



GOVERNMENT
ACCOUNTABILITY
INSTITUTE

January 8, 2014

Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

MUR # 6772

OFFICE OF
COUNSEL

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Dear Counsel:

Please find enclosed three copies of our complaint with attached exhibits for each copy. We have also enclosed a copy of the complaint and exhibits in electronic format with hyperlinks from the complaint to the exhibits for your convenience. For each exhibit, we have provided you the URL associated with that exhibit to assist you in the verification of each fact alleged.

Please provide a copy of any communication sent or received by you as part of the investigation and handling of this claim. If you have any questions regarding the complaint or the exhibits, you may contact me at (850) 329-7259 or stuart.christmas@g-a-i.org.

Sincerely,

Stuart A. Christmas
Vice President for Legal Investigations
General Counsel

Enclosures

T: 850.329.7259
W: www.g-a-i.org
E: info@g-a-i.org

P. O. Box 12594 Tallahassee, Florida 32317

FEDERAL ELECTION COMMISSION

In the matter of: Obama for America
 Martin H. Nesbitt as its Treasurer
 Obama Victory Fund
 Andrew Tobias as its Treasurer
 Obama Victory Fund 2012
 Ann Marie Habershaw as its Treasurer
 Robert Roche
 Wicked Global
 Derek Dorr
 Unknown Person(s)

COMPLAINT

1. Government Accountability Institute ("GAI") and its President, Peter Schweizer, bring this complaint before the Federal Election Commission ("FEC") seeking an immediate investigation and enforcement action against Obama for America, Martin H Nesbitt, Obama Victory Fund, Andrew Tobias, Obama Victory Fund 2012, Ann Marie Habershaw, Robert Roche, Wicked Global, Derek Dorr, and Unknown Person(s) for direct and serious violations of the Federal Election Campaign Act. (See Exhibit A)

COMPLAINANTS

2. Complainant, GAI, is a nonprofit, nonpartisan organization that uses investigative, journalistic and communications tools to investigate and expose crony capitalism, misuse of taxpayer monies, and other government corruption or malfeasance. GAI endeavors to educate the public through fair and fact-based journalism and reporting.

3. Campaign contributions are a necessary feature of political life and without private contributions to political committees, civic discourse would be impeded. The objective of campaign finance laws is to regulate the influence of money on politics. *See McConnell v. FEC*, 540 U.S. 93, 115 (2003). When federal campaign finance turns from a

private civic act to public corruption, however, federal enforcement of criminal and civil sanctions is necessary. See, e.g., *McCormick v. United States*, 500 U.S. 257 (1991); *Evans v. United States*, 504 U.S. 255 (1992). It is precisely the nexus between campaign contributions and influence that GAI evaluates. Such improper influence may come from domestic or foreign sources.

4. In order to assess whether there has been improper influence either in the amount or the source of campaign contributions, GAI depends upon the FEC to make appropriate inquiry as to the nature and extent of donations when there is reasonable cause to do so. In this matter there is a clear and notorious pattern of foreign solicitations, coupled with a lack of security that creates an immediate risk for illegal and substantial campaign donations from both foreign and domestic interests by methods which make a significant portion of the donations impenetrable to the public eye or any investigative journalist desiring to trace the nature and extent of campaign contributions. GAI is hindered in its programmatic activity when a substantial and significant amount of contributions are undisclosed and unavailable to the public. The Supreme Court emphasizes the importance of exposing the nature and extent of campaign contributions when it states, "This exposure may discourage those who would use money for improper purposes either before or after the election. A public armed with information about a candidate's most generous supporters is better able to detect any post-election special favors that may be given in return. And, as we recognized in *Burroughs v. United States*, 290 U.S. at 548, Congress could reasonably conclude that full disclosure during an election campaign tends 'to prevent the corrupt use of money to affect elections.' In enacting these requirements it may have been mindful of Mr. Justice Brandeis' advice:

'Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman.'" *Buckley v. Valeo*, 424 U.S. 1, 46 L. Ed. 2d 659, 96 S. Ct. 612 (1976) (footnotes omitted).

Without the FEC's proper investigation into the matters alleged, GAI will be substantially hindered in its programmatic activity which rest significantly on tracing contributions to those who would attempt to wield an untoward interest (foreign nationals and governments) or an excessive interest in the campaign by skirting campaign limits through use of a robotic donor device as described herein.

5. Complainant Peter Schweizer is the President of GAI, a citizen of the United States and a registered voter and resident of Florida. As a registered voter, Mr. Schweizer is harmed when a candidate, political committee, or other regulated entity, is able to actively solicit campaign donations throughout the world from foreign nationals and disable fraud security tools in a manner that skirts the requirements of federal law thereby making it impossible for the citizen to understand the source of funding and the interest served by a particular candidate when he accepts such funding. *See FEC v. Akins*, 524 U.S. 11, 19 (1998), quoting *Buckley v. Valeo*, 424 U.S. 1, 66-67 (1976) (holding that political committees must disclose contributors and disbursements to help voters understand who provides which candidates with financial support). Mr. Schweizer, as a journalist, is further harmed when the FEC fails to properly investigate what amounts to an attempt to skirt reporting requirements that are designed to obtain the transparency envisioned by election law, thereby, limiting Mr. Schweizer's ability to review campaign finance information, and by a thorough investigation, expose crony capitalism, misuse of taxpayer monies, government corruption and government malfeasance.

6. It can be said that the constitutional guarantee of free speech and the right of association is of absolute necessity to our system of government and free elections. As the United States Supreme Court stated in *Buckley v. Valeo*, "Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution. The *First Amendment* affords the broadest protection to such political expression in order 'to assure [the] unfettered interchange of ideas for the bringing about of political and social changes desired by the people.' *Roth v. United States*, 354 U.S. 476, 484 (1957). Although *First Amendment* protections are not confined to 'the exposition of ideas,' *Winters v. New York*, 333 U.S. 507, 510 (1948), 'there is practically universal agreement that a major purpose of that Amendment was to protect the free discussion of governmental affairs,... of course includ[ing] discussions of candidates....' *Mills v. Alabama*, 384 U.S. 214, 218 (1966). This no more than reflects our 'profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open,' *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964). In a republic where the people are sovereign, the ability of the citizenry to make informed choices among candidates for office is essential, for the identities of those who are elected will inevitably shape the course that we follow as a nation. As the Court observed in *Monitor Patriot Co. v. Roy*, 401 U.S. 265, 272 (1971), 'it can hardly be doubted that the constitutional guarantee has its fullest and most urgent application precisely to the conduct of campaigns for political office.'"

It is an irrefutable proposition that money is the lifeblood of any campaign and as such is necessary to augment the effective exercise of constitutional rights and guarantees. In *Buckley v. Valeo* the Court recognizes the important role of campaign

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FACTS

Nature of Allegations

7. All allegations made herein by Peter Schweizer individually and as President of GAI are made on information and belief that the facts so alleged are true and accurate. The attached exhibits support each fact alleged.

Solicitations by Campaign

8. There is substantial evidence that Obama for America, Obama Victory Fund, and Obama Victory Fund 2012 collectively referred to as the "Obama Campaign" made worldwide solicitations directly to foreign nationals in violation of federal election law. On sites throughout the Internet probable foreign nationals report being solicited for donations by the Obama Campaign. (See Exhibit B)

9. Campaigns are not required to disclose donations from individuals who gave less than \$200 in a campaign cycle unless the campaign is audited. Campaigns are not required to keep records of those who gave less than \$50. The 2008 Obama Campaign raised approximately \$500 million on-line with each contribution averaging \$126. During the 2008 election the campaign raised over \$300 million in individual contributions that were under the \$200 threshold triggering full disclosure. (See Exhibit C) Of that total, \$100 million came in the month of September alone. (See Exhibit C) During the 2012

election cycle the Obama Campaign raised at least \$690 million online averaging \$156 per contributor (see Exhibit D). For the election cycle as a whole, the Obama Campaign raised approximately \$234 million in contributions that were under the \$200 threshold, which amounted to approximately forty two percent of total individual contributions received. Meanwhile the Obama Victory Fund raised approximately \$95 million in contributions, which fell under the \$200 threshold, which amounted to twenty-one percent of total contributions. (See Exhibit D)

10. The Obama Campaign created the most complex and innovative system for voter and donor identification ever devised in the history of presidential campaigns. (See Exhibit E) According to the MIT Technology Review, by the spring of 2012 the Obama Campaign was confident of a positive identification of all 69 million Americans who had voted for the President in the 2008 election. (See Exhibit E) This system was used to identify and solicit previous and potential new donors using highly targeted messages. A similarly thorough capability was devised to identify potential or likely donors using pervasive social media outreach and pioneering data mining techniques. (See Exhibits E and F) Despite this advanced technology, and an unprecedented amount of identifying information on potential donors, the Obama Campaign made multiple solicitations of foreign nationals.

11. Moreover, the Obama Campaign assembled the most talented team of data and technology specialists ever employed by a presidential campaign. The Obama Campaign staff was populated with the best and the brightest from industry leaders (Google, Facebook, etc.). (See Exhibit G) This team of specialists produced and used extensive data gathering software and multiple databases and cross-referencing systems to ensure

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the Obama Campaign knew as much about every potential voter or donor as possible including substantial information about the potential voter's network of friends, relatives, and co-workers. (See Exhibits E and F) Using tools developed by the specialists, the campaign gathered enough data on most potential voters to be able to predict which of their next-door neighbors would vote, and for whom. (See Exhibits E and F) When a person signed up for the mailing list at the Obama Campaign's website, the data collection technology would cross reference all of the directly collected data from the website with indirectly collected data through other sources such as Facebook and Google to determine more precisely the identity of each visitor, the nature of any political bias, the city and county in which they lived, and what issues were likely to be considered to be of the greatest importance to that specific individual. (See Exhibits E and F) In spite of the great lengths taken to know the precise location and temperament of each potential voter or donor, solicitations were still made directly to probable foreign nationals who had signed up for the mailing list from foreign soil, using a foreign IP address and whose related data from other sources would have confirmed the individual as a likely foreign national. (See Exhibits E and F) Furthermore, there is no indication that any effort was made to determine whether the individuals solicited were qualified to make legal contributions to the Obama Campaign. At the very least there might have been a "check-off box" where the individual being solicited could make some averment to their status as an American citizen or Permanent Resident.

Obama.com - An Unreported and Excessive In-Kind Contribution

12. As of June 18, 2012 Obama for America owned 392 domain names related to the President, his campaign or his political opponents. (See Exhibit H) Significantly, Obama for America did not purchase or own the domain "obama.com." Rather, a third party, friendly to the campaign, with significant business interest entirely dependent on the good favor of two Chinese government agencies and licenses held by two Chinese nationals acquired ownership of the domain. (See Exhibits H, I and JJ, KK, and LL)

13. That third party is Robert Roche ("Roche"). Roche is an American citizen (originally from Chicago) who has spent a substantial amount of his time since the late 1990s developing business interests in Shanghai. (See Exhibit J) By 2004 his interests in China had grown such that Roche found it necessary to relocate to Shanghai from Nagoya, Japan. Roche was a bundler for both the 2008 and 2012 Obama Campaigns. He was also a member of the Obama for America National Finance Committee in 2008 and a co-chair of the Technology for Obama initiative in 2012. (See Exhibit K)

14. On September 19, 2008, Roche was first publicly listed as the new owner/registrant for "Obama.com." (See Exhibit I) The previous owner/registrant had been "Obama, Satoru." Roche appears to have purchased the domain name from an "Obama Satoru". Roche's ownership of the site was public until October 1, 2010 at which time the ownership was made anonymous. (See Exhibit I) According to e-mail communications between Roche and Newsweek correspondent Peter Boyer in fall of 2012, Roche still owned the site during the 2012 campaign. (See Exhibit L) While no records of the sale are extant, the value of obama.com to the campaign is undeniable. The site had a clear and ongoing value to the Campaign in 2008 during the last six-weeks of

the election as an uncompensated marketing tool. While the actual value of a website is hard to determine, a review of several online appraisal and valuation sites for the domain name (obama.com) indicates a value ranging from twenty-seven thousand dollars to over one million dollars. (See Exhibit M) The campaign enjoyed the benefits of the redirected traffic from obama.com during the entirety of the 2012 election (See Exhibits L and V).

