24-11:10; DX1579.

6 **379.** The L.L. Bean Salesforce opportunities list no competitors, whereas testimony
7 indicates that they were considering an in-house solution. Wilson Tr. 13:15-13:20. LL Bean
8 always considers the option of building R&R technology in-house. Wilson Tr. 17:3-10. L.L. Bean
believes it has the technical ability to develop its own in-house ratings and reviews functionality
today. Wilson Tr. 16:23-25.

9 **380.** L.L. Bean believes Bazaarvoice has always driven forward innovation and not
10 necessarily charged for those improvements, regardless of where PowerReviews was with their
product evolution. Wilson Tr. 18:18-21.

11 **381.** L.L. Bean believes if Bazaarvoice were to increase prices or slow innovation, other
12 companies would enter the market for ratings and reviews and compete. Wilson Tr. 19:14-18.
13 L.L. Bean has no doubt that other competitors could develop technology sufficient to compete
with Bazaarvoice. Wilson Tr. 20:5-9.

14 **382.** L.L. Bean feels that Bazaarvoice’s acquisition of PowerReviews has not had an
15 impact on L.L. Bean. Wilson Tr. 18:1-4.

16 *61) La-Z-Boy*

17 **383.** La-Z-Boy was identified in the DOJ’s March 1 Rule 26 Disclosures. Plaintiff’s
March 1 Rule 26 Disclosures at 18.

18 **384.** La-Z-Boy is a manufacturer and retailer of home furnishings. Targett Tr. 7:19-22.
19 La-Z-Boy uses Bazaarvoice for R&R functionality. Targett Tr. 11:20-24.

20 **385.** La-Z-Boy pays for its R&R solution from “the same funds that sit in the same
21 budget as the other social commerce tools,” and the direct to consumer budget that La-Z-Boy has
internally constrains the tools that it can purchase from Bazaarvoice. Targett Tr. 20:10-21:3,
22 24:22-25:18.

23 **386.** La-Z-Boy did not consider PowerReviews “an alternative” to Bazaarvoice when it
24 initially evaluated the marketplace for R&R and it did not evaluate PowerReviews during its most
recent renewal. Targett Tr. 14:22-15:4.

25 **387.** There aren’t a lot of places to syndicate [La-Z-Boy’s] ratings and reviews for a
26 company like [La-Z-Boy].” Targett Tr. 22:23-23:3.

27 **388.** La-Z-Boy believes that the acquisition has not affected La-Z-Boy. Targett Tr.
28 15:10-13.

1 62) *Lord & Taylor*

2 **389.** Lord & Taylor uses Legacy PowerReviews for ratings and reviews functionality on
3 the Lord & Taylor websites. Merlo Tr. 12:21-13:4. Hudson’s Bay, which owns Lord & Taylor, is
4 number 100 on the IR500 in 2012. DX1579.

5 **390.** In March 2013, Lord & Taylor threatened to terminate its contract with
6 PowerReviews. Merlo Tr. 13:12-17, 14:6-15. In response, PowerReviews offered to lower the
7 price of its services and add additional features. Merlo Tr. 13:5-14:1, 15:6-16. Lord and Taylor
8 previously paid PowerReviews an ASF of [REDACTED] Merlo Tr. 13:5-11. Lord & Taylor renewed its
9 contract with PowerReviews with an ASF of [REDACTED] Merlo Tr. 13:18-14:1.

10 **391.** Since May 2013, Lord & Taylor has begun accepting syndicated ratings and
11 reviews content from Ugg Australia. Merlo Tr. 20:17-25.

12 **392.** Lord & Taylor believes that that the acquisition has not harmed Lord & Taylor.
13 Merlo Tr. 31:19-20, 31:23.

14 63) *Lovesac*

15 **393.** Lovesac is a manufacturer and retailer of high-end bean bag chairs and modular
16 furniture. Johnson Tr. 9:16-24. Lovesac uses Bazaarvoice for ratings and review functionality.
17 Johnson Tr. 18:16-20.

18 **394.** Lovesac is on the Magento eCommerce platform. Johnson Tr. 16:22-25. Prior to
19 switching to the Bazaarvoice R&R solution, Lovesac used R&R functionality that was built into
20 the Magento eCommerce platform. Johnson Tr. 19:9-22. Lovesac described Magento as a
21 “growing open-source platform with an active partner ecosystem.” Johnson Tr. 16:22-25.

22 **395.** Lovesac performed internal moderation of its R&R when it utilized the Magento
23 R&R product. Johnson Tr. 20:25-21:18. Lovesac employees spent between four and five hours a
24 week total on moderation of R&R. Johnson Tr. 21:19-22:1. Aside from the few hours of
25 employee time spent on moderation of R&R, Lovesac paid no other costs for the Magento R&R
26 solution. Johnson Tr. 22:2-:6. Lovesac stated that the basic functionality of the Magento R&R
27 solution “was easy to manage and maintain.” Johnson Tr. 22:2-15.

28 **396.** In July 2012, Bazaarvoice initially proposed a price of [REDACTED] annually for R&R
to Lovesac. Johnson Tr. 28:15-29:10, 29:23-30:11. Lovesac negotiated with Bazaarvoice and
eventually agreed to a contract where it would pay Bazaarvoice [REDACTED] annually for R&R.
Johnson Tr. 29:7-17.

397. Lovesac believes that there are other viable alternatives including TurnTo, and
Magento (who continues to improve its offerings). Johnson Tr. 37:8-24.

398. Lovesac does not believe that “the acquisition has impacted [Lovesac] in any way.”
Johnson Tr. 38:8-10, 38:12, 38:19-21, 38:23-24.

 64) *Market America (Shop.com)*

1 **399.** Market America, which operates Shop.com among other domains, is number 70 on
2 the 2012 IR500. DX1579; Brady Tr. 10:15-11:15, 36:17-25.

3 **400.** Market America uses an in-house ratings R&R solution on its website Shop.com.
4 Brady Tr. 16:8-13. Market America contracts with PowerReviews to provide R&R on some of its
5 non-Shop.com sites, including Motives Cosmetics. Brady Tr. 15:18-21, 16:14-22.

6 **401.** On Shop.com, Market America performs in-house moderation of ratings and
7 reviews content. Brady Tr. 17:20-25.

8 **402.** If either Bazaarvoice or Legacy PowerReviews tried to increase Market America's
9 prices on the non-Shop.com sites without offering additional functionality or services, Market
10 America would as standard practice look at using its existing in-house solution or another vendor.
11 Brady Tr. 21:25-22:10.

12 **403.** Market America has looked at Pluck for ratings and reviews in an overall site
13 review and strategy session. Brady Tr. 22:11-25.

14 *65) Nature's Path*

15 **404.** Nature's Path is a certified organic manufacturer of breakfast cereals, granolas, hot
16 oatmeal, waffles, toaster pastries and snack bars. Emmer Aanes Tr. 8:25-9:3. Nature's Path's
17 revenues are roughly \$250 million. Emmer-Aanes Tr. 10:13-18.

18 **405.** In July 2012, Bazaarvoice offered Nature's Path a proposal for R&R and other
19 functionality for [REDACTED] Emmer-Aanes Tr. 16:20-17:10.

20 **406.** Nature's Path informed Bazaarvoice that that price was too high. Emmer-Aanes Tr.
21 17:11-22.

22 **407.** Nature's Path subsequently received a quote from Bazaarvoice of [REDACTED]
23 for R&R functionality. Emmer-Aanes Tr. 14:14-19.

24 **408.** Nature's Path later decided not to use Bazaarvoice and instead decided to have an
25 outside agency build a custom R&R feature onto its website. Emmer-Aanes Tr. 19:2-17.

26 **409.** Nature's Path's in-house R&R solution provides analytics of its R&R data.
27 Emmer-Aanes Tr. 25:9-26:4.

28 **410.** Nature's Path performs manual moderation of ratings and reviews content in-house.
Emmer-Aanes Tr. 20:19-22.