15. Each Internet domain is registered with a service that holds records on that domain for registration with the Internet Corporation for Assigned Names and Numbers (ICANN). Such a service is known as the Registrar on a domain record. Since September 19, 2008, the registrar for obama.com has changed at least twice. (See Exhibit I) On October 4, 2010, Obama.com's site registration was changed from "Roche, Robert" to an anonymous registration. (See Exhibit I) The registration remains anonymous to the present day and is provided by Domains By Proxy, a company owned by GoDaddy. (See Exhibit I)

16. "Hosting" is the physical and logical location of any sites associated with the domain. In the case of obama.com the site name and the domain name are identical. The hosting service provides the physical server, the IP address, and any assigned name servers (or DNS servers), which control traffic to the site. Japan Global Media Online hosted obama.com at the time the domain was purchased by Roche. (See Exhibit N) Thereafter the domain hosting was transferred to Bluehost/Hostmonster, a Utah based company. (See Exhibit N)

17. From September 19, 2008 through October 27, 2008 the administrative e-mail for obama.com was *teruhiko_ishida@oaklanwn.co.jp*. (See Exhibit O) Oaklawn Marketing

is the company Roche started in Nagoya, Japan. From October 27, 2008 through October 1, 2010 the administrative e-mail was *Robert@oaklawn.co.jp*. (See Exhibit O)

18. Even though the domain's administrative email was made anonymous through the domain's registrar, the website contained a non-public administrative email for Wicked Global, a small web development company in Waterville, Maine (see Exhibits P and R). The e-mail address's existence was not immediately apparent to the public, nor was this it listed for the site's publicly registered administrative contact (see Exhibit O). The available evidence indicates Wicked Global was involved with obama.com during the 2012 campaign from at least April 21st, 2011 through at least June 2012, (See Exhibits O, P, Q, R, S, & T).

19. The non-public administrative e-mail was discovered via a forced error on obama.com which prompted the user to contact Wicked Global. Wicked Global was providing administration of the page as of at least June 2012. (See Exhibit P). Obama.com was moved to its Bluehost/Hostmonster location on April 21st, 2011 to the same IP address as gregdorr.com, a site named for a Wicked Global officer and registered to Derek Dorr, its president. (See Exhibits N, Q, and R) Additionally, a variety of other sites registered to Derek Dorr with Bluehost/Hostmonster were hosted within two weeks of obama.com with sites sharing a common group of IP addresses, and the same Google Analytics account. (See Exhibits N, Q, and S) Wicked Global's website is registered to a 25-year-old former Harvard student named Derek Dorr. (See Exhibit T) Gregory Dorr is listed on the site as "Lead Marketing" for Wicked Global. (See Exhibit R) The Google Analytics account registered to obama.com is registered to Wicked Global as well. (See Exhibit S)

20. The sole purpose of obama.com was to redirect web traffic to the donate page on the official barackobama.com campaign website from at least December 3, 2011 until the end of the 2012 election (see Exhibit V).

21. Roche's arrangement with Derek Dorr and Wicked Global for the purpose of maintaining the website and redirect link to the donate page on the official barackobama.com website is best explained by Roche's relationship with another Obama Campaign bundler and political/business associate, Peter Emerson ("Emerson") (See Exhibits T and U). The president of Wicked Global, Derek Dorr, who provided administration for the obama.com website, worked for at least three years as an executive assistant for, Emerson. (See Exhibit T)

22. Roche and Emerson visited the White House together on at least three occasions. On September 20, 2011, the two visited privately with Pete Rouse, "Counselor to the President." (See Exhibit U) Prior to this significant role, Rouse had been the Interim Chief of Staff. Rouse was previously the President's chief of staff during the time the President served in the Senate. (See Exhibit U) On May 16, 2012, Emerson and Roche also met with Jon Carson, the head of the Office of Public Engagement. Carson had been national field director for the 2008 campaign. (Exhibit U) On November 13, 2012, Emerson and Roche met with Tina Tchen, the Chief of Staff for the First Lady. (See Exhibit U)

23. Peter Emerson now sits on the Board of Directors at RVUE, Inc., a company for which Roche joined the board a year earlier. Roche chairs RVUE's compensation committee and Emerson chairs its corporate governance committee. (See Exhibit T)

Evidence of Foreign Solicitations in a Context of Vulnerability to Fraud

24. As stated above the Obama Campaign was not required to disclose the identity of donors who gave less than \$200 in a campaign cycle; nor was it required to keep records of those who gave less than \$50. Circumstantial evidence that points to a flow of foreign donations through the redirect, obama.com, to the donate page for the official campaign website, barackobama.com, and directly to barackobama.com is of probative value and provides a sufficient basis for examination.

25. Starting in December 2011, the obama.com site redirected all traffic to a specific donation page on the official barackobama.com campaign website for ten months. The donation page on the official barackobama.com campaign website automatically loaded a tracking number, 634930, into a space on the website labeled "who encouraged you to make this donation." (See Exhibits V & W) That tracking number was embedded in the source code for obama.com and was a readily available and effective method by which the Obama Campaign could identify or segregate donations coming from obama.com. (See Exhibit W)

26. According to an industry leading web analytics sites Markosweb and Site Speedlabs, obama.com received approximately 68% of its traffic from foreign countries during the 2012 presidential campaign. (See Exhibit X) The main campaign website BarackObama.com received approximately 43% of its traffic from foreign IP addresses, according to Markosweb.com. (See Exhibit X)

27. An industry standard tool to prevent any fraudulent transactions, foreign or domestic, is the use of the Card Verification Value (CVV), the CVV, also known as the Card Security Code (CSC), CVV2, or Card Verification Number (CVN), is a three or four digit number generally imprinted on the back of the card. Its purpose is to verify that the person executing the purchase physically possesses the card. CVV is an automated system. If the automated system detects possible fraud, the vendor's system is notified of the anomaly, and the transactions are generally declined. (See Exhibits Y & AA)

Numerous industry authorities recommend the use of CVV as a standard anti-fraud tool, not the least of which is Cybersource, the vendor for the Obama Campaign's Visa transactions. The Obama Campaign did not use the CVV. (See Exhibit BB) The consequences of a campaign choosing not to use these industry-standard anti-fraud tools are considerable, especially when weighed against the relative ease with which they are installed and maintained. (See Exhibits Y, Z, & AA) The CVV is used not only by business, but also by governmental entities and non-profits for the precise purpose of reducing and substantially limiting fraudulent transactions. (See Exhibit CC) The CVV would have served as a strong deterrent against foreign and fraudulent donations and in fact was installed on the Obama Campaign's on-line store. (See Exhibit DD)

28. It has been demonstrated that large amounts of cash may be moved from a bank or credit card account in a very short period of time in less than \$50 increments using "robo-donor" technology. A "robo-donor," or robot donor, is a piece of software that will "attack" a point of purchase (in this case a donation page) with a list or database of credit card or account numbers that are either stolen, randomly produced using a random number generator, or obtained legitimately. Millions of dollars could conceivably be

moved in short periods of time using such technology. (See Exhibit EE) Robo donors were suspected in several instances of fraudulent donations to the Obama campaign in 2008. (Exhibit EE) Use of the CVV on the Obama Campaign's donate page would in large part prevent this sort of fraudulent transaction. Installing the CVV on the donate page is a one-click solution requiring little or no expense.

29. In 2012, the Obama Campaign responded to criticisms related to its apparent failure to use standard fraud prevention tools to weed out fraudulent transactions made using credit cards (see Exhibit FF). The Obama Campaign's response was as follows:

"Credit card contributions to Obama for America are, in fact, processed using AVS (Address Verification System)."

If a billing address is verified via AVS, then the credit card contribution is processed without delay. Some transactions caught by AVS may initially appear to a donor to have been accepted even though this is not the case. Obama for America employs a manual process to review any transaction flagged by AVS, also taking into account other fraud risk factors, and using fraud detection services provided by our credit card processor."

The Address Verification System (AVS) compares the numerical data in the address provided by the cardholder against the information held by the processor. This allows the vendor (or a campaign) to ask for a billing address (street number, apartment number, PO Box number, and zip code) associated with the card information, and check any numerical data in the address against the numerical information on file with the card issuer (Exhibit GG). Unlike the CVV, a website can be set to accept multiple degrees of error in the AVS. While AVS can be an extremely effective mechanism to detect discrepancies in reported addresses, it can be bypassed and rendered much less effective if the vendor utilizes a setting, which allows a broad degree of error to be tolerated (see Exhibit GG). Some card processors have up to 15 different settings, each of which allows varying degrees of error (see Exhibit GG). While all major U.S. credit card issuers are

AVS compliant, many foreign card issuers are not. To render AVS powerless to protect against donations from foreign nationals, a campaign could set it to accept all transactions generated by those whose credit cards are not AVS compliant. In other words, if the card being used is not AVS compliant and there is simply no information in the system to compare a potential address against, this setting will overlook that anomaly and the system will simply accept the transaction without question. Thus, it is apparent that mere use of the AVS is insufficient to block foreign donations that the Obama Campaign actively solicited.

30. There is significant evidence that obama.com has been used frequently in foreign online discussions and has been embedded in numerous foreign sites throughout the worldwide Internet. Between April, 2012 and November, 2012 a search for extant links to obama.com, using a technique commonly referred to as web spidering, found hundreds of links to Obama.com embedded on websites, the majority of which were sites with predominantly foreign traffic (see Exhibit HH).

31. On a Chinese language website hosted on Chinese servers, one of the users listed "obama.com" as his "home page" for his account. As a result, each post that he made on the discussion forum added another link to the website. While most of the users of the site may not have seen the link, every major search engine, foreign and domestic would see the links. In total 860 such links were created and visible to search engines during the 2012 presidential campaign (See Exhibit II).

32. A similar situation occurred on a South African website, where a commenter using the name Phillipa Lipinsky made numerous comments on a news website's comment section. In each of those comments, her name acted as a hyperlink directly to

obama.com. A commenter going by the same name, and using the same link, left a total of over 50 active links to obama.com on websites for South African newspapers. None of the websites where the comments appear cater to a predominantly US audience (see exhibit II).

33. A blog written in Pakistan, and dealing with generally Pakistani interests had a commenter who used the screen name "Obama" and whose name hyperlinked to obama.com on all of his comments (see Exhibit II).

34. A Romanian language website, hosted in eastern Europe that consists mostly of discussions of issues relating to the Romanian military, also has a commenter creating a dozen links to obama.com (See Exhibit II).

35. A Sri-Lankan hosted news website also contained in it's message board numerous comments with links to obama.com (See Exhibit II).

Value of Services and Foreign Donations Evidenced by Influence "Purchased"

36. Roche's business is Acorn International ("Acorn"). Roche co-founded Acorn (see Exhibit J). It is a corporation consisting of two other companies operating out of the Cayman Islands and the Virgin Islands respectively; each controlling numerous subsidiaries. Acorn labels this arrangement as "the Group." (See Exhibits JJ, KK, and MM) Acorn began trading on the New York Stock Exchange in 2007 (see Exhibit JJ). However, it conducts its business in China. Based in Shanghai, it primarily deals in infomercials, producing commercials selling cell phones, cosmetics, fitness equipment such as abdominal exercisers, language learning software, and other items on Chinese

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State television. (See Exhibit JJ) According to Acorn's original prospectus, issued when the company made its public offering of securities in May of 2007, the company had become "the largest TV direct sales operator in China," where it aired infomercials on "four nationwide China Central Television or CCTV, channels, 28 national [state controlled] TV channels, four international satellite channels operating in China and eight local channels." (See Exhibit JJ) By mid-2013 it had had acquired "other direct sales platforms and a nationwide distribution network...outbound telemarketing centers, e-commerce websites, and catalogs." (See Exhibit JJ). The "direct sales" are the heart of Acorn's business comprising between 66 % and 80 % of its business between fiscal 2010-2012. (see Exhibits JJ and KK)

37. Acorn's operations in China come under intense government scrutiny resulting in ongoing and severe business risk. From Acorn's SEC filings: "the PRC government extensively regulates the industries in which we operate our business. We operate our direct sales and advertising business under a legal regime consisting of the State Council, which is the highest authority of the executive branch of the PRC central government, and several ministries and agencies under its authority... We could not assure you that the PRC regulatory authorities would find that our corporate structure and our business operations comply with PRC laws and regulations. If the PRC government finds us to be in violation of PRC laws and regulations we may be required to pay fines and penalties, obtain certain licenses, approvals, or permits and change, suspend, or discontinue our business operations until we comply with applicable laws." (See Exhibit LL) Furthermore, legal relief in such an instance is uncertain and arbitrary. Penalties may even be retroactive. (See Exhibit LL) Finally, this uncertainty extends to Acorn's tax

liabilities. Should the PRC change the legal status of Acorn's Cayman Islands holding company its tax liability will jump 25 % to cite only one instance (See Exhibit LL). In short the company has a distinct interest in the good favor of the Chinese government.