66) New Era Portfolio

411. New Era Portfolio is a publisher of digital artwork. D. Green Tr. 8:12-22.
Beginning in 2010, New Era Portfolio used Bazaarvoice for R&R and question and answer
functionality on its website. D. Green Tr. 29:2-22.

1 **423.** OneCall uses PowerReviews for R&R functionality. Weisman Tr. 23:24-24:9.
2 PowerReviews charged OneCall ██████ in monthly service fees prior to PowerReviews'
3 acquisition by Bazaarvoice. Weisman Tr. 24:24-25:1. OneCall believes that Bazaarvoice now
4 charges OneCall \$2391.40 in monthly service fees following the acquisition Weisman Tr. 25:2-16.
OneCall is paying Bazaarvoice twelve percent less following the merger (down to ██████ from
██████). DX1736 at ¶ 86

5 **424.** One Call uses Magento's e-commerce platform. Weisman Tr. 32:17-33:6.
6 OneCall believes that Magento's e-commerce platform offers ratings and reviews functionality.
Weisman Tr. 33:3-6.

7 **425.** If Bazaarvoice tried to raise prices for OneCall and OneCall found that the higher
8 prices did not offer additional services that OneCall found to be valuable, then OneCall would not
9 accept the new pricing and would find another vendor. Weisman Tr. 33:25-34:10. OneCall
absolutely believes that there are other vendors who can provide OneCall with ratings and reviews
10 services. Weisman Tr. 34:11-14.

11 **426.** OneCall, an entity ranked No. 228 on the IR500 for 2012, testified that the numbers
12 used by IR500 are "completely wrong" and "not accurate." DX1579. OneCall does not provide
Internet Retailer with sales figures and is not a publicly traded company. Weisman Tr. 14:17-22,
13 16:11-16. OneCall testified to having 2012 sales of \$10 million. Weisman Tr. 12:22-13:8. The
2013 IR500 report lists OneCall's 2012 web sales as approximately \$68.7 million. Weisman Tr.
14 16:4-16.

15 **427.** OneCall has not given thought to impact of Bazaarvoice's acquisition of
PowerReviews on OneCall. Weisman Tr. 33:21-24.

16 *69) OneStopPlus Group (Redcats)*

17 **428.** OneStopPlus is a retailer of women's apparel and home furniture and is number 34
18 on the 2012 IR500. Tanini Tr. 9:13-9:21.

19 **429.** OneStopPlus Group uses legacy PowerReviews for R&R functionality. Tanini Tr.
20 16:3-6. OneStopPlus does not syndicate R&R content or receive syndicated R&R content. Tanini
Tr. 28:8-17.

21 **430.** OneStopPlus plans to negotiate for a better price with PowerReviews at the end of
22 its current contract in December 2013. Tanini Tr. 16:21-17:12; 24:18-24:21. OneStopPlus plans
to learn more about the R&R market before it enters into any renegotiation efforts with
23 PowerReviews. Tanini Tr. 21:17-22:13. OneStopPlus plans to look "in-depth at the space" to
identify its options for R&R. Tanini Tr. 25:12-25:24.

24 **431.** OneStopPlus has had an "introductory discussion" with Reevo concerning their
25 R&R solution and has briefly reviewed its product offering. Tanini Tr. 17:16-19:5.

26 **432.** OneStopPlus will consider building an in-house R&R solution when its current
27 agreement with PowerReviews expires. Tanini Tr. 21:17-22:25, 23:5-12, 23:23-24:9.

1 70) *Onlineshoes.com*

2 **433.** Onlineshoes.com uses PowerReviews to collect the R&R content from customers,
3 and an in-house software to display the content on its website. Grams Tr. 13:20-14:1.

4 **434.** onlineshoes.com believes that the acquisition has not affected OnlineShoes to date.
5 Grams Tr. 27:4-5, 27:7-8.

6 71) *Orchard Supply Hardware (OSH)*

7 **435.** Orchard Supply Hardware was identified in the DOJ's March 1 Rule 26
8 Disclosures. Plaintiff's March 1 Rule 26 Disclosures.

9 **436.** Orchard Supply Hardware's revenues are roughly \$600 million. Abell Tr. 8:16-18.
10 Orchard Supply is a former legacy Bazaarvoice customer that cancelled its R&R functionality in
11 May 2013 after deeming R&R not to be a priority. Abell Tr. 17:1-21, 19:8-10.

12 **437.** Orchard Supply uses Facebook, Twitter and Pinterest to interact with its customers.
13 Abell Tr. 22:6-23:6.

14 **438.** Orchard Supply deemed R&R not to be a priority because it is "focused on having
15 the chassis on the car, the wheels on the car, and the steering wheel on the car, and the ratings and
16 review is a tassel hanging from the rear-view mirror." Abell Tr. 17:6-21. Orchard Supply stated
17 that R&R is "nice to have" but "not core" to its business. Abell Tr. 17:6-21.

18 **439.** Orchard Supply Hardware is not concerned in any way with the acquisition.
19 Abbell Tr. 27:12-15.

20 72) *Overstock.com*

21 **440.** Overstock.com was identified in the DOJ's March 1 Rule 26 Disclosures.
22 Plaintiff's March 1 Rule 26 Disclosures.

23 **441.** Overstock.com, an online retailer ranked number 27 on the 2012 IR500, uses an in-
24 house R&R solution. DX1579; Jolitz Tr. 10:20-11:6; 18:12-17. Overstock also uses in-house
25 Q&A functionality. Jolitz Tr. 26:22-4, 26:22-27:1.

26 **442.** Overstock had used Bazaarvoice before it switched to an internal solution. Jolitz
27 Tr. 18:12-17, 19:15-20:1. A Bazaarvoice internal email referencing Overstock.com stated: "They
28 have built their own R&R to replace us and are happier with it." DX0033; DX0171.
Overstock.com's in-house R&R content is better than Bazaarvoice's R&R content because it is
fully optimized for Overstock.com. Jolitz Tr. 31:11-19.

443. Overstock has sufficient reviews for its products that it does not need syndicated
reviews. Jolitz Tr. 36:18-37:1.

444. Overstock utilizes an internal system to perform analytics related to R&R on its
website. Jolitz Tr. 37:2-15

1 **445.** Overstock.com currently performs manual moderation of ratings and reviews and
2 Q&A content in-house. Jolitz Tr. 24:4-21, 29:20-25.

3 **446.** Overstock.com believes that Overstock has not directly been affected in any way
4 by the acquisition. Jolitz Tr. 43:9-11.

5 **73) Pacific Sunwear (PacSun)**

6 **447.** Pacific Sunwear sells apparel and accessories to the youth teen market, primarily
7 from action-sport-surf-lifestyle brands. Katz Tr. 8:12-23; Trial Tr. 1198:6-11. Pacific Sunwear is
8 number 265 on the IR500 in 2012. DX1579. Pacific Sunwear uses Gigya for R&R functionality
9 on its website. Katz Tr. 13:19-21; Trial Tr. 1201:1-8.

10 **448.** In March 2012, Pacific Sunwear considered Gigya, Bazaarvoice and
11 PowerReviews for R&R functionality. Katz Tr. 14:7-18; Trial Tr. 1200:7-1201:8. Pacific
12 Sunwear began using Gigya for R&R functionality in September 2012. Katz Tr. 13:22-24; Trial
13 Tr. 1201: 9-11

14 **449.** Pacific Sunwear selected Gigya as its R&R provider because Gigya better met
15 Pacific Sunwear's social commerce needs than Bazaarvoice or PowerReviews. Katz Tr. 15:3-16:2;
16 Trial Tr. 1201:1-24; 1203:24-1204:2.

17 **450.** Pacific Sunwear selected Gigya for social sign-in and social sharing. Pacific
18 Sunwear became aware that Gigya offers an R&R component that is "tightly integrated" with
19 these other services. This led Pacific Sunwear to choose Gigya as its R&R provider. Pacific
20 Sunwear describes this choice as "a more economic and desirable integration." Trial Tr. 1201:12-
21 24.