38. These constraints require Acorn to operate in China through two Chinese companies that hold necessary licenses for its direct sales operations. (See Exhibit MM) Acorn controls the two firms, which it calls "Vertically Integrated Enterprises" or VIEs through a series of contractual agreements. (See Exhibit MM) Two Chinese nationals who are also senior Acorn Executives jointly own the two companies. Acorn maintains a no-interest, automatically renewing loan agreement with these two individuals valued at \$30.7 million. (See Exhibit MM) This entire arrangement is in turn at the regulatory mercy of the PRC. "If the current agreements that establish the structure for conducting the Group's [Acorn's] direct sales business were found to be in violation of existing or future PRC laws or regulations, the Group may be required to restructure its ownership structure and direct sales operations...which may affect the Group's financial position and cash flows related to these VIE structures." (See Exhibit MM) Finally, despite the fact that the VIE owners are Acorn executives, there is no guarantee that "when conflicts of interest arise, the two shareholders will act in the best interests of the Group...If the Group cannot resolve any conflicts of interest...the Group would have to rely on legal proceedings, which could result in the disruption of its business, and there is substantial uncertainty as to the outcome of any such legal proceedings" (See Exhibit MM)

39. Despite these extensive uncertainties and risks, Roche's confidence in Acorn and its relationship to the PRC government is such that he has chosen to nearly triple his interest in it. When the company issued its 2007 prospectus he owned approximately 16

% of the beneficially held stock. Today he owns over 46 % of the beneficially held stock.

(See Exhibit NN)

40. Roche was a co-chair of the Technology Initiative for the Obama Campaign, a group designed to raise money from and with the assistance of the Technology and Information industry. (See Exhibit K) He is a past president of the U.S. Chamber of Commerce in Shanghai. (See Exhibit OO) From 2007 to May 2012, Roche bundled a combined total of at least \$846,050 for the two campaigns. (See Exhibit K)

41. Roche has gained high-level access to the executive branch and visits the White House regularly. According to White House Visitors Log, Roche made nineteen visits since 2009, although he lives in China. (See Exhibit U) His visits have included:

- 12/21/2009: Private visit with President Obama in the Oval Office.
- 7/1/2009: Meeting with Catherine M Whitney, Executive Assistant to the Council of the President, in the West Wing.
- 7/27/2010: Meeting with Kristen J Sheehey, Deputy Chief of Staff, in the West Wing
- 9/27/2010: Meeting with John Holdren, Assistant to the President for Science, in the New Executive Office Building.
- 9/20/2011: Meeting with Pete Rouse, Assistant to the President, in the West Wing.
- 2/17/2011, 6/24/2011: Meetings with then White House Chief of Staff William Daley, in the West Wing. (See Exhibit U)

42. Roche's influence in both Beijing and Washington was clearly demonstrated from the seating arrangements at the 2011 State Dinner for Chinese President Hu Jintao at the White House. (See Exhibit U) In addition to President Obama and the First Lady, the head table where Roche was seated also included Secretary of State Hillary Clinton,

former President Bill Clinton, Senate Foreign Relations Committee Chairman Senator John Kerry and his wife Teresa Heinz Kerry, former President Jimmy Carter and former First Lady Rosalynn Carter, and then White House Chief of Staff William Daley. (See Exhibit U)

43. Acorn's board includes persons from some of the largest, most lucrative companies in China. Of special relevance are Baidu, which owns and operates an Internet search engine, and AliBaba Taobao, which owns and operates an e-commerce portal similar to E-Bay. (See Exhibit PP) Both of these companies were identified and designated by the United States Trade Representative's (USTR) Office as "notorious markets" actors for their violations of copyright and counterfeiting. Baidu was added to the list in 2006 and AliBaba Taobao was added to the "Notorious Markets" list in 2008. They remained on these lists as in the 2010 USTR report. (See Exhibit PP) The net result of such a designation is it damages business opportunities and relationships in the United States by increasing liability for existing and potential business partners in the United States because there is "notice" of a high potential for intellectual property theft due to the "notorious markets" designation. (See Exhibit PP)

44. On September 15, 2010 Roche was appointed to the Advisory Committee on Trade Policy and Negotiations (ACTPN) at USTR, a body directly involved in providing the information necessary to determine which foreign companies shall be designated as part of a "notorious market." (See Exhibit QQ) On April 7, 2011 the Vice President of Engineering at Baidu joined the Acorn's board. By December 2011, Baidu was removed from the infringing entity list. (See Exhibit RR) Subsequently a group vice president from AliBaba Taobao became president of Acorn's board in March of 2012. In

December of 2012, Alibaba Taobao was likewise removed from the infringing entity list.

(See Exhibit RR)

45. Roche's access to power and influence, which he has artfully turned to the benefit of his Chinese business associates, demonstrates the apparent value to the current administration of his fundraising efforts and more specifically the obama.com redirect.

Count I

46. Robert Roche violated 2 U.S.C. § 441 a (a) (1) (A) by knowingly and willfully providing an excessive in-kind contribution in the form of the purchase of obama.com and provided a redirect link to the donate page for the Obama Campaign.

Count II

47. Obama for America and Martin H. Nesbitt as its Treasurer; the Obama Victory Fund and Andrew Tobias as its Treasurer; and the Obama Victory Fund 2012 and Ann Marie Habershaw as its Treasurer, violated 2 U.S.C. §§ 434 (b) and 441 a (a) (1) (A) by knowingly and willfully accepted and failed to disclose an excessive in-kind contribution from Robert Roche who purchased and maintained obama.com providing a redirect link to the donate page for the Obama Campaign.

Count III

48. Robert Roche, Wicked Global, Derek Dorr, and/or unknown persons knowingly and willfully created and maintained obama.com as an instrument of solicitation in knowing disregard of the prohibition on solicitation from foreign nationals in violation of

2 U.S.C. § 441 e (a) (2) by providing a redirect connection to the donate page for the Obama Campaign effectively driving what was known to be primarily foreign traffic to the donate page.

Count IV

49. Robert Roche, Wicked Global, Derek Dorr, and/or unknown persons knowingly and willfully provided “substantial assistance in the solicitation, making, acceptance or receipt of” contributions from foreign nationals in violation of 2 U.S.C. § 441 e (a) (2) and Title 11 Code of Federal Regulations (C.F.R.), §101.20.

Count V

50. Obama for America and Martin H. Nesbitt as its Treasurer; the Obama Victory Fund and Andrew Tobias as its Treasurer; and the Obama Victory Fund 2012 and Ann Marie Habershaw as its Treasurer, violated 2 U.S.C. § 441 e (a) (2) and Title 11 Code of Federal Regulations (C.F.R.), §101.20 by knowingly and willfully accepted and received prohibited contributions from foreign nationals through the obama.com redirect site.

Count VI

51. The Obama for America and Martin H Nesbitt as its Treasurer; the Obama Victory Fund and Andrew Tobias as its Treasurer; and the Obama Victory Fund 2012 and Ann Marie Habershaw as its Treasurer, violated 2 U.S.C. § 441 e (a) (2) and Title 11 Code of Federal Regulations (C.F.R.), §101.20 by knowingly and willfully solicited, accepted, and received prohibited contributions from foreign nationals directly through the Obama Campaign donate page.

CONCLUSION

WHEREFORE, Complainants request the FEC conduct a thorough investigation into these allegations, declare the respondents to have violated the Federal Election Campaign Act and applicable FEC regulations, impose sanctions, and take such further action as may be appropriate, including, but not limited to referring any respondent who is determined to have acted knowingly and willfully, to the Department of Justice for criminal prosecution.

While no person can be held accountable under the law for violations he or she is powerless to prevent, or for violations of which a person had no knowledge, the law recognizes that to permit meaningful enforcement a person can not escape responsibility for a crime by deliberately ignoring facts and circumstances that would lead a reasonable person to conclude that a crime is most likely being committed. *See* 11 CFR

110.20(a)(4)(ii). The FEC regulations make it clear that a campaign official cannot avoid criminal culpability by ignoring facts that would lead a reasonable person to inquire whether foreign nationals are contributing funds to the campaign. *See* 11 CFR

110.20(a)(5). FEC regulations specifically state the following:

“(4) *Knowingly* means that a person must:

(i) Have actual knowledge that the source of the funds solicited, accepted or received is a foreign national;

(ii) Be aware of facts that would lead a reasonable person to conclude that there is a substantial probability that the source of the funds solicited, accepted or received is a foreign national; or

(iii) Be aware of facts that would lead a reasonable person to inquire whether the source of the funds solicited, accepted or received is a foreign national, but the person failed to conduct a reasonable inquiry.

(5) For purposes of paragraph (a)(4) of this section, pertinent facts include, but are not limited to:

(i) The contributor or donor uses a foreign passport or passport number for identification purposes;

(ii) The contributor or donor provides a foreign address;

(iii) The contributor or donor makes a contribution or donation by means of a check or other written instrument drawn on a foreign bank or by a wire transfer from a foreign bank; or

(iv) The contributor or donor resides abroad.

No political candidate in American history can match the technological sophistication, reach, or capability of the Obama Campaign. Because knowledge and intent are states of mind, such are almost never susceptible of direct proof, and invariably must be shown by circumstantial evidence. For this reason, the courts have long recognized that one may prove knowledge and intent by showing that under all the circumstances a reasonable person would be on notice that a crime is being committed. Moreover, persons whose greater expertise and sophistication make them better able to discern the likely outcome of their actions or omissions are less able to convincingly disclaim such knowledge. It strains credulity to believe that so many probable foreign nationals received direct solicitation from the Obama Campaign without its knowledge when the system had been so successful in identifying detailed characteristics of eligible voters and contributors. Nor does it seem plausible that with the advanced systems and talent employed by the Obama Campaign that it could not have distinguished and avoided the flood of direct solicitations of probable foreign nationals.

Furthermore, the pervasive presence of embedded links to obama.com throughout the world is of concern. The majority of the Internet discussions that include links to

obama.com, rather than the official website, have originated on foreign soil. While these links can be seen as innocuous, the presence of such links on foreign servers, and the resultant predominantly non-US traffic suggest that a reasonable person would question the eligibility of the foreign traffic redirected through the site for the sole purpose of making donations to a United States of America presidential campaign.

Finally, if the FEC is to operate with the same degree of diligence, as it requires of those it regulates, it is compelled by the evidence to conduct a thorough investigation of these matters. The Obama Campaign chose not to use industry-standard anti-fraud tools. There is no discernable or intellectually honest purpose for rejecting the use of these tools other than to allow fraudulent donations. There is evidence that Robert Roche purchased and provided for the creation, development, hosting, maintenance and administration of a domain and website which existed for the sole purpose of providing a redirect to the donate page for the Obama Campaign. There is evidence that Roche, his Chinese business associates and his unknown constituents obtained significant access to the Whitehouse and favorable treatment for business interests in China.

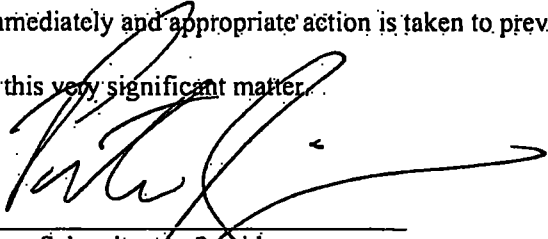
Certainly these are "... facts that would lead a reasonable person to inquire whether the source of the funds solicited, accepted or received is a foreign national..." At the very least the FEC should "conduct a reasonable inquiry" and investigation into these matters.

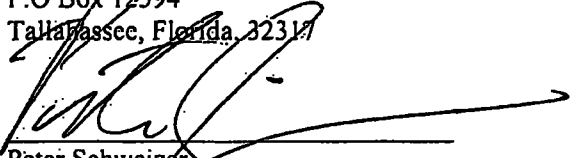
Arguably the integrity of our elections is at substantial risk for interference from those not sharing the interest of the citizens of this country. The Court in *Buckley v. Valeo*, emphasizes the need to protect the integrity of our election process when it states, “Under a system of private financing of elections, a candidate lacking immense personal or family wealth must depend on

financial contributions from others to provide the resources necessary to conduct a successful campaign. The increasing importance of the communications media and sophisticated mass-mailing and polling operations to effective campaigning make the raising of large sums of money an ever more essential ingredient of an effective candidacy. To the extent that large contributions are given to secure political quid pro quo's from current and potential office holders, the integrity of our system of representative democracy is undermined. Although the scope of such pernicious practices can never be reliably ascertained, the deeply disturbing examples surfacing after the 1972 election demonstrate that the problem is not an illusory one. Of almost equal concern as the danger of actual quid pro quo arrangements is the impact of the appearance of corruption stemming from public awareness of the opportunities for abuse inherent in a regime of large individual financial contributions. ...Here, as there, Congress could legitimately conclude that the avoidance of the appearance of improper influence 'is also critical... if confidence in the system of representative Government is not to be eroded to a disastrous extent.'" *(citations and footnotes omitted)*

While donations under \$200.00 do not meet regular reporting requirements such donations cannot be from foreign nationals whether reported or not reported. The proper investigation of these matters requires that the FEC review all donations less than \$200.00 received by the Obama Campaign. With the advanced technology at its disposal the Obama Campaign should have little or no difficulty in providing this information necessary for a proper investigation. The Complainant's have been significantly impacted by the worldwide solicitation of foreign nationals and what appears to have been an influx of foreign money.