22 **451.** Social sign on allows consumers to log on to Pacific Sunwear's site using a social
23 network account. Pacific Sunwear employs social sign-in because it "streamlines" the process for
24 a consumer to log in or register on the website. Pacific Sunwear's target demographic has a high
25 level of social network use. Pacific Sunwear believes that social sign-in increases conversion and
26 engagement. Trial Tr. 1201:25-1202:18. Neither Bazaarvoice nor PowerReviews offer a social
27 sign-in feature. Trial Tr. 1202:19-22.

28 **452.** Having one vendor for multiple social commerce tools is beneficial to Pacific
Sunwear as it reduces workload, streamlines integration efforts, and provides better site
performance and therefore higher conversion rates. Trial Tr. 1202:23-1203:16. Pacific Sunwear
has reviewed research and conducted testing and concluded that purchasing different products
from different vendors might have an impact on speed and performance of their website. Trial Tr.
1203:17-23.

453. Pacific Sunwear recalls that the total cost of the three Gigya services Pacific
Sunwear employs – social log-in, reviews and ratings, and social share components – cost less
than the sole cost of either PowerReviews' or Bazaarvoice's reviews and ratings service. Katz Tr.
21:13-19. Gigya charged Pacific Sunwear ██████ for all services. Trial Tr. 1204:3-5. Bazaarvoice
quoted Pacific Sunwear ██████ for ratings and reviews. Trial Tr. 2304:6-8.

1 **454.** When Pacific Sunwear initially signed a contract with Gigya, it utilized moderation
2 services from Gigya. Pacific Sunwear did not perceive any differences in the moderation services
3 offered by Gigya and that of Bazaarvoice or PowerReviews. Trial Tr. 1204:24-1205:14.

4 **455.** Pacific Sunwear utilizes analytics provided by Gigya. Pacific Sunwear considers
5 the analytics offered by Gigya “pretty similar” to that offered by Bazaarvoice and “the same” or
6 “similar” to that offered by PowerReviews. Trial Tr. 1205:18-1206:10

7 **456.** Pacific Sunwear is satisfied with the services Gigya provides. Trial Tr. 1206:11-17

8 **457.** Pacific Sunwear believes that “social” has become a much larger and more
9 important part of Pacific Sunwear’s strategic marketing initiative. Katz Tr. 19:5-8. Pacific
10 Sunwear believes that “social” includes initiatives such as further integration of social components
11 into Pacific Sunwear’s website, such as the ability to “like” a product on Facebook, “pin” a
12 product on Pinterest, “tweet” a product on Twitter, and log-in and register to Pacific Sunwear’s
13 website via a social network such as Facebook. Katz Tr. 19:12-20.

14 **458.** Pacific Sunwear believes that the acquisition has had “no effect” on Pacific
15 Sunwear “whatsoever.” Katz Tr. 25:10-18; Trial Tr. 1206:18-24 Pacific Sunwear does not feel
16 that the acquisition of PowerReviews by Bazaarvoice affects its business, because it is happy with
17 the service it receives from Gigya and because it does not see a “huge distinction” between the
18 services offered by Gigya, Bazaarvoice and PowerReviews. As such, Pacific Sunwear does not
19 feel that the acquisition has a “material impact.” Trial Tr. 1206:18-1207:5

20 74) *Patagonia*

21 **459.** Patagonia uses Bazaarvoice for ratings and reviews functionality. Siegel Tr. 10:5-9.

22 **460.** Patagonia understands that, post-acquisition, Bazaarvoice is in the process of
23 launching a new administration tool which will make it easier for Patagonia to configure how
24 ratings and reviews appear on their website. Siegel Tr. 11:14-22. Patagonia believes that
25 Bazaarvoice’s new administration tool is an improvement because, rather than having to have
26 Bazaarvoice create a new layout for reviews content, Patagonia can do it themselves. Siegel Tr.
27 11:21-12:5.

28 75) *PayPal (eBay Inc.)*

461. PayPal is in the process of implementing Zuberance R&R functionality for the
PayPal “Here” product. Castro Tr. 10:15-18.

462. PayPal considered Zuberance and Bazaarvoice for ratings and reviews services.
Castro Tr. 11:22-12:7; 12:4-7. PayPal believes that Bazaarvoice did not meet PayPal’s criteria for
selecting a ratings and reviews provider because, as PayPal perceived, Bazaarvoice does not have
a mechanism to post onto the App stores, and Bazaarvoice do not have a mechanism to recruit
advocates. Castro Tr. 14:18-25.

463. PayPal (eBay) believes that the acquisition has not harmed PayPal in any way.
Castro Tr. 17:9-10, 17:12-14, 17:16-18, 17:20.

1 76) *Perform Better*

2 **464.** Perform Better specializes in training equipment to help personal trainers and
3 strength coaches. Bradshaw Tr. 7:17-21.

4 **465.** Perform Better first considered implementing R&R functionality on its website
5 about April 2013. Bradshaw Tr. 13:11-15. Perform Better considered Pluck and Bazaarvoice.
6 Bradshaw Tr. 13:21-23. In 2013, Bazaarvoice initially proposed a price to Perform Better for
7 R&R of ██████ per year. Bradshaw Tr. 15:24-16:9. Perform Better informed Bazaarvoice that it
8 was considering Pluck for R&R. Bazaarvoice provided an adjusted price of ██████ per year for
9 R&R services. Bradshaw Tr. 15:24-16:19, 20:7-21.

10 **466.** Perform Better ultimately selected Pluck. Bradshaw Tr. 14:9-11. Perform Better
11 selected Pluck over Bazaarvoice because Pluck offered “a complete package of what [Perform
12 Better] wanted to do as a company.” Bradshaw Tr. 14:12-17.

13 **467.** Perform Better is satisfied with Pluck. Bradshaw Tr. 18:13-14.

14 **468.** Perform Better is not interested in syndication. Bradshaw Tr. 21:15-16.

15 **469.** Perform Better was “not concerned” with the acquisition. Bradshaw Tr. 19:20-21,
16 19:23-25, 20:2-6.

17 77) *Petco Inc.*

18 **470.** Petco was identified in the DOJ’s March 1 Rule 26 Disclosures. Plaintiff’s March
19 1 Rule 26 Disclosures.

20 **471.** Petco is number 231 on the IR500 in 2012. DX1579.

21 **472.** Petco Inc. uses Bazaarvoice for ratings and reviews functionality on its website.
22 Kelly Tr. 21:2-5. Petco did not consider PowerReviews when it chose Bazaarvoice for R&R
23 because Bazaarvoice had the best product. Kelly Tr. 20:19-21. Since that time, Petco has never
24 considered replacing R&R from Bazaarvoice with R&R from PowerReviews. Kelly Tr. 21:1-5.

25 **473.** Petco Inc. has a social site hosted by Lithium. Kelly Tr. 22:9-10.

26 **474.** PETCO believes that, “the acquisition has not had any impact on PETCO
27 whatsoever.” Kelly Tr. 21:9-17, 21:20-21

28 78) *Planet DJ*

475. Planet DJ utilized PowerReviews’ ratings and reviews functionality for one year,
from around November 2011 to November 2012. Holden Tr. 12:17-24. Planet DJ terminated its
relationship with PowerReviews at the end of 2012 and no longer has R&R on its website.
Holden Tr. 12:2-4, 18:9-11

476. Planet DJ interacts with its customers using online chat, Facebook, Twitter,
LinkedIn, YouTube, and MailChimp, an email marketing service. Holden Tr. 20:18-21:1.

1 **477.** Planet DJ believes that the social medial tools it uses “do more than R&R could
2 ever have done” based on its experience. Holden Tr. 24:12-25:12.

3 **478.** Planet DJ does not believe that the acquisition would have an impact on Planet DJ.
4 Holden Tr. 27:2-4.

5 **79) Princess Cruises**

6 **479.** Princess Cruises, a travel company with revenues over \$2 billion, was in the
7 process of selecting an R&R vendor when it provided testimony in this case, and at the time was
8 considering Bazaarvoice, Pluck and developing R&R in-house. Mansukhani Tr. 17:6-21, 39:2-14;
9 Trial Tr. 1647:8-13.

10 **480.** Princess Cruises perceives that Pluck’s offering is more attractive than
11 Bazaarvoice’s offering in the sense that it offers blogs and communities, which Bazaarvoice does
12 not offer. Mansukhani Tr. 70:4-10. Princess Cruises is leaning today towards Pluck over
13 Bazaarvoice, because Princess Cruises felt the robustness of Pluck’s platform was better. Trial Tr.
14 1647:8-16.

15 **481.** Princess Cruises perceives that, with respect to ratings and reviews functionality, it
16 is hard to differentiate between Pluck and Bazaarvoice, as both offer fairly similar, fairly robust
17 features. Mansukhani Tr. 77:11-16.

18 **482.** After Princess Cruises indicated to Bazaarvoice that it was looking at another
19 vendor and that Bazaarvoice was not likely going to be the chosen vendor, Bazaarvoice said it
20 would offer the Bazaarvoice Intelligence product for free – a discount of \$50,000. Mansukhani Tr.
21 65:4-19.

22 **483.** Princess Cruises believes that the presence of another vendor, Pluck, made
23 Bazaarvoice more inclined to “sweeten the deal” for Princess Cruises. Mansukhani Tr. 65:4-66:8.

24 **484.** Princess Cruises has no plans to syndicate R&R. Mansukhani Tr. 96:1-4.
25 Mansukhani Tr. 1647:3-7

26 **80) Recreational Equipment Inc. (REI)**

27 **485.** Recreational Equipment Inc. (REI) was identified in the DOJ’s March 1 Rule 26
28 Disclosures. Plaintiff’s March 1 Rule 26 Disclosures.

486. Recreational Equipment Inc. (REI), an outdoor and sporting goods store, uses
PowerReviews for R&R functionality. Gephart Tr. 27:14-18, 27:25-28:8.

487. Recreational Equipment Inc. (“REI”) perceived that, prior to the acquisition,
PowerReviews’ syndication was “on a smaller scale.” REI decided not to utilize PowerReviews’
syndication functionality in part because of the small number of manufacturers using
PowerReviews. Had the number of manufacturers using PowerReviews been higher, REI would
have been more motivated to pursue syndication. Gephart Tr. 32:1-17.

1 **499.** Sears is a retail company and is number 8 on the IR500 in 2012. DX1579;
2 Massuda Tr. 22:25-23:3. Sears uses an in-house R&R solution. Massuda Tr. 13:15-14:1. Sears
3 had used both Bazaarvoice and Viewpoints for R&R until 2011 when it decided to implement an
4 internal R&R solution. Massuda Tr. 28:6-14, 33:3-7.

5 **500.** In 2011, Sears evaluated Bazaarvoice, PowerReviews and Viewpoints as R&R
6 vendors. Massuda Tr. 19:16-21. Sears did not consider PowerReviews to be a viable option
7 because they did not have “the scalability and capacity to handle Sears being so big.” Massuda Tr.
8 20:17-24. Sears considers its in-house R&R solution to be an acceptable alternative to the R&R
9 solution provided by Viewpoints. Massuda Tr. 35:13-19.

10 **501.** Sears saves \$1 million per year using its internally developed R&R compared with
11 using Viewpoints. Trial Tr. 1682:3-11.

12 **502.** Sears has contracted with Bazaarvoice to obtain syndicated content from
13 Bazaarvoice brands. Massuda Tr. 51:14-52:1. Sears believes that the acquisition was “a good
14 thing” in that Sears will “have more companies [it] could syndicate reviews from.” Massuda Tr.
15 36:8-18, 37:5-8.

16 84) *Shoebuy*

17 **503.** Shoebuy.com is number 90 on the 2012 IR500 list and has used its in-house R&R
18 solution for at least seven years. DX1579; Keller Tr. 15:2-8; 33:19-24.

19 **504.** Shoebuy’s internal R&R solution includes both a moderation function and an
20 editorial platform, both of which are performed manually in-house. Keller Tr. 60:9-61:5

21 **505.** Shoebuy testified that it is more cost effective to run an in-house R&R solution
22 than an external solution. Keller Tr. 76:14-22. At present, Shoebuy is “satisfied with [its] current
23 solution and [is] not currently seeking any alternatives.” Keller Tr. 58:5-59:6.

24 **506.** Shoebuy is not aware of any impact that the acquisition of PowerReviews by
25 Bazaarvoice has had on its business. Keller Tr. 58:14-23.

26 85) *Shoplet*

27 **507.** Shoplet, an online reseller of office and business products, has been in the low 100s
28 in the IR500 in 2010, 2011 and 2012, and uses an in-house R&R solution. Scharf Tr. 8:12-8:15,
10:5-11:9, 22:16-23:6.

508. Shoplet uses various mediums, including social media, such as Facebook, Twitter,
and blogs, as well as R&R on its website. Scharf Tr. 16:21-17:20.

509. Shoplet considers its in-house R&R solution viable and sufficient for its social
commerce strategy, and it does not see the value in paying an outside vendor such as Bazaarvoice
for R&R. Scharf Tr. 46:19-47:6.

510. Shoplet performs internal moderation of R&R. Scharf Tr. 43:12-45:8

1 **521.** Signal Group had used PowerReviews until 2013 before it decided to implement an
2 internal solution that would better suit its needs. Chapman Tr. 12:16-20, 16:21-17:9. Signal
3 Group believes that its in-house R&R solution is “tailored to fit” their business and, therefore, “it
works better.” Chapman Tr. 20:14-17.

4 **522.** Signal Group built its own R&R with “15 to 20 hours” of work by a single
5 programmer. Chapman Tr. 20:18-21:6. Signal Group developed its R&R for approximately
6 \$3,000 in employee time. Chapman Tr. 20:18-21:6. Signal Group estimates that it takes one
programmer “an hour a week” to maintain the system. Chapman Tr. 20:3-7.

7 **523.** When moving to its internal platform, Signal Group received a copy of all the
8 reviews that had been submitted on the PowerReviews platform and Signal Group incorporated
them into their in-house reviews tool. Chapman Tr. 19:17-21.

9 **524.** Signal Group does not syndicate content. Chapman Tr. 25:24-26:16.

10 **525.** Signal Group moderates all the reviews collected on its in-house platform.
Chapman Tr. 24:20-25:7.

11 **526.** Signal Group, believes that “the acquisition has had no effect” on Signal Group.
12 Chapman Tr. 21:24-22:1.

13 *88) Skechers*

14 **527.** Skechers, a lifestyle footwear brand, selected PowerReviews as its R&R provider
15 about four years ago. Skechers is satisfied with PowerReviews’ service. DX1792 at ¶¶ 2, 4, 6.

16 **528.** Skechers believes that R&R is “highly commoditized” and that there are a “number
17 of choices available.” Skechers is “routinely solicited” by other R&R vendors. DX1792 ¶¶7-8.

18 **529.** Skechers does not consider PowerReviews’ syndication a barrier for other R&R
19 providers to overcome. Skechers believes it could syndicate its own R&R. Skechers has
syndicated other content previously. DX1792 ¶10.

20 *89) Smithsonian*

21 **530.** In August 2012, Smithsonian informed PowerReviews that it believed it was
22 paying too much for R&R, and was not seeing value for the amount it was paying per review
given the cost of the product. Stowell Tr. 12:15-13:16, 36:16-38:5.

23 **531.** Smithsonian calculated what it believed the PowerReviews service was worth and
24 based on those calculations demanded that PowerReviews lower its price from \$1,500 per month
to \$1,100 per month, \$18,000 to \$13,000 a year, and PowerReviews accepted Smithsonian’s
25 proposed discount. Stowell Tr. 40:17-41:14, 14:7-25.