Therefore, Complainant's hereby request that an investigation is commenced immediately and appropriate action is taken to prevent the spoliation of evidence related to this very significant matter.

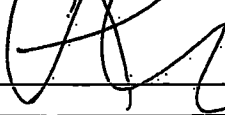

Peter Schweizer as President
Government Accountability Institute
P.O Box 12594
Tallahassee, Florida, 32317


Peter Schweizer
Government Accountability Institute
P.O Box 12594
Tallahassee, Florida, 32317

STATE OF FLORIDA
COUNTY OF LEON

Sworn to (or affirmed) and subscribed before me this 8th day of JAN, 2014, by
Peter Schweizer in his individual capacity and as President of Government
Accountability Institute.

(NOTARY SEAL)





STEVEN E. SELLERS
MY COMMISSION # EE 104455
EXPIRES: October 17, 2015
Bonded Thru Budget Notary Services

Personally Known ☒ OR Produced Identification ☐

Type of Identification

Produced _____

LIST OF EXHIBITS

1. Exhibit A – Documentation of campaign treasurers named in Complaint
2. Exhibit B – Examples/Screenshots of Foreign Solicitations by the Official Campaign
3. Exhibit C – Documentation of donations less than \$200 for 2008 Obama Campaign
4. Exhibit D – Documentation of donations less than \$200 for 2012 Obama Campaign
5. Exhibit E – 2012 Obama Digital Campaign Expertise Overview
6. Exhibit F – Specificity of the 2012 Campaign's Targeting System
7. Exhibit G – 2012 Campaign Digital/Technology Roster
8. Exhibit H – List of 392 OFA owned Domains
9. Exhibit I – Obama.com registration/ownership history
10. Exhibit J – Roche's business history in Shanghai
11. Exhibit K – Roche's Bundling/FR for Obama campaign; Emerson's Bundling/FR for Obama campaign.
12. Exhibit L – Daily Beast article documenting Roche's claim of obama.com ownership in 2012 election.
13. Exhibit M – Documentation of obama.com valuation estimations
14. Exhibit N – Obama.com hosting history (DNS servers, IP addresses)
15. Exhibit O – Obama.com administrative e-mail history
16. Exhibit P – Documentation of Wicked Global administrative e-mail for obama.com
17. Exhibit Q – Comparative Hosting/IP address records for obama.com and other Wicked Global sites.
18. Exhibit R – Wicked Global officers, incorporation, etc.
19. Exhibit S – Shared Google Analytics account between obama.com and other Wicked Global Sites
20. Exhibit T – Documentation of common background between Peter Emerson of Harvard, and Derek Dorr, president of Wicked Global. Also documents Emerson's connection to Roche via RVUE Holdings.
21. Exhibit U – Roche's White House meetings & prominent attendance at China State Dinner. Joint Roche/Emerson White House Meetings.
22. Exhibit V – Screenshot History for obama.com (where it was redirecting to at relevant points in time)
23. Exhibit W – Documentation of Source Code on obama.com with attention to the 634930 tracking number
24. Exhibit X – Web Traffic History for obama.com (including foreign traffic ratios from SiteSpeed Labs and Markosweb). Includes OFA main site traffic numbers for comparison.
25. Exhibit Y – Concerning CVV usage: using information from Cybersource's 2012 Fraud Report
26. Exhibit Z – Concerning CVV usage: using information from Visa promotional document
27. Exhibit AA – Concerning CVV usage: using information from a Visa fraud prevention handbook

28. Exhibit BB – Documentation 2012 campaign didn't use CVV
29. Exhibit CC – Documentation of CVV usage by Federal/State Governments and major non-profits.
30. Exhibit DD – Documentation of OFA 2012 CVV usage for merchandise
31. Exhibit EE – Documentation of potential "Robo-Donor" problems with online campaign donations.
32. Exhibit FF – Documentation of AVS issue using material from Powerline Blog and Rick Hazen's Election Law Blog
33. Exhibit GG – Documentation of technical aspects of AVS issue, primarily using Visa fraud handbook.
34. Exhibit HH – Documentation of Backlink Searches related to obama.com
35. Exhibit II – obama.com foreign links screenshots
36. Exhibit JJ – Exhibit on Acorn's business model and market (location in Shanghai, advertising, infomercials etc.)
37. Exhibit KK – Documentation of Acorn's complex business structure (Caymans, Virgin Islands, etc). Also documents the \$30.7M "loan agreements" with the two Chinese nationals
38. Exhibit LL – Acorn's extensive regulatory and tax scrutiny
39. Exhibit MM – Acorn's dependence (and vulnerability concerning) the "Vertically Integrated Entities" (VIEs) owned by the two Chinese persons the company granted the "loan agreements."
40. Exhibit NN – Documentation of Roche's increasing interest (in beneficial stock) in Acorn from the company's 2007 public offering to 2012.
41. Exhibit OO – Roche's role as President of American Chamber of Commerce, Shanghai
42. Exhibit PP – Baidu and Taobao on infringing entities list maintained by USTR
43. Exhibit QQ – Roche's appointment to and work with the USTR's Advisory Committee on Trade Partnership and Negotiation (ACTPN).
44. Exhibit RR – Documentation of Jing Wang (Baidu) and Peng Lu (Taobao) joining Acorn's board and subsequent Baidu and Taobao "de-listing" of those companies from the USTR's "notorious markets" list.

EXHIBIT A

Through documentation on file with FEC, Establishes Andrew Tobias...et al as
Treasurers of Obama for America, the Obama Victory Fund, and the Obama Victory
Fund 2012, respectively:

SUMMARY

5. Covering Period 06/01/2012 Through 06/30/2012

6. Cash on Hand at BEGINNING of the Reporting Period	109,718,115.12
7. Total Receipts This Period	45,912,739.72
8. Subtotal (6 + 7)	155,630,854.84
9. Total Disbursements This Period	58,094,115.75
10. Cash on Hand at CLOSE of the Reporting Period	97,536,739.09
11. Debts and Obligations Owed TO the Committee	0.00
Itemize all on SCHEDULE C or SCHEDULE D	
12. Deb's and Obligations Owed BY the Committee	2,381,373.50
Itemize all on SCHEDULE C or SCHEDULE D	
13. Expenditures Subject To Limitation	0.00
14. NET Contributions (Other than Loans)	223,055,018.34
15. NET Operating Expenditures	255,437,845.95

Treasurer: Martin H. Nesbitt
Date Signed: 06/17/2013
(End Summary, FEC FORM 3P)

DETAILED SUMMARY

Of Receipts And Disbursements

	Column A This Period	Column B Election Cycle-To-Date	Column C
--	-------------------------	---------------------------------------	----------



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MS-K

January 16, 2013

ANDREW TOBIAS, TREASURER
OBAMA VICTORY FUND
430 SOUTH CAPITOL STREET SE
WASHINGTON, DC 20003

IDENTIFICATION NUMBER: C00451393

REFERENCE: TERMINATION REPORT (11/14/2009 - 11/30/2009)

Dear Treasurer:

Your committee's filing has been accepted as a valid termination as it meets the conditions set forth in 2 U.S.C. §433(d) and Section 102.3 of the Commission's Regulations. Your committee is no longer required to file reports on a periodic basis. However, 2 U.S.C. §432(d) and Sections 102.9(c) and 104.14(b)(3) of the Commission's Regulations require that you maintain your records and copies of reports for inspection for at least three (3) years. In addition, you may be required to respond to Commission requests for information regarding your committee's federal election activity and previously filed reports.

If your committee again becomes active in federal elections, it will be required to re-register with the Commission in accordance with the Federal Election Campaign Act and applicable Regulations. Your committee will be treated as a new entity by the Commission and should register as a new committee on FEC FORM 1, pursuant to 2 U.S.C. §§432(g) and 433(a).

If you have any questions concerning your status and requirements, please contact the Reports Analysis Division on the toll-free number, (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division). My local number is (202) 694-1164.

Sincerely,

A handwritten signature in cursive script that reads "Nicole Miller".

Nicole Miller
Senior Campaign Finance Analyst
Reports Analysis Division

COMMITTEE DETAILS FOR COM...

COMMITTEE DETAILS FOR COM...

images.nictusa.com/cgi-bin/fec/mg/C00494740



FEDERAL ELECTION COMMISSION

HOME / CAMPAIGN FINANCE DISCLOSURE PORTAL / CANDIDATE & COMMITTEE / COMMITTEE DETAILS

Reports Image Index for Committee ID: C00494740

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OBAMA VICTORY FUND 2012

PO BOX 8102
CHICAGO, IL 60680

Treasurer Name: ANN MARIE HABERSHAW
Committee Designation: JOINT FUND RAISER
Committee Type: N (NON-PARTY NON-QUALIFIED)
Candidate State: 00 (Presidential Candidate)

CANDIDATE:
OBAMA, BARACK ID: P80003338

Candidate listings may appear here as a result of draft committees or independent expenditure committees registering with the FEC. If no official documents of an authorized committee appear below, the individual identified here has taken no action to become a candidate.

Click here if you have a problem viewing the images.
NOTE: Images are best viewed using the latest version of Adobe Reader.

Year 2013

1-260844-051

60

As reported in the Washington Post, the Obama Campaign raised some \$500 million online in 2008: <http://voices.washingtonpost.com/44/2008/11/obama-raised-half-a-billion-on.html>.

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Obama Raised Half a Billion Online

By Jose Antonio Vargas

Barack Obama raised half a billion dollars online in his 21-month campaign for the White House, dramatically ushering in a new digital era in presidential fundraising.

In an exclusive interview with The Post, members of the vaunted Triple O, Obama's online operation, broke down the numbers: 3 million donors made a total of 6.5 million donations online adding up to more than \$500 million. Of those 6.5 million donations, 6 million were in increments of \$100 or less. The average online donation was \$80, and the average Obama donor gave more than once.

"You looked at the money being raised online in the same way that you looked at the crowds who came to the rallies," Joe Rospars, the 27-year-old director of Obama's new-media department, told The Post. "You were constantly surprised at the number of people who were coming out to see him," and, when it came to online donations, "people exceeded our expectations as to what they were willing to do."

Obama also raised millions from traditional campaign bundlers — rich, well-connected fundraisers — but the bulk of the more than \$600 million that Obama raised throughout the campaign was through the Internet, aides said. (Some of those bundlers, of course, also arranged for donations to be made online, so there is some overlap.)

In September, his single biggest month of fundraising, Obama amassed more than 65 percent of his record-shattering haul — \$100 million of the \$150 million — from online donations, aides said. After Alaska Gov. Sarah Palin dismissed the value of community organizing in her acceptance speech at the Republican National Convention on Sept. 3 — "I guess a small-town mayor is sort of like a community organizer, except that you have actual responsibilities," she said to applause — Obama raised \$10 million within 24 hours.

Linnie Frank Bailey, a 52-year-old mother of two in Riverside, Calif., is such a donor. In the past two years, she gave a total of \$120.40, mostly in \$10 increments. She made her last \$10 online donation two days before the election.

The campaign's use of e-mail, text messages and social networking sites, also called "socnets," has been closely watched by technocrats, strategists and OPOs — the online political operatives who stand to benefit from Obama's unprecedented online success. Here are some more specific figures from the campaign:

Obama's e-mail list contains upwards of 13 million addresses. Over the course of the campaign, aides sent more than 7,000 different messages, many of them targeted to specific donation levels (people who gave less than \$200, for example, or those who gave more than \$1,000). In total, more than 1 billion e-mails landed in inboxes. (Four years ago, Sen. John F.

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- Angle attacks Reid over 'coked-up stimulus monkeys'
- Bristol and Levi break up again
- Obama signs Fair Sentencing Act

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- 2010 Election
- Barack Obama
- Capitol Briefing
- Daily Dose
- Dan Batz's Take
- Eye on 2012
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Kerry had 3 million e-addresses on his list; former Vermont governor Howard Dean had 600,000.)

A million people signed up for Obama's [text-messaging program](#). On the night Obama accepted the Democratic nomination at Invesco Field in Denver, more than 30,000 phones among the crowd of 75,000 were used to text in to join the program. On Election Day, every voter who'd signed up for alerts in battleground states got at least three text messages. Supporters on average received five to 20 text messages per month, depending on where they lived — the program was divided by states, regions, zip codes and colleges — and what kind of messages they had opted to receive.

On [MyBarackObama.com](#), or MyBO, Obama's own social, 2 million profiles were created. In addition, 200,000 offline events were planned, about 400,000 blog posts were written and more than 35,000 volunteer groups were created — at least 1,000 of them on Feb. 10, 2007, the day Obama announced his candidacy. Some 3 million calls were made in the final four days of the campaign using MyBO's virtual phone-banking platform. On their own MyBO fundraising pages, 70,000 people raised \$30 million. The campaign even set up a grassroots finance committee that was inspired by the national finance committee's high-dollar bundlers. In the grassroots committee, though, supporters were trained to collect small-dollar donations from their friends, relatives and co-workers.

Obama has 5 million supporters in other socials. He maintained a profile in more than 15 online communities. Including BlackPlanet, a MySpace for African Americans, and Eons, a Facebook for baby boomers. On Facebook, where about 3.2 million signed up as his supporters, a group called [Students for Barack Obama](#) was created in July 2007. It was so effective at energizing college-age voters that senior aides made it an official part of the campaign the following spring. And Facebook users did vote: On Facebook's [Election 2008](#) page, which listed an 800 number to call for voting problems, more than 5.4 million users clicked on an "I Voted" button to let their Facebook friends know that they made it to the polls. (Talk about [online peer pressure](#).)

No other major campaign this cycle put technology and the Internet at the heart of its operation at this scale. Inevitably, the scope of the operation was the envy, if not outright obsession, of other campaigns. "It doesn't matter if you're a Republican or a Democrat, if you care about how technology has changed campaigning, you watched what they were doing," said Mindy Finn, who worked on President Bush's eCampaign team in 2004 and supervised Mitt Romney's online strategy. Rospars reported directly to David Plouffe, the campaign manager — most Internet directors did not have that kind of relationship — and his work was promoted by Julius Genachowski, a longtime friend of Obama who served as the campaign's chief technology advisor.

Genachowski now sits on Obama's transition team and is rumored to be the top candidate for the post of national chief technology officer, a forthcoming Cabinet-level position in the Obama White House. While other campaigns employed Internet teams — including Sens. Hillary Clinton and John McCain — none had the resources of Rospars, who had a staff of at least 13 during the early months of the primaries. That number consistently grew during the general campaign, though exactly by how many — some speculate upwards of 30 — he continues to decline to say.

What is known is that Rospars had a design team that developed content for [BarackObama.com](#), as well as staffers who scoured the Web, then peppered it with ads to drive people to the site. (For Obama supporters on Facebook, it was nearly impossible to be on the site at any given moment and not see an Obama ad.) A critical group known as the "analytics team" measured everything that went in and out of the site — tracking which ad at what time drew the most traffic and what kinds of e-mails from the campaign got opened and read most.

(If the site was the car, the analytics team served as its mechanic, tuning and tweaking as needed in a 24-hour online cycle. Usually, campaigns hire outside vendors to do all this work. Not Obama, whose campaign mirrored a Silicon Valley start-up.)

Genachowski, whom Triple O staffers such as Scott Goodstein, 34, refer to as "the godfather," set up the multifaceted digital operation. In early 2007, Genachowski brought in Rospars, who co-founded his own online consulting firm and worked on Dean's online-fueled campaign, to be the campaign's new media director, and Kevin Malover, a veteran of online travel agency Orbitz, to be chief technology officer. In an interview in May 2007, Genachowski told us: "We may be the only campaign with a full-time chief technology officer." While Rospars was in charge of the entire political operation, Malover helped build software and took care of integrating data and voter files.

"The technology now has made it a lot easier for everyday people to participate. It's made it easier for campaigns, too. The technology allows us to build a platform and see if people come," said Genachowski.

And come they did.

The big question now is, how will all this online energy translate in the Obama White House? Change.gov, his transition site, went up two days after he was elected, though with a bit of a glitch. Last Friday, his team announced that his radio address will also be videotaped and archived on YouTube. Yesterday, Plouffe sent an e-mail with the subject line that read: "Where we go from here." With the inauguration just 61 days away, the transition team sent a detailed, four-page survey asking supporters for their input into how the Obama administration should move forward.

It's volunteer-centric: After filling out their demographic and contact information, supporters are asked whether they'd like to volunteer in their communities (and how many hours they're willing to put in) and instructed to check off the issues that they are most interested in.

Chris Hughes, 24, one of the youngest members of Triple O, told The Post: "What we've learned from this campaign is that there's huge potential for people that haven't been involved in politics to discover that, yes, this is something that impacts me. Even before I joined the campaign, the fundamental premise was to help put the political process into people's own hands. That was the value from the start of the campaign, that was the value at the end of the campaign, and it's not going away."

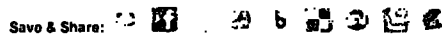
This is one in a series of online columns on our growing "clickocracy," in which we are one nation under Google, with e-mail and video for all. Please send suggestions, comments and tips to vargasj@washpost.com.

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<http://obama20marketing.blogspot.com/2008/11/how-obama-08-campaign-embraced-internet.html>

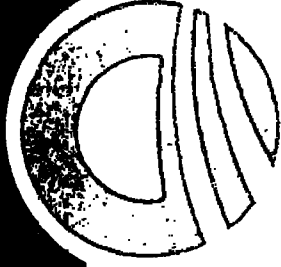
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He raised illegal contributions. You don't believe me? Go here: <http://blog.jeluo.com/?p=1233>

This is a Kenyan blog with requests for donations. If you search the Kenyan press you can find many more examples of these illegal requests. The man needs to be investigated by the FEC.

Engage DC, a consulting firm run by noted Republican strategist Patrick Ruffini produced this report: <http://www.engagedc.com/inside-the-cave/> . It details fundraising numbers and much else.

INSIDE THE CAVE



**An In-Depth Look at the Digital, Technology, and
Analytics Operations of Obama for America**



The Results: 2008 vs. 2012

	2008	2012
Total Raised Online	\$500M	\$690M
Donors	3.95M	4.4M
Average Per Donor	\$126	\$156

During the entirety of that election cycle the campaign raised over \$300 million in contributions under the \$200 mark, or approximately half its total contributions:
http://articles.washingtonpost.com/2008-11-13/opinions/36779099_1_small-donors-presidential-race-campaign-finance-institute

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The \$200 Campaign Finance Fix

By Fred Wertheimer, November 13, 2008

The presidential public financing system, created in 1974 in the wake of the Watergate scandal, has served the country well for most of its existence. The system became outdated and outmoded, however, as Congress failed for more than three decades to modernize it. Today it is no longer viable.

Luckily, the pathway to the future, and to a revitalized public financing system, has been provided by President-elect Barack Obama. First, there is Obama's astonishing breakthrough in raising small contributions on the Internet. He has also recognized the need for a new presidential public financing system, stating in June that he was "firmly committed to reforming the system as president." His campaign reiterated this commitment on Oct. 31.

A recent USA Today-Gallup Poll found "wide support for public financing of presidential campaigns," noting that more than 70 percent of respondents supported public financing for presidential elections and that only one in five said the system should be eliminated.

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While the number of people using the tax-form check-off to fund the public financing system has shrunk over the years, the check-off results are not a poll. They do not indicate whether citizens believe the country needs the presidential public financing system. The answer to that question lies in real polls such as the one cited above.

During his campaign, Obama raised more than \$300 million in contributions of \$200 or less through mid-October, according to the Campaign Finance Institute, with most of those donations coming in online. (This total includes multiple small contributions made by a donor

that aggregated to more than \$200.)

His remarkable success, however, was the exception in the presidential race; for other major candidates, bundlers and the larger contributions they raised were the rule.

Obama himself raised more than \$200 million in contributions of \$1,000 and more, with bundlers playing the principal role in soliciting these funds. Nevertheless, Obama's breakthrough in small-donor Internet fundraising provides the path to a future in which small donors become the main source of private contributions for presidential candidates.

Internet fundraising promotes democracy. It allows candidates to raise large amounts of small, broad-based contributions -- not those that are tied to influence-seeking -- at almost no expense and with little or no time required from the candidates. It increases citizen involvement in the political process.

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We should build on this opening by implementing four measures to create a new public financing system that presidential candidates would again see as advantageous.

• *Move the small donor to center stage for all candidates.* Presidential primary candidates should receive a match of \$4 in public funds for each dollar raised, up to a maximum of \$200 per donor, with no matching funds provided for contributions from a single donor that aggregate to more than \$200. This would create powerful incentives for donors to give and candidates to raise small donations online. A \$200 contribution, matched 4 to 1, would become just as valuable as a \$1,000 contribution, and the importance of bundlers would significantly diminish.

• *Provide realistic spending limits.* Presidential candidates stopped using the public financing system when the spending limits failed to reflect the costs of a modern campaign. Realistic spending limits remain important, however, to prevent arms-race fundraising and to constrain the role of bundlers and influence-money in presidential elections.

The spending limits in the current system should be increased for the primary and general elections from current levels -- \$50 million and \$84 million, respectively -- to \$250 million per election. This should be accompanied by an exemption from the spending limits for aggregate contributions of \$200 or less per donor to further increase the importance of small donors and to provide candidates with greater flexibility to meet the costs of their campaigns.

• *Reduce the individual contribution limit.* A presidential candidate who participates in the primary system should have to abide by a lower contribution limit than the existing maximum, \$2,300 per individual, to take effect once the candidate has raised a threshold amount of seed money to get started. Under this approach, the relative importance of \$200 contributions would be further increased, and the importance of bundlers further reduced.

• *Close the loophole for joint fundraising committees.* This year, both major-party presidential nominees used candidate and party joint fundraising committees to skirt the limits on contributions to candidates. John McCain solicited contributions of as much as \$70,000 per individual and Obama of as much as \$30,800 per individual for these committees; they raised \$177 million and \$172 million, respectively, according to Public Citizen.

To donors, limited by law to giving \$2,300 per candidate per election, contributions to joint committees are equivalent to making the much larger contribution directly to candidates. To end this circumvention, candidates should be prohibited from setting up joint candidate-party fundraising committees.

Public financing is an optional system, and one we need to improve. Presidential candidates ought to have the choice of running competitive campaigns based on small contributions and public funds rather than having to rely on bundlers, special interests and larger contributions.

The writer is president of Democracy 21, a nonpartisan public policy organization. This column is the second in an occasional series on policy issues facing the Obama administration.

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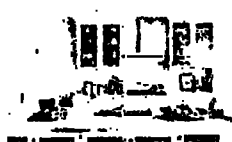
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EXHIBIT D

Documentation from FEC record of donations under \$200 received by Obama For America during the 2012 election cycle

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The Obama campaign and its affiliated committees raised \$690 million online in 2012.

<http://swampland.time.com/2012/11/15/exclusive-obamas-2012-digital-fundraising-outperformed-2008/>



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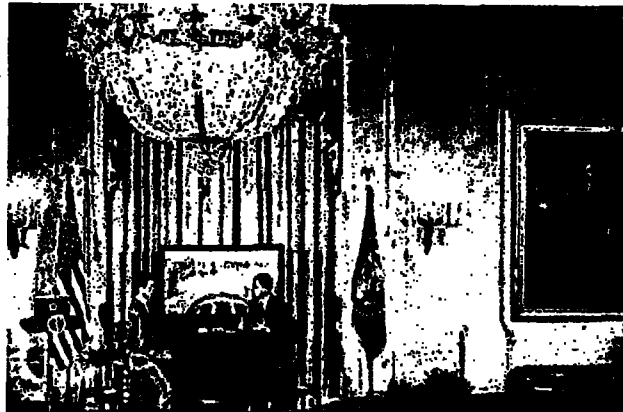
Exclusive: Obama's 2012 Digital Fundraising Outperformed 2008

By Michael Scherer @michaelscherer Nov. 15, 2012 27 Comments

Nearly a year ago, Barack Obama's campaign manager Jim Messina took to YouTube with an expletive-laden post-holiday message for supporters. "People have speculated that this is a billion dollar campaign," Messina said. "That's bull—." And he meant it, at the time.