26 **532.** Smithsonian does not use syndication services, and has “not a lot of need” for
27 syndication. Stowell Tr. 24:13-25.

1 **533.** Smithsonian originally contacted PowerReviews to express disappointment at their
2 review volume, and the value they were receiving from R&R, in May 2012. Stowell Tr. 36:16-
37:24.

3 *90) Southwest Airlines*

4 **534.** Southwest Airlines is a commercial airline. Bruns Tr. 7:14-16. Southwest Airlines
5 uses Pluck’s R&R solution on its Travel Guide site, and uses Trip Advisor’s reviews solution on
6 its Southwest.com site. Bruns Tr. 13:6-7, 15:6-12; Trial Tr. 1674:14-1675:3; 1675:23-1676:4.

7 **535.** Southwest Airlines describes the purpose of ratings and reviews, for either the hotel
8 portion or travel guide portion of its website, as to inform customers with the goal of them having
9 a good trip. Trial Tr. 1675:5-11.

10 **536.** Southwest Airlines has access to TripAdvisor’s API that allows Southwest to
11 download and display on its own site all the reviews that have been collected by TripAdvisor.
12 Trial Tr.1675:12-23

13 **537.** Southwest Airlines selected Pluck for R&R on its Travel Guide because Pluck had
14 the “everything [Southwest Airlines] needed” and because it came at a “reasonable cost.” Trial Tr.
15 1676:5-11. At the time that Southwest Airlines selected Pluck as its R&R vendor, several other
16 vendors were considered, including Bazaarvoice, NileGuide and Frommers. Trial Tr. 1676:19-25;
17 Bruns Tr. 17:3-8.

18 **538.** Southwest Airlines considers Pluck to be a “considerable ratings and reviews
19 provider” and has found Pluck to be a “good partner.” Trial Tr. 1677:25-1678:5. Southwest
20 Airlines is satisfied with the R&R functionality provided by Pluck. Bruns Tr. 21:1-5; Trial Tr.
21 1678:24-1679:3. Pluck also provides Southwest Airlines with content about the cities into which
22 it flies. The city content and the ratings and reviews service were the primary reasons Southwest
23 Airlines selected Pluck as its vendor. Trial Tr. 1677:20-24

24 **539.** Southwest Airlines has talked with other vendors about potentially providing
25 Southwest Airlines with R&R functionality, including Gogobot, Flavorpill and Pace
26 Communications. Trial Tr. 1678:6-23

27 **540.** Southwest Airlines has the ability to build an in-house R&R solution. Bruns Tr.
28 29:24-30:7

541. Southwest Airlines believes that the acquisition has had no negative impact on
Southwest Airlines. Bruns Tr. 31:5-7, 31:11-16. The acquisition of PowerReviews by
Bazaarvoice has not been internally discussed at Southwest Airlines. The acquisition is “not
something that’s on [Southwest Airlines’s] radar.” Trial Tr. 1679:12-17. Southwest Airlines has
no opinion about whether Southwest Airlines will be harmed by the acquisition. Trial Tr.
1679:22-25

91) Stanley Black & Decker

1 **542.** Stanley Black & Decker was identified in the DOJ’s March 1 Rule 26 Disclosures.
2 Plaintiff’s March 1 Rule 26 Disclosures.

3 **543.** Stanley Black & Decker sells a variety of power tools and hand tools. Glispy Tr.
4 10:22-11:24. Stanley Black & Decker’s revenues were \$17 billion worldwide in the recently
5 concluded fiscal year. Glispy Tr. 14:23-15:2.

6 **544.** Pluck provides R&R for BlackandDecker.com and Dewalt.com. Glispy Tr. 29:22-
7 30:15. [REDACTED]
8 [REDACTED] Glispy Tr. 38:16-39:4. [REDACTED]
9 [REDACTED] Glispy Tr. 31:20-24.

10 **545.** Pluck provides Stanley Black and Decker with self moderation capabilities. Glispy
11 Tr. 34:3-23.

12 **546.** Stanley Black and Decker believes that Pluck is “upgrading their services.” Glispy
13 Tr. 35:5-16.

14 **547.** [REDACTED]
15 [REDACTED] Glispy Tr. 97:20-25. [REDACTED]
16 [REDACTED] Glispy Tr. 40:7-
17 41:11, 43:22-44:2. [REDACTED]
18 [REDACTED] Glispy Tr. 58:17-59:8.

19 **92) Step2 Company**

20 **548.** Step2 utilizes Legacy PowerReviews for ratings and reviews functionality on the
21 Step2 internet store. DX1399 at ¶4.

22 **549.** Prior to the acquisition, there were certain features PowerReviews could not
23 provide since Bazaarvoice’s acquisition of PowerReviews, Bazaarvoice has made available these
24 additional features that PowerReviews could not previously provide. DX1399 at ¶6.

25 **550.** Step2 “expect[s] Bazaarvoice’s syndication network will be of particular value to
26 Step2.” With Bazaarvoice’s syndication network, Step2 will be able to send Step2 reviews to
27 “mass retailers like Wal-Mart.” Step2 products that previously had only one or two reviews on
28 Wal-Mart.com will see an influx of hundreds of reviews. DX1399 at ¶7.

93) Systemax

551. Systemax was identified in the DOJ’s March 1 Rule 26 Disclosures. Plaintiff’s
March 1 Rule 26 Disclosures.

552. Systemax, a consumer electronics retailer, is number 25 on the 2012 IR500 list, and
has annual revenues of about \$3.5 billion annually. DX1579; B. Matthews Tr. 10:24-11:5, 15:23-

1 16:6. Systemax has used an in-house R&R solution for its various websites since 2005 or 2006.
2 B. Matthews Tr. 23:1-16.

3 **553.** Systemax is pleased with its in-house R&R solution and testified that it serves
4 Systemax's purpose of getting "information in front of customers." B. Matthews Tr. 30:17-23

5 **554.** Systemax's in-house R&R solution allows for moderation of reviews, which is
6 handled by a "content team" at Systemax. B. Matthews Tr. 25:17-26:12, 36:25-37:15.

7 **555.** Systemax utilizes an in-house R&R solution and it uses Coremetrics and Google
8 Analytics to receive analytics. B. Matthews Tr. 20:12-20.

9 **556.** Systemax does not use syndication. B. Matthews Tr. 26:18-23.

10 **557.** Systemax doesn't "think [the acquisition] will affect [Systemax] at all." B.
11 Matthews Tr. 31:8-15.

12 *94) Tempur-Pedic*

13 **558.** Tempu-Pedic was identified in the DOJ's March 1 Rule 26 Disclosures. Plaintiff's
14 March 1 Rule 26 Disclosures.

15 **559.** Tempur-Pedic's revenues are roughly \$3 billion. Varni Tr. 10:4-7. Tempur-Pedic
16 uses R&R functionality provided by its e-commerce platform, Shopvisible. Varni Tr. 16:19-23,
17 20:21-21:21.

18 **560.** Tempur-Pedic's advertising campaign features its own customers talking about the
19 Tempur-Pedic products they own. Varni Tr. 15:5-17. Tempur-Pedic encourages the people who
20 buy their products to speak and interact with one another using both traditional and digital means.
21 Varni Tr. 15:8-17. Tempur-Pedic doesn't have a preference when it comes to what
22 communication channel its customers use when discussing their products. Varni Tr. 15:14-17.
23 Tempur-Pedic testified that it uses R&R, Facebook, Twitter and "other things that we can't
24 measure like talking to people" to assist its customers in recommending Tempur-Pedic's product
25 to others. Varni Tr. 43:21-44:1.

26 **561.** Tempur-Pedic internally moderates the reviews they collect. Varni Tr. 47:16-48:10.