But when the final numbers are counted, Obama's aides now expect more than \$1 billion dollars to have been raised by the 2012 campaign and its affiliated party committees, breaking the 10-figure milestone for the first time in history. The reason is simple: the campaign brought in more small-dollar fundraising through email, social media, mobile and its website during the final months of the race than initially projected.

In total, according to new campaign calculations acquired exclusively by TIME, the Obama team raised about \$690 million digitally in 2012, up from about \$500 million in 2008, according to a senior campaign adviser. That number includes all contributions that were given electronically, including some donations that were generated by high-dollar fundraisers but logged through the website.



Brendan Smialowski / Getty Images

Twitter co-founder and Executive Chairman Jack Dorsey listens while President Barack Obama speaks during an online Twitter town hall meeting from the East Room of the White House July 6, 2011 in Washington, DC.

(MORE: The 2012 Money Race: Romney Relies on Big Donors, While Obama Taps the Grassroots)

When counting only fundraising that was initially generated by digital efforts, including email, social media, mobile and the website, the 2012 campaign raised \$504 million, up from \$403 million in 2008. Much of that digital campaign cash came in the final months of the campaign. September 2012, for instance, was a better month than September 2008 online. And in October 2012, when there was significant voter excitement and anxiety generated by the presidential debates, digital fundraising increased on a month-over-month basis, instead of decreasing as it did in 2008. The total number of donors to the campaign also increased in 2012, the adviser said. In all, 4.4 million individuals gave to the Obama re-election bid, up from 3.95 million in 2008.

This success runs counter to the conventional wisdom, which held that Obama's re-election campaign would struggle mightily to approach the enormous grassroots enthusiasm of his first presidential run. It is also a testament to the campaign's leadership, including Messina, who invested heavily in digital efforts early, and the campaign's digital team, run by Teddy Goff, Marie Ewald and Blue State Digital's Joe Rospars, who were able to fine-tune their tactics and techniques for raising money electronically. It may also suggest that

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American voters over the last four years have become more comfortable with the idea of giving small amounts of money to a presidential campaign online.

Here are some other digital milestones that the 2012 campaign has been celebrating, according to the senior adviser who spoke with TIME:

-The number of likes on Facebook pages for the campaign, including everyone from the President to Michelle Obama to Joe Biden, increased from 19 million to 45 million over the course of the race. The number of Twitter followers increased from 7 million to 23 million. Partly as a result, an image of President Obama embracing his wife, which was tweeted and shared over Facebook on Election Night, became the most shared pieces of content in both social networks' histories. As of today, the Facebook photo has more than 4.4 million likes, and has been shared more than 582,000 times. President Obama's interview on the social site Reddit gave the aggregator the biggest traffic spike in its history.

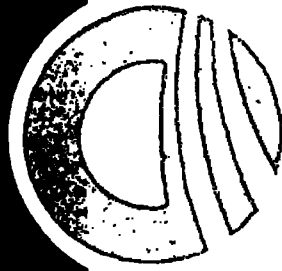
-The campaign's new social network for supporters, Dashboard, organized more than 358,000 offline events over the course of the campaign. There were 1.1 million RSVPs for those events.

-More than 1 million people downloaded the campaign's Facebook App, which allowed the campaign to overlay its own voter files with the friend networks of its supporters. In the final weeks of the campaign, the campaign used this information to ask its supporters to directly contact their friends who were targeted voters in key swing states via Facebook, with specific requests for everything from voting early to watching a specific persuasion video. In all, more than 600,000 supporters shared items with an estimated 5 million individual targets through this system. The exact number of people reached, however, is not known; traffic on the system was so high on Election Day that logs of voter activity were taken offline to free up server space.

LIST: Six Things We Learned from Obama's Facebook Timeline

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**An In-Depth Look at the Digital, Technology, and
Analytics Operations of Obama for America**

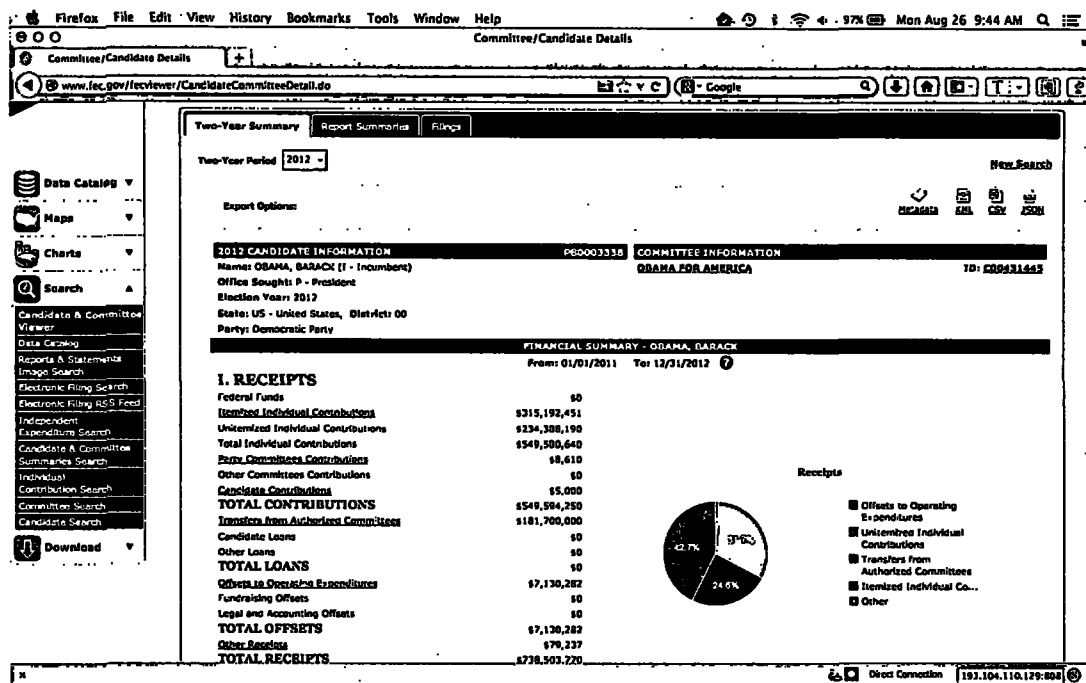


2008 vs. 2012

The Results: 2008 vs. 2012

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Of the campaign's receipts registered with the FEC some \$234 million were un-itemized contributions out of total receipts totaling \$738 million.



The Obama Victory Fund 2012 raised 94,970,020 in un-itemized contributions during the 2012 election cycle.

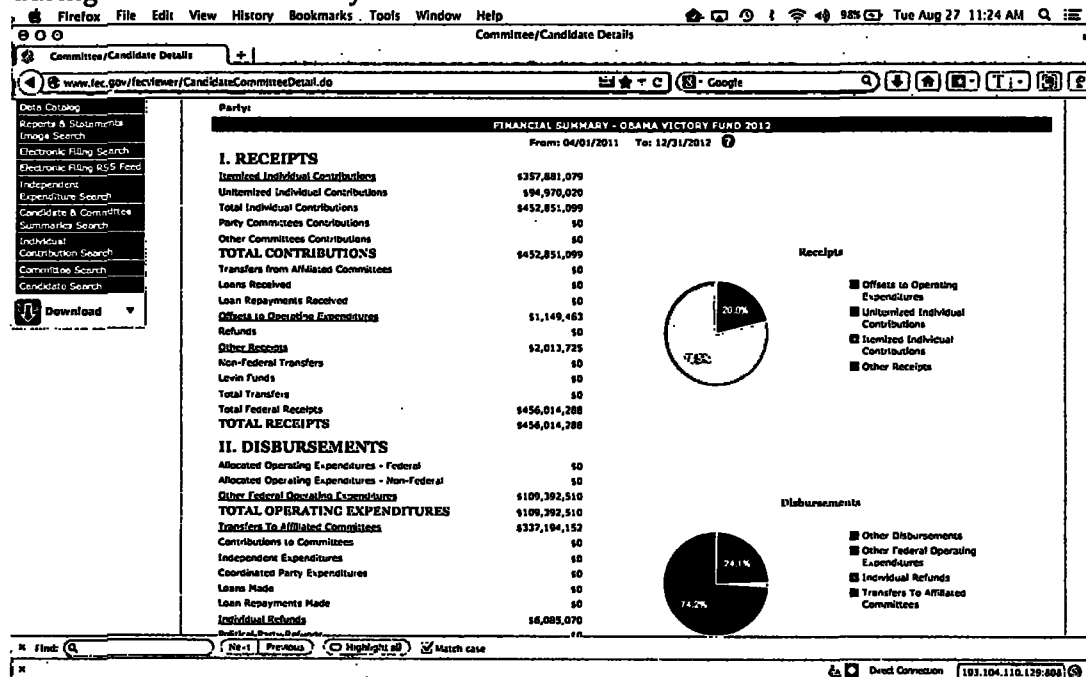


EXHIBIT E

Documentation from the Public Record of the Historic Nature of the Obama for America's 2012 Campaign's focusing on the depth and breadth of its technical prowess

"The Definitive Story of How President Obama Mined Voter Data to Win A Second Term" by Sasha Issenberg, MIT Technology Review, December 18, 2012. Accessed at <http://www.technologyreview.com/featuredstory/509026/how-obamas-team-used-big-data-to-rally-voters/> on August 18, 2013

The Definitive Story of How President Obama Mined Voter Data to Win A Second Term

Featured Story

How President Obama's campaign used big data to rally individual voters.

Two years after Barack Obama's election as president, Democrats suffered their worst defeat in decades. The congressional majorities that had given Obama his legislative successes, reforming the health-insurance and financial markets, were swept away in the midterm elections; control of the House flipped and the Democrats' lead in the Senate shrank to an ungovernably slim margin. Pundits struggled to explain the rise of the Tea Party. Voters' disappointment with the Obama agenda was evident as independents broke right and Democrats stayed home. In 2010, the Democratic National Committee failed its first test of the Obama era: it had not kept the Obama coalition together.

But for Democrats, there was bleak consolation in all this: Dan Wagner had seen it coming. When Wagner was hired as the DNC's targeting director, in January of 2009, he became responsible for collecting voter information and analyzing it to help the committee approach individual voters by direct mail and phone. But he appreciated that the raw material he was feeding into his statistical models amounted to a series of surveys on voters' attitudes and preferences. He asked the DNC's technology department to develop software that could turn that information into tables, and he called the result Survey Manager.

That fall, when a special election was held to fill an open congressional seat in upstate New York, Wagner successfully predicted the final margin within 150 votes—well before Election Day. Months later, pollsters projected that Martha Coakley was certain to win another special election, to fill the Massachusetts Senate seat left empty by the death of Ted Kennedy. But Wagner's Survey Manager correctly predicted that the Republican Scott Brown was likely to prevail in the strongly Democratic state. "It's one thing to be right when you're going to win," says Jeremy Bird, who served as national deputy director of Organizing for America, the Obama campaign in abeyance, housed at the DNC. "It's another thing to be right when you're going to lose."

It is yet another thing to be right *five months* before you're going to lose. As the 2010 midterms approached, Wagner built statistical models for selected Senate races and 74 congressional districts. Starting in June, he began predicting the elections' outcomes, forecasting the margins of victory with what turned out to be improbable accuracy. But he hadn't gotten there with traditional polls. He had counted votes one by one. His first clue that the party was in trouble came from thousands of individual survey calls matched to rich statistical profiles in the DNC's databases. Core Democratic voters were telling the DNC's callers that they were much less likely to vote than statistical probability suggested. Wagner could also calculate how much the Democrats' mobilization programs would do to increase turnout among supporters, and in most races he knew it wouldn't be enough to cover the gap revealing itself in Survey Manager's tables.

His congressional predictions were off by an average of only 2.5 percent. "That was a proof point for a lot of people who don't understand the math behind it but understand the value of what that math produces," says Mitch Stewart, Organizing for America's director. "Once that first special

[election] happened, his word was the gold standard at the DNC."

The significance of Wagner's achievement went far beyond his ability to declare winners months before Election Day. His approach amounted to a decisive break with 20th-century tools for tracking public opinion, which revolved around quarantining small samples that could be treated as representative of the whole. Wagner had emerged from a cadre of analysts who thought of voters as individuals and worked to aggregate projections about their opinions and behavior until they revealed a composite picture of everyone. His techniques marked the fulfillment of a new way of thinking, a decade in the making, in which voters were no longer trapped in old political geographies or tethered to traditional demographic categories, such as age or gender, depending on which attributes pollsters asked about or how consumer marketers classified them for commercial purposes. Instead, the electorate could be seen as a collection of individual citizens who could each be measured and assessed on their own terms. Now it was up to a candidate who wanted to lead those people to build a campaign that would interact with them the same way.