27 **562.** Tempur-Pedic's Senior Vice President for Brand Marketing believes that
28 Bazaarvoice offers "a more full-service client services capability" that helps customers to "manage
and administrate" reviews, whereas PowerReviews' capabilities in this regard were "weaker."
Varni Tr. 33:21-34:7.

563. Tempur-Pedic had no opinion as to whether the acquisition has had an effect on
Tempur-Pedic. Varni Tr. 45:6-9.

95) Tiffany & Co.

1 **564.** Tiffany & Co. is a global company that sells its jewelry products both online and in
2 retail stores. O'Halloran Tr. 8:1-7. Tiffany & Co. considers itself the "premiere jeweler of the
3 world." O'Halloran Tr. 8:1-7. Tiffany's revenues are roughly \$3.8 billion. O'Halloran Tr. 9:2-6.

4 **565.** Tiffany & Co does not employ R&R on its website because it "doesn't fit"
5 Tiffany's brand. O'Halloran Tr. 8:15-18, 13:21-14:3.

6 **566.** Tiffany's uses its Facebook page to "tell [the] brand's story" and allows customers
7 to post reviews, among other things, on its Facebook wall, with some level of moderation
8 provided. O'Halloran Tr. 15:14-16:3.

9 96) Toys "R" Us

10 **567.** Toys "R" Us was identified in the DOJ's March 1 Rule 26 Disclosures. Plaintiff's
11 March 1 Rule 26 Disclosures.

12 **568.** Toys "R" Us is a legacy PowerReviews R&R customer. Toys "R" Us began using
13 PowerReviews' R&R product in 2006. Caine Tr. 21:24-22:12. The price that Toys "R" Us paid
14 PowerReviews increased over time as PowerReviews' improved the features and functionality of
15 its product. Caine Tr. 24:14-25:7.

16 **569.** Toys "R" Us believes and hopes "that the Bazaarvoice technology will, could, or
17 might bring new features or functionality that would become available to Toys "R" Us that [Toys
18 "R" Us] would take advantage of and welcome." The company believes "it could bring a positive
19 benefit to [Toys "R" Us] in that way." Caine Tr. 49:22-25, 50:2-22.

20 **570.** Toys "R" Us understands that any brand, whether on the Bazaarvoice,
21 PowerReviews or another platform, could have syndicated to it. Toys "R" Us understood that
22 "[syndication] could be done with anyone." Caine Tr. 48:25-49:14.

23 **571.** Toys "R" Us testified that "if the merger brought more review coverage through
24 syndication or any other means," and if "it was free to us and gave our customers and us the
25 benefit of more reviews," Toys "R" Us would "welcome it." Caine Tr. 51:5-18. Toys "R" Us
26 testified that if Mattel began syndicating to them because of the of the merger, that would be "a
27 positive outcome of the merger." Caine Tr. 52:6-14.

28 **572.** Prior to the acquisition, Toys "R" Us received syndicated reviews from two
PowerReviews brands and two Bazaarvoice brands. Prior to the acquisition, Toys "R" Us
received approximately 7000 syndicated reviews. Post-acquisition, Toys "R" Us receives
syndicated reviews from an additional four PowerReviews brands and an additional ten
Bazaarvoice brands. Post-acquisition, Toys "R" Us has received approximately 38,000 additional
reviews, which is a "huge benefit" for Toys "R" Us. Parsons Tr. 30(b)(6) 30:12-31:1.

573. Toys "R" Us are "very pleased" with their PowerReviews relationship and have
had "no reason to move on or shop the competition." Caine Tr. 58:4-18.

574. Toys "R" Us does not think the merger has had a negative impact on its business.
Caine Tr. 61:13-16.

1 97) *Under Armour*

2 **575.** Under Armour was identified in the DOJ's March 1 Rule 26 Disclosures.
3 Plaintiff's March 1 Rule 26 Disclosures.

4 **576.** Under Armour is a manufacturer and retailer of apparel, footwear and accessories.
5 Parzianello Tr. 7:10-8:2. Under Armour uses Bazaarvoice for R&R functionality. Parzianello Tr.
6 12:25-13:2.

7 **577.** Under Armour has the ability to build an in-house R&R solution. Parzianello Tr.
8 14:18-15:11

9 **578.** Under Armour believes that the acquisition has had no impact on Under Armour.
10 Parzianello Tr. 16:16-21.

11 98) *The Vitamin Shoppe*

12 **579.** Vitamin Shoppe was identified in the DOJ's March 1 Rule 26 Disclosures.
13 Plaintiff's March 1 Rule 26 Disclosures.

14 **580.** Vitamin Shoppe is a retailer of vitamins and supplements, along with green living
15 and personal care products and is number 201 on the IR500 in 2012. DX1579; Beebe Tr. 8:5-10;
16 Trial Tr. 1363:20-24.

17 **581.** Vitamin Shoppe uses PowerReviews for R&R and TurnTo for Q&A. Beebe Tr.
18 14:4-8, 15:14-16; Trial Tr. 1367:8-11.

19 **582.** Vitamin Shoppe testified in May 2013 that it would be seeking price concessions in
20 the amount of 25% in connection with the renewal of its contract with PowerReviews. Beebe Tr.
21 35:20-37:5; Trial Tr. 1374:23-1375:3.

22 **583.** In July 2013, Vitamin Shoppe renewed its contract with PowerReviews at a price
23 of 57% less than what it was previously paying. DX1796. PowerReviews/Bazaarvoice indicated
24 a willingness to negotiate and decrease price. Trial Tr. 1374:17-25.

25 **584.** Vitamin Shoppe believes that it "absolutely" has other options for R&R solutions.
26 Vitamin Shoppe was "certain" that there "are a number of other vendors that [it] could investigate,
27 if need be." Beebe Tr. 26:3-27:1; Trial Tr. 1369:8-21. For example, in May 2013, Vitamin
28 Shoppe was in the midst of upgrading its ATG ecommerce platform, and could use the out of the
box solution offered as part of that platform. Trial Tr. 1369:22-1370:4.

585. If Vitamin Shoppe had an unfavorable negotiation with PowerReviews, it would
investigate Gigya, along with "any of the players out there" and would "look at small vendors, as
well as large vendors, because small vendors can do an equally good job." Beebe Tr. 33:3-12.

586. Vitamin Shoppe has the ability to build an in-house R&R solution. Beebe Tr. 28:9-
17; Trial Tr. 1375:18-1376:2.

1 **587.** Vitamin Shoppe believes that if it switched R&R vendors, it would be able to retain
2 the R&R it received as a PowerReviews customer and transport and implement them into a new
3 solution. Beebe Tr. 30:2-30:11.

4 **588.** Vitamin Shoppe stated that the effect of the acquisition of PowerReviews by
5 Bazaarvoice would be such that “more services” are available to it as a PowerReviews customer,
6 and that it “hoped to benefit from those new functionalities.” Beebe Tr. 35:3-5, 35:8-19; Trial Tr.
7 1373:16-19

8 99) *Walgreens Co.*

9 **589.** Walgreens was identified in the DOJ’s March 1 Rule 26 Disclosures. Plaintiff’s
10 March 1 Rule 26 Disclosures.

11 **590.** Walgreens, IR500 2012 number 33, uses Bazaarvoice for R&R on Walgreens.com.
12 Skinstore.com, Beauty.com and VisionDirect, all Walgreens family websites, use PowerReviews
13 for R&R functionality. DX1579; Jeske Tr. 12:14-20, 12:21-13:9, 23:20-24:5.

14 **591.** Walgreens-owned Drugstore.com had an in-house R&R system before choosing to
15 utilize PowerReviews for R&R. Jeske Tr. 90:20-91:5.

16 **592.** Walgreen’s deponent Ms. Jeske was not the person most knowledgeable at
17 Walgreens concerning the topics outlined in Defendant’s subpoena. Ms. Jeske admitted that she
18 was not the person most knowledgeable concerning Walgreens’ relationship with social commerce
19 providers. Jeske Tr. 16:23-17:16. Ms. Jeske identified Mr. Vikram Bohra as the person most
20 knowledgeable. Jeske Tr. 19:21-20:5.

21 **593.** Ms. Jeske had nothing to do with Walgreens’ selection of Bazaarvoice for R&R.
22 Jeske Tr. 68:16-69:1.

23 **594.** Ms. Jeske was not aware the Pluck and Walgreens had signed an agreement for the
24 provision of R&R on one of Walgreens’ sites. Jeske Tr. 14:1-6.

25 **595.** Ms. Jeske had no views of the merger and did not believe that at this time, the
26 merger had had any negative effects on Walgreens. Jeske Tr. 32:5-17.

27 **596.** Ms. Jeske admitted that she has not performed any research and did not know
28 whether today there were other R&R providers that could satisfy Walgreens’ needs. Jeske Tr.
45:3-14.

 100) *Wayfair (CSN Stores)*

597. Wayfair was identified in the DOJ’s March 1 Rule 26 Disclosures. Plaintiff’s
March 1 Rule 26 Disclosures.

598. Wayfair is number 50 on the IR500 for 2012. DX1579; Macri Tr. 8:2-10. Wayfair,
an online home furnishings store, sells its products through several websites, including Amazon
Marketplace. Trial Tr. 1601:8-9, 1601:22-1602:6. Wayfair uses an in-house R&R solution.
Macri Tr. 14:10-11; Trial Tr. 1602:19-24.

1 **599.** Wayfair had been a PowerReviews customer before it decided to implement an
2 internal solution in September 2011. Macri Tr. 10:14-20, 12:19-24, 14:10-23; Trial Tr. 1602:7-24;
3 1603:4-6. Wayfair has also built an internal Q&A platform. Trial Tr. 1607:20-25.

4 **600.** It took approximately two to three months Wayfair to develop and deploy its in-
5 house R&R solution, using the equivalent of one full-time engineer. Macri Tr. 14:10-23; Trial Tr.
6 1605:7-17.

7 **601.** Wayfair “streamlined the collection process” and was “able to increase the number
8 of reviews [] collected immediately.” Trial Tr. 1606:1-5; Macri Tr. 16:6-12, 65:15-21. Wayfair
9 was “very happy” with the internal tool and estimates its reviews increased by 15%. Macri Tr.
10 16:6-12; 64:8-22. Building R&R in-house allowed Wayfair to “build it the way [Wayfair] wanted
11 it.” Trial Tr. 1603:4-13.

12 **602.** Wayfair created a document identifying the pros and cons of developing its own
13 solution as well as the related costs. Trial Tr. 1604:12-16. DX1862.

14 **603.** Wayfair added specific customized features to their R&R tool when they built it in-
15 house. Macri Tr. 40:2-41:2. Wayfair continues to innovate and improve its in-house technology
16 and has added features to its ratings and reviews solution since its initial development. For
17 example, Wayfair has added the ability for customers to share their review via Facebook; a visual
18 depiction of the distribution of ratings per product; a minimum word limit for reviews and the
19 ability for consumers to rate the helpfulness of individual reviews. Trial Tr. 1607:6-19.

20 **604.** While using PowerReviews, Wayfair owned the review data and stored the reviews
21 collected in its own database. Wayfair did not need to undertake any steps to continue using those
22 reviews with its internally developed R&R solution. Trial Tr. 1605:18-25.

23 **605.** Wayfair moderates reviews collected using its internal R&R tool. Wayfair testified
24 that the cost per moderated review decreased after switching to the internally developed tool.
25 Macri Tr. 17:1-18:3; Trial Tr. 1606:13-1607:5.

26 **606.** Bazaarvoice’s analytics feature, Bazaarvoice Intelligence, “added no value” for
27 Wayfair as it was “already a capability [Wayfair] had built in-house.” Building this capability was
28 “a two-to-three-week project for one person.” Macri Tr. 38:3-9; 54:24-55:15. Wayfair now has a
“very robust BI [Business Intelligence] solution,” of which review data is a part. Trial Tr. 1606:6-
12

29 **607.** Wayfair is not currently syndicating R&R through any means. Macri Tr. 51:2-7.

30 **608.** Wayfair does not believe that the acquisition of PowerReviews by Bazaarvoice has
31 caused any harm to Wayfair. Wayfair believes there are a lot of vendors in the social commerce
32 space. Trial Tr. 1608:20-1609:4

33 101) *Wine.com*

34 **609.** Wine.com is about 248 on the IR500 in 2012 and has used an in-house R&R
35 solution since 1998. DX1579; Smalling Tr. 9:2-15, 17:17-21.

1 **610.** Wine.com chose to build R&R internally to minimize ongoing expenditures and to
2 maintain the complexity of its social tools. Smalling Tr. 18:10-19:11.

3 **611.** In 2005-2006, Wine.com decided to expand its social footprint by adding
4 community features (e.g., user profiles) to its R&R tool. Three engineers spent two months
5 overhauling Wine.com's in-house R&R system. Smalling Tr. 20:13-23. Wine.com was satisfied
6 with the R&R platform it built internally in 2005. Smalling Tr. 21:23-25.

7 **612.** Wine.com has spent "maybe a month" working on its in-house R&R solution over
8 the past three years. Smalling Tr. 45:16-23. Wine.com describes the amount spent on maintaining
9 its in-house tool as "very low." Smalling Tr. 45:16-23.

10 **613.** Wine.com does not employ syndication because it does not want to share its
11 reviews with its partners. Smalling Tr. 43:8-20.

12 **614.** Wine.com believes that their internal R&R tool "increase[s] SEO benefit."
13 Wine.com believes that they obtain all the SEO benefits they require with their internal R&R tool.
14 Smalling Tr. 30:7-14; 47:25-48:22.

15 **615.** Consumers can post reviews of wines on Wine.com's Facebook, Twitter and
16 Pinterest pages. Smalling Tr. 14:25-15:13; 50:8-51:1.

17 **616.** Wine.com has talked to Oracle about their R&R tool built into their ATG Dynamo
18 platform. Smalling Tr. 46:6-17. Wine.com has looked at MarketLive and Magento R&R plugins
19 provided by multiple different vendors. Smalling Tr. 46:18-23.

20 **617.** Wine.com believes that the acquisition would not "affect [Wine.com] currently."
21 Smalling Tr. 28:17-19, 28:23-24.

22 102) *World Kitchen*

23 **618.** World Kitchen is a manufacturer and distributor of house ware products. It sells
24 directly to consumers via its retail stores and e-commerce website. World Kitchen runs five
25 different websites: ShopWorldKitchen.com, Corelle.com, Chicagocutlery.com, Snapware.com,
26 Corningware.com and Pyrexware.com. World Kitchen estimates that annual revenues are between
27 100 million and 500 million dollars. Bausch Tr. 8:21-9:8; 14:1-16.

28 **619.** World Kitchen defines "social commerce" as a "form of e-commerce" "enabled by
social interactions." It includes "any area where we [World Kitchen] have ... user or customer
generated content." World Kitchen would include Facebook and Twitter in its definition of social
commerce. Bausch Tr. 15:4-14; 15:18-16:12; Trial Tr. 1285:8-17.

620. World Kitchen uses Demandware as its e-commerce platform. Trial Tr. 1285:22-
1286:1. World Kitchen uses Bazaarvoice for ratings and reviews. Trial Tr. 1286:23-25. World
Kitchen works with Gigya for social sign-on and sharing and Shoutlet to run its Facebook
presence. World Kitchen apportions its budget between its social vendors based on "what [they]
think the return on that spend will be." Bausch Tr. 18:11-24; 19:3-7.

1 **621.** World Kitchen testified that “there are many other components to Bazaarvoice
2 which don’t exist for PowerReviews.” Bausch Tr. 9-25. Such components include syndication
3 and Facebook integration. World Kitchen testified that PowerReviews sells to a “mid to smaller
4 market” and considered PowerReviews a “mid-market platform.” Bausch Tr. 26:9-25; 38:6-7;
5 Trial Tr. 1297:5-1298:9.