Dan Wagner, the chief analytics officer for Obama 2012, led the campaign's "Cave" of data scientists.

After the voters returned Obama to office for a second term, his campaign became celebrated for its use of technology—much of it developed by an unusual team of coders and engineers—that redefined how individuals could use the Web, social media, and smartphones to participate in the political process. A mobile app allowed a canvasser to download and return walk sheets without

ever entering a campaign office; a Web platform called Dashboard gamified volunteer activity by ranking the most active supporters; and "targeted sharing" protocols mined an Obama backer's Facebook network in search of friends the campaign wanted to register, mobilize, or persuade.

But underneath all that were scores describing particular voters: a new political currency that predicted the behavior of individual humans. The campaign didn't just know who you were; it knew exactly how it could turn you into the type of person it wanted you to be.

The Scores

Four years earlier, Dan Wagner had been working at a Chicago economic consultancy, using forecasting skills developed studying econometrics at the University of Chicago, when he fell for Barack Obama and decided he wanted to work on his home-state senator's 2008 presidential campaign. Wagner, then 24, was soon in Des Moines, handling data entry for the state voter file that guided Obama to his crucial victory in the Iowa caucuses. He bounced from state to state through the long primary calendar, growing familiar with voter data and the ways of using statistical models to intelligently sort the electorate. For the general election, he was named lead targeter for the Great Lakes/Ohio River Valley region, the most intense battleground in the country.

After Obama's victory, many of his top advisors decamped to Washington to make preparations for governing. Wagner was told to stay behind and serve on a post-election task force that would review a campaign that had looked, to the outside world, technically flawless.

In the 2008 presidential election, Obama's targeters had assigned every voter in the country a pair of scores based on the probability that the individual would perform two distinct actions that mattered to the campaign: casting a ballot and supporting Obama. These scores were derived from an unprecedented volume of ongoing survey work. For each battleground state every week, the campaign's call centers conducted 5,000 to 10,000 so-called short-form interviews that quickly gauged a voter's preferences, and 1,000 interviews in a long-form version that was more like a traditional poll. To derive individual-level predictions, algorithms trawled for patterns between these opinions and the data points the campaign had assembled for every voter—as many as one thousand variables each, drawn from voter registration records, consumer data warehouses, and past campaign contacts.

MONEY SPENT ON ONLINE ADS THROUGH MID-OCTOBER

**\$26
million**

**Romney
campaign**

**\$52
million**

**Obama
campaign**

Source: ReTargeter

This innovation was most valued in the field. There, an almost perfect cycle of microtargeting models directed volunteers to scripted conversations with specific voters at the door or over the phone. Each of those interactions produced data that streamed back into Obama's servers to refine the models pointing volunteers toward the next door worth a knock. The efficiency and scale of that process put the Democrats well ahead when it came to profiling voters. John McCain's campaign had, in most states, run its statistical model just once, assigning each voter to one of its microtargeting segments in the summer. McCain's advisors were unable to recalculate the probability that those voters would support their candidate as the dynamics of the race changed. Obama's scores, on the other hand, adjusted weekly, responding to new events like Sarah Palin's vice-presidential nomination or the collapse of Lehman Brothers.

Within the campaign, however, the Obama data operations were understood to have shortcomings. As was typical in political information infrastructure, knowledge about people was stored separately from data about the campaign's interactions with them, mostly because the databases built for those purposes had been developed by different consultants who had no interest in making their systems work together.

But the task force knew the next campaign wasn't stuck with that situation. Obama would run his final race not as an insurgent against a party establishment, but as the establishment itself. For four years, the task force members knew, their team would control the Democratic Party's apparatus. Their demands, not the offerings of consultants and vendors, would shape the marketplace. Their report recommended developing a "constituent relationship management system" that would allow staff across the campaign to look up individuals not just as voters or volunteers or donors or website users but as citizens in full. "We realized there was a problem with how our data and infrastructure interacted with the rest of the campaign, and we ought to be able to offer it to all parts of the campaign," says Chris Wegrzyn, a database applications developer who served on the task force.

Wegrzyn became the DNC's lead targeting developer and oversaw a series of costly acquisitions, all intended to free the party from the traditional dependence on outside vendors. The committee installed a Siemens Enterprise System phone-dialing unit that could put out 1.2 million calls a day to survey voters' opinions. Later, party leaders signed off on a \$280,000 license to use Vertica software from Hewlett-Packard that allowed their servers to access not only the party's 180-million-person voter file but all the data about volunteers, donors, and those who had interacted with Obama online.

Many of those who went to Washington after the 2008 election in order to further the president's political agenda returned to Chicago in the spring of 2011 to work on his reelection. The chastening losses they had experienced in Washington separated them from those who had known only the ecstasies of 2008. "People who did '08, but didn't do '10, and came back in '11 or '12—they had the hardest culture clash," says Jeremy Bird, who became national field director on the reelection campaign. But those who went to Washington and returned to Chicago developed a particular appreciation for Wagner's methods of working with the electorate at an atomic level. It was a way of thinking that perfectly aligned with their simple theory of what it would take to win the president reelection: get everyone who had voted for him in 2008 to do it again. At the same time, they knew they would need to succeed at registering and mobilizing new voters, especially in some of the fastest-growing demographic categories, to make up for any 2008 voters who did defect.

Obama's campaign began the election year confident it knew the name of every one of the 69,456,897 Americans whose votes had put him in the White House. They may have cast those votes by secret ballot, but Obama's analysts could look at the Democrats' vote totals in each precinct and identify the people most likely to have backed him. Pundits talked in the abstract about reassembling Obama's 2008 coalition. But within the campaign, the goal was literal. They would reassemble the coalition, one by one, through personal contacts.

The Experiments

When Jim Messina arrived in Chicago as Obama's newly minted campaign manager in January of 2011, he imposed a mandate on his recruits: they were to make decisions based on measurable data. But that didn't mean quite what it had four years before. The 2008 campaign had been "data-driven," as people liked to say. This reflected a principled imperative to challenge the political establishment with an empirical approach to electioneering, and it was greatly influenced by David Plouffe, the 2008 campaign manager, who loved metrics, spreadsheets, and performance reports. Plouffe wanted to know: How many of a field office's volunteer shifts had been filled last weekend? How much money did that ad campaign bring in?

But for all its reliance on data, the 2008 Obama campaign had remained insulated from the most important methodological innovation in 21st-century politics. In 1998, Yale professors Don Green and Alan Gerber conducted the first randomized controlled trial in modern political science, assigning New Haven voters to receive nonpartisan election reminders by mail, phone, or in-person visit from a canvasser and measuring which group saw the greatest increase in turnout. The subsequent wave of field experiments by Green, Gerber, and their followers focused on mobilization, testing competing modes of contact and get-out-the-vote language to see which were most successful.

The first Obama campaign used the findings of such tests to tweak call scripts and canvassing protocols, but it never fully embraced the experimental revolution itself. After Dan Wagner moved to the DNC, the party decided it would start conducting its own experiments. He hoped the committee could become "a driver of research for the Democratic Party."

To that end, he hired the Analyst Institute, a Washington-based consortium founded under the AFL-CIO's leadership in 2006 to coordinate field research projects across the electioneering left and distribute the findings among allies. Much of the experimental world's research had focused on voter registration, because that was easy to measure. The breakthrough was that registration no longer had to be approached passively; organizers did not have to simply wait for the unenrolled to emerge from anonymity, sign a form, and, they hoped, vote. New techniques made it possible to intelligently profile nonvoters: commercial data warehouses sold lists of all voting-age adults, and comparing those lists with registration rolls revealed eligible candidates, each attached to a home address to which an application could be mailed. Applying microtargeting models identified which nonregistrants were most likely to be Democrats and which ones Republicans.

The Obama campaign embedded social scientists from the Analyst Institute among its staff. Party officials knew that adding new Democratic voters to the registration rolls was a crucial element in their strategy for 2012. But already the campaign had ambitions beyond merely modifying nonparticipating citizens' behavior through registration and mobilization. It wanted to take on the most vexing problem in politics: changing voters' minds.

The expansion of individual-level data had made possible the kind of testing that could help do that. Experimenters had typically calculated the average effect of their interventions across the entire population. But as campaigns developed deep portraits of the voters in their databases, it became possible to measure the attributes of the people who were actually moved by an experiment's impact. A series of tests in 2006 by the women's group Emily's List had illustrated the potential of conducting controlled trials with microtargeting databases. When the group sent direct mail in favor of Democratic gubernatorial candidates, it barely budged those whose scores placed them in the middle of the partisan spectrum; it had a far greater impact upon those who had been profiled as soft (or nonideological) Republicans.

That test, and others that followed, demonstrated the limitations of traditional targeting. Such techniques rested on a series of long-standing assumptions—for instance, that middle-of-the-roaders were the most persuadable and that infrequent voters were the likeliest to be captured in a get-out-the-vote drive. But the experiments introduced new uncertainty. People who were identified as having a 50 percent likelihood of voting for a Democrat might in fact be torn between the two parties, or they might look like centrists only because no data attached to their records pushed a partisan prediction in one direction or another. "The scores in the middle are the people we know less about," says Chris Wyant, a 2008 field organizer who became the campaign's general election director in Ohio four years later. "The extent to which we were guessing about persuasion was not lost on any of us."

PERCENTAGE OF VOTES CAST FOR OBAMA BY EARLY VOTERS IN HAMILTON COUNTY, OHIO

57.68%

Model

57.16%

Actual

One way the campaign sought to identify the ripest targets was through a series of what the Analyst Institute called "experiment-informed programs," or EIPs, designed to measure how effective different types of messages were at moving public opinion.

The traditional way of doing this had been to audition themes and language in focus groups and then test the winning material in polls to see which categories of voters responded positively to each approach. Any insights were distorted by the artificial settings and by the tiny samples of demographic subgroups in traditional polls. "You're making significant resource decisions based on 160 people?" asks Mitch Stewart, director of the Democratic campaign group Organizing for America. "Isn't that nuts? And people have been doing that for decades!"

An experimental program would use those steps to develop a range of prospective messages that could be subjected to empirical testing in the real world. Experimenters would randomly assign voters to receive varied sequences of direct mail—four pieces on the same policy theme, each making a slightly different case for Obama—and then use ongoing survey calls to isolate the attributes of those whose opinions changed as a result.

In March, the campaign used this technique to test various ways of promoting the administration's health-care policies. One series of mailers described Obama's regulatory reforms; another advised voters that they were now entitled to free regular check-ups and ought to schedule one. The experiment revealed how much voter response differed by age, especially among women. Older women thought more highly of the policies when they received reminders about preventive care; younger women liked them more when they were told about contraceptive coverage and new rules that prohibited insurance companies from charging women more.

When Paul Ryan was named to the Republican ticket in August, Obama's advisors rushed out an EIP that compared different lines of attack about Medicare. The results were surprising. "The electorate [had seemed] very inelastic," says Terry Walsh, who coordinated the campaign's polling and paid-media spending. "In fact, when we did the Medicare EIPs, we got positive movement that was very heartening, because it was at a time when we were not seeing a lot of movement in the

electorate." But that movement came from quarters where a traditional campaign would never have gone hunting for minds it could change. The Obama team found that voters between 45 and 65 were more likely to change their views about the candidates after hearing Obama's Medicare arguments than those over 65, who were currently eligible for the program.

A similar strategy of targeting an unexpected population emerged from a July EIP testing Obama's messages aimed at women. The voters most responsive to the campaign's arguments about equal-pay measures and women's health, it found, were those whose likelihood of supporting the president was scored at merely 20 and 40 percent. Those scores suggested that they probably shared Republican attitudes; but here was one thing that could pull them to Obama. As a result, when Obama unveiled a direct-mail track addressing only women's issues, it wasn't to shore up interest among core parts of the Democratic coalition, but to reach over for conservatives who were at odds with their party on gender concerns. "The whole goal of the women's track was to pick off votes for Romney," says Walsh. "We were able to persuade people who fell low on candidate support scores if we gave them a specific message."

At the same time, Obama's campaign was pursuing a second, even more audacious adventure in persuasion: one-on-one interaction. Traditionally, campaigns have restricted their persuasion efforts to channels like mass media or direct mail, where they can control presentation, language, and targeting. Sending volunteers to persuade voters would mean forcing them to interact with opponents, or with voters who were undecided because they were alienated from politics on delicate issues like abortion. Campaigns have typically resisted relinquishing control of ground-level interactions with voters to risk such potentially combustible situations; they felt they didn't know enough about their supporters or volunteers. "You can have a negative impact," says Jeremy Bird, who served as national deputy director of Organizing for America. "You can hurt your candidate."

In February, however, Obama volunteers attempted 500,000 conversations with the goal of winning new supporters. Voters who'd been randomly selected from a group identified as persuadable were polled after a phone conversation that began with a volunteer reading from a script. "We definitely find certain people moved more than other people," says Bird. Analysts identified their attributes and made them the core of a persuasion model that predicted, on a scale of 0 to 10, the likelihood that a voter could be pulled in Obama's direction after a single volunteer interaction. The experiment also taught Obama's field department about its volunteers. Those in California, which had always had an exceptionally mature volunteer organization for a non--battleground state, turned out to be especially persuasive: voters called by Californians, no matter what state they were in themselves, were more likely to become Obama supporters.



Alex Lundry created Mitt Romney's data science unit. It was less than one-tenth the size of Obama's analytics team.

With these findings in hand, Obama's strategists grew confident that they were no longer restricted to advertising as a channel for persuasion. They began sending trained volunteers to knock on doors or make phone calls with the objective of changing minds.

That dramatic shift in the culture of electioneering was felt on the streets, but it was possible only because of advances in analytics. Chris Wegrzyn, a database applications developer, developed a program code-named Airwolf that matched county and state lists of people who had requested mail ballots with the campaign's list of e-mail addresses. Likely Obama supporters would get regular reminders from their local field organizers, asking them to return their ballots, and, once they had, a message thanking them and proposing other ways to be involved in the campaign. The local organizer would receive daily lists of the voters on his or her turf who had outstanding ballots so that the campaign could follow up with personal contact by phone or at the doorstep. "It is a fundamental way of tying together the online and offline worlds," says Wagner.

Wagner, however, was turning his attention beyond the field. By June of 2011, he was chief analytics officer for the campaign and had begun making the rounds of the other units at headquarters, from fund-raising to communications, offering to help "solve their problems with data." He imagined the analytics department—now a 54-person staff, housed in a windowless

office known as the Cave—as an “in-house consultancy” with other parts of the campaign as its clients. “There’s a process of helping people learn about the tools so they can be a participant in the process,” he says. “We essentially built products for each of those various departments that were paired up with a massive database we had.”

The Flow

As job notices seeking specialists in text analytics, computational advertising, and online experiments came out of the incumbent’s campaign, Mitt Romney’s advisors at the Republicans’ headquarters in Boston’s North End watched with a combination of awe and perplexity. Throughout the primaries, Romney had appeared to be the only Republican running a 21st-century campaign, methodically banking early votes in states like Florida and Ohio before his disorganized opponents could establish operations there.

But the Republican winner’s relative sophistication in the primaries belied a poverty of expertise compared with the Obama campaign. Since his first campaign for governor of Massachusetts, in 2002, Romney had relied upon TargetPoint Consulting, a Virginia firm that was then a pioneer in linking information from consumer data warehouses to voter registration records and using it to develop individual-level predictive models. It was TargetPoint’s CEO, Alexander Gage, who had coined the term “microtargeting” to describe the process, which he modeled on the corporate world’s approach to customer relationship management.

Such techniques had offered George W. Bush’s reelection campaign a significant edge in targeting, but Republicans had done little to institutionalize that advantage in the years since. By 2006, Democrats had not only matched Republicans in adopting commercial marketing techniques; they had moved ahead by integrating methods developed in the social sciences.

Romney’s advisors knew that Obama was building innovative internal data analytics departments, but they didn’t feel a need to match those activities. “I don’t think we thought, relative to the marketplace, we could be the best at data in-house all the time,” Romney’s digital director, Zac Moffatt, said in July. “Our idea is to find the best firms to work with us.” As a result, Romney remained dependent on TargetPoint to develop voter segments, often just once, and then deliver them to the campaign’s databases. That was the structure Obama had abandoned after winning the nomination in 2008.

In May a TargetPoint vice president, Alex Lundry, took leave from his post at the firm to assemble a data science unit within Romney’s headquarters. To round out his team, Lundry brought in Tom Wood, a University of Chicago postdoctoral student in political science, and Brent McGoldrick, a veteran of Bush’s 2004 campaign who had left politics for the consulting firm Financial Dynamics (later FTI Consulting), where he helped financial-services, health-care, and energy companies communicate better. But Romney’s data science team was less than one-tenth the size of Obama’s analytics department. Without a large in-house staff to handle the massive national data sets that made it possible to test and track citizens, Romney’s data scientists never tried to deepen their understanding of individual behavior. Instead, they fixated on trying to unlock one big, persistent mystery, which Lundry framed this way: “How can we get a sense of whether this advertising is working?”

“You usually get GRPs and tracking polls,” he says, referring to the gross ratings points that are the basic unit of measuring television buys. “There’s a very large causal leap you have to make from one to the other.”

Lundry decided to focus on more manageable ways of measuring what he called the information

flow. His team converted topics of political communication into discrete units they called "entities." They initially classified 200 of them, including issues like the auto industry bailout, controversies like the one surrounding federal funding for the solar-power company Solyndra, and catchphrases like "the war on women." When a new concept (such as Obama's offhand remark, during a speech about our common dependence on infrastructure, that "you didn't build that") emerged as part of the election-year lexicon, the analysts added it to the list. They tracked each entity on the National Dialogue Monitor, TargetPoint's system for measuring the frequency and tone with which certain topics are mentioned across all media. TargetPoint also integrated content collected from newspaper websites and closed-caption transcripts of broadcast programs. Lundry's team aimed to examine how every entity fared over time in each of two categories: the informal sphere of social media, especially Twitter, and the journalistic product that campaigns call earned press coverage.

Ultimately, Lundry wanted to assess the impact that each type of public attention had on what mattered most to them: Romney's position in the horse race. He turned to vector autoregression models, which equities traders use to isolate the influence of single variables on market movements. In this case, Lundry's team looked for patterns in the relationship between the National Dialogue Monitor's data and Romney's numbers in Gallup's daily tracking polls. By the end of July, they thought they had identified a three-step process they called "Wood's Triangle."

Within three or four days of a new entity's entry into the conversation, either through paid ads or through the news cycle, it was possible to make a well-informed hypothesis about whether the topic was likely to win media attention by tracking whether it generated Twitter chatter. That informal conversation among political-class elites typically led to traditional print or broadcast press coverage one to two days later, and that, in turn, might have an impact on the horse race. "We saw this process over and over again," says Lundry.

They began to think of ads as a "shock to the system"—a way to either introduce a new topic or restore focus on an area in which elite interest had faded. If an entity didn't gain its own energy—as when the Republicans charged over the summer that the White House had waived the work requirements in the federal welfare rules—Lundry would propose a "re-shock to the system" with another ad on the subject five to seven days later. After 12 to 14 days, Lundry found, an entity had passed through the system and exhausted its ability to alter public opinion—so he would recommend to the campaign's communications staff that they move on to something new.

Those insights offered campaign officials a theory of information flows, but they provided no guidance in how to allocate campaign resources in order to win the Electoral College. Assuming that Obama had superior ground-level data and analytics, Romney's campaign tried to leverage its rivals' strategy to shape its own; if Democrats thought a state or media market was competitive, maybe that was evidence that Republicans should think so too. "We were necessarily reactive, because we were putting together the plane as it took off," Lundry says. "They had an enormous head start on us."

Romney's political department began holding regular meetings to look at where in the country the Obama campaign was focusing resources like ad dollars and the president's time. The goal was to try to divine the calculations behind those decisions. It was, in essence, the way Microsoft's Bing approached Google: trying to reverse-engineer the market leader's code by studying the visible output. "We watch where the president goes," Dan Centinello, the Romney deputy political director who oversaw the meetings, said over the summer.

Obama's media-buying strategy proved particularly hard to decipher. In early September, as part of his standard review, Lundry noticed that the week after the Democratic convention, Obama had

aired 68 ads in Dothan, Alabama, a town near the Florida border. Dothan was one of the country's smallest media markets, and Alabama one of the safest Republican states. Even though the area was known to savvy ad buyers as one of the places where a media market crosses state lines, Dothan TV stations reached only about 9,000 Florida voters, and around 7,000 of them had voted for John McCain in 2008. "This is a hard-core Republican media market," Lundry says. "It's incredibly tiny. But they were advertising there."

Romney's advisors might have formed a theory about the broader media environment, but whatever was sending Obama hunting for a small pocket of votes was beyond their measurement. "We could tell," says McGoldrick, "that there was something in the algorithms that was telling them what to run."

The March

In the summer of 2011, Carol Davidsen received a message from Dan Wagner. Already the Obama campaign was known for its relentless e-mails beseeching supporters to give their money or time, but this one offered something that intrigued Davidsen: a job. Wagner had sorted the campaign's list of donors, stretching back to 2008, to find those who described their occupation with terms like "data" and "analytics" and sent them all invitations to apply for work in his new analytics department.

Davidsen was working at Navic Networks, a Microsoft-owned company that wrote code for set-top cable boxes to create a record of a user's DVR or tuner history, when she heeded Wagner's call. One year before Election Day, she started work in the campaign's technology department to serve as product manager for Narwhal. That was the code name, borrowed from a tusked whale, for an ambitious effort to match records from previously unconnected databases so that a user's online interactions with the campaign could be synchronized. With Narwhal, e-mail blasts asking people to volunteer could take their past donation history into consideration, and the algorithms determining how much a supporter would be asked to contribute could be shaped by knowledge about his or her reaction to previous solicitations. This integration enriched a technique, common in website development, that Obama's online fund-raising efforts had used to good effect in 2008: the A/B test, in which users are randomly directed to different versions of a thing and their responses are compared. Now analysts could leverage personal data to identify the attributes of those who responded, and use that knowledge to refine subsequent appeals. "You can cite people's other types of engagement," says Amelia Showalter, Obama's director of digital analytics. "We discovered that there were a lot of things that built goodwill, like signing the president's birthday card or getting a free bumper sticker, that led them to become more engaged with the campaign in other ways."

If online communication had been the aspect of the 2008 campaign subjected to the most rigorous empirical examination—it's easy to randomly assign e-mails in an A/B test and compare click-through rates or donation levels—mass-media strategy was among those that received the least. Television and radio ads had to be purchased by geographic zone, and the available data on who watches which channels or shows, collected by research firms like Nielsen and Scarborough, often included little more than viewer age and gender. That might be good enough to guide buys for Schick or Foot Locker, but it's of limited value for advertisers looking to define audiences in political terms.

TELEVISION COMMERCIALS AIRED ON TV LAND (NATIONAL CABLE LEVEL)

1,710

Obama
campaign

0

Romney
campaign

Source: Kantar Media CMAG

As campaign manager Jim Messina prepared to spend as much as half a billion dollars on mass media for Obama's reelection, he set out to reinvent the process for allocating resources across broadcast, cable, satellite, and online channels. "If you think about the universe of possible places for an advertiser, it's almost infinite," says Amy Gershkoff, who was hired as the campaign's media-planning director on the strength of her successful negotiations, while at her firm Changing Targets in 2009, to link the information from cable systems to individual microtargeting profiles. "There are tens of millions of opportunities where a campaign can put its next dollar. You have all this great, robust voter data that doesn't fit together with the media data. How you knit that together is a challenge."

By the start of 2012, Wagner had deftly wrested command of media planning into his own department. As he expanded the scope of analytics, he defined his purview as "the study and practice of resource optimization for the purpose of improving programs and earning votes more efficiently." That usually meant calculating, for any campaign activity, the number of votes gained through a given amount of contact at a given cost.

But when it came to buying media, such calculations had been simply impossible, because campaigns were unable to link what they knew about voters to what cable providers knew about their customers. Obama's advisors decided that the data made available in the private sector had long led political advertisers to ask the wrong questions. Walsh says of the effort to reimagine the media-targeting process: "It was not to get a better understanding of what 35-plus women watch on TV. It was to find out how many of our persuadable voters were watching those dayparts."

Davidson, whose previous work had left her intimately familiar with the rich data sets held in set-top boxes, understood that a lot of that data was available in the form of tuner and DVR histories collected by cable providers and then aggregated by research firms. For privacy reasons, however, the information was not available at the individual level. "The hardest thing in media buying right now is the lack of information," she says.

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Davidsen began negotiating to have research firms repackage their data in a form that would permit the campaign to access the individual histories without violating the cable providers' privacy standards. Under a \$350,000 deal she worked out with one company, Rentrak, the