6 **622.** At the end of 2012, World Kitchen was paying \$105,000 a year to Bazaarvoice for
7 R&R. Bausch Tr. 32:2-6. World Kitchen felt it was paying too much for R&R at this time,
8 without receiving an appropriate return on investment. Trial Tr. 1287:10-1288:10. World Kitchen
9 communicated this to Bazaarvoice. Although it is World Kitchen’s practice not to inform
10 potential vendors of the names of specific competitors, Bazaarvoice knew that World Kitchen had
11 “a very credible replacement plan in mind.” Trial Tr. 1288:17-24.

12 **623.** World Kitchen made it clear to Bazaarvoice that they didn’t need to use
13 Bazaarvoice’s reviews. World Kitchen’s Mr. Bausch testified that he was “completely comfortable
14 that [World Kitchen] could drop the product and replace it.” Bausch Tr. 39:9-17; 40:7-11.

15 **624.** World Kitchen received a “very aggressive offer” from Bazaarvoice, which
16 includes “five components from Bazaarvoice” for approximately [REDACTED]. World Kitchen now
17 utilizes R&R on two URLs, syndication, Q&A and a Facebook plug in. Bausch Tr. 31:10-17;
18 32:2-6; 34:2-13; 34:18-35:8; Trial Tr. 1299:2-7; 1287:25-1288:10; 1288:25-1289:9; 1299:8-18.
19 World Kitchen now receives “about six times the capability for a little less than double the price.”
20 Trial Tr. 1299:8-11.

21 **625.** World Kitchen testified that two factors affects the price it was willing to spend on
22 Bazaarvoice: “the concept that it had alternatives” and the fact that it had an “absolute do not
23 exceed number ... to invest.” Bausch Tr. 48:8-20. World Kitchen had “to buy other tools and []
24 only [had] a finite pool of money, so [] didn’t want to spend it all on Bazaarvoice and not be able
25 to buy other things.” Bausch Tr. 48:22-49:6; Trial Tr. 1286:15-22.

26 **626.** World Kitchen signed a contract with Gigya in around May 2012, and has access to
27 Gigya’s ratings and review tool as part of that contract. World Kitchen uses Gigya for social
28 infrastructure and single sign on. Trial Tr. 1301:3-8. After evaluating Gigya’s rating and reviews
product, World Kitchen “absolutely” considers Gigya to be a serious player with respect to ratings
and reviews. Trial Tr. 1289:10-18. World Kitchen would use Gigya in lieu of Bazaarvoice
technology and feels it “would be a good alternative.” World Kitchen planned to implement
Gigya ratings and reviews if Bazaarvoice did not reduce its price. Bausch Tr. 29:25-31:4; 61:24-
62:19; Trial Tr. 1288:25-1289:9. Gigya would be “the most likely candidate” for World Kitchen to
use for ratings and reviews if it dropped Bazaarvoice because Gigya’s R&R is already “installed
and enabled. Trial Tr. 1291:11-20. World Kitchen considers Gigya “a logical alternative” to
Bazaarvoice as it is “a larger company platform.” Trial Tr. 1297:5-20.

627. World Kitchen attended Pluck’s exhibition at Shop.org’s 2013 conference. World
Kitchen testified that Pluck had a “really cool sort of booth and display” at Shop.org 2013 that was
“attracting a lot of attention” and “looked pretty busy.” World Kitchen considers Shop.org “the
best industry organization.” Trial Tr. 1295:22-1297:1.

1 **628.** World Kitchen testified that Demandware has developed an ecosystem of e-
2 commerce vendors that will work with Demandware and pre-build an integration into the platform,
3 which makes implementation of solutions more straightforward. Trial Tr. 1290:7-22. Both Gigya
4 and Bazaarvoice are available as “cartridge [] connection[s]” to Demandware, described by World
5 Kitchen as a “plug-in built-in connection.” Trial Tr. 1289:25-1290:4. Switching from
6 Bazaarvoice to Gigya on the Demandware platform would be “much easier than in a traditional
7 integration where it’s not a prebuilt integration.” Trial Tr. 1290:23-1291:2.

8 **629.** World Kitchen does not feel there is “an inordinate switching cost” associated with
9 switching ratings and reviews vendors. Trial Tr. 1291:3-10. If Bazaarvoice imposed a 5 percent
10 price increase on World Kitchen, World Kitchen would switch vendors unless there was a
11 corresponding increase in return. Trial Tr. 1291:11-16. World Kitchen estimates that it would
12 take “a matter of weeks” to switch from Bazaarvoice to Gigya for R&R, and describes the cost as
13 “nominal” and not “meaningful at all in the context of the annual subscription fee.” Trial Tr.
14 1291:21-1292:11

15 **630.** If Bazaarvoice increased its price for syndication, World Kitchen would insist on
16 experiencing an incremental increase in sales on websites receiving syndication. World Kitchen
17 would demand an increased benefit or value to justify any price increase. Trial Tr. 1293:16-
18 1294:11.

19 **631.** World Kitchen considers moderating content in-house “definitely an option.”
20 World Kitchen believes it could hire a full time employee to moderate R&R for “a very moderate
21 starting salary.” Trial Tr. 1294:25-1295:17.

22 **632.** World Kitchen stated that it has “basic” analytics needs, and that it uses the Google
23 analytics platform because it is free and the “value is outstanding.” World Kitchen testified that
24 Demandware, Gigya, Shoutlet and Bazaarvoice all have their own analytics feature. Bausch Tr.
25 44:16-45:2.

26 **633.** World Kitchen describes the social commerce industry as “not as clear-cut as it
27 used to be,” given that “[t]here are many different providers offering many different solutions.”
28 Bausch Tr. 23:9-17.

634. World Kitchen doesn’t consider itself harmed by the acquisition of PowerReviews
by Bazaarvoice and has no concerns about the acquisition. Bausch Tr. 51:19-52:3. World Kitchen
did not feel that the acquisition of PowerReviews by Bazaarvoice was “an issue in any of the
selection process” and considers the acquisition “irrelevant” to World Kitchen. World Kitchen
testified that the acquisition “[w]ouldn’t do any harm.” Trial Tr. 1297:21-1298:9

103) *XO Group*

635. XO Group, number 393 on the IR500 2012, specializes in personalized wedding
favors, bridal party gifts, decorations, bridal accessories, and a small amount of apparel.
Openshaw Tr. 10:1-21-11:6; DX1579.

636. XO Group uses PowerReviews for R&R on its websites The Knot and American
Bridal. Openshaw Tr. 19:24-20:14.

1 **637.** XO Group uses Practical Data for R&R on its Groomsmen’s Gifts site. Openshaw
Tr. 20:15-18.

2
3 **638.** XO Group finds Practical Data’s ratings and review solution to be “excellent.”
Practical Data’s R&R solution suits XO Group’s needs for R&R. XO Group would consider
4 Practical Data for its other e-commerce properties for R&R. Openshaw Tr. 27:3-16, 54:8-18.

5 **639.** XO Group does not believe that the acquisition has had any effect on XO Group.
Openshaw Tr. 34:7-9, 34:12.

6 104) *Zappos*

7
8 **640.** Zappos.com, Inc. is an online shoe retailer and subsidiary of Amazon.com and as
part of Amazon.com, is number one on the 2012 IR500 list. DX1396; DX1579.

9 **641.** Zappos.com, Inc. uses an in-house R&R solution, which it built “several years ago”.
10 DX1396 at ¶ 3.

11 **642.** Zappos.com’s in-house R&R solution “requires no material upkeep” and
“essentially runs itself.” Zappos does not provide any “material investment of money or time” to
12 maintain the system. DX1396 at ¶¶ 3-4.

13 **643.** Zappos.com uses in-house moderation for R&R functionality on its website, which
14 requires an insignificant amount of employee time. DX1396 at ¶ 5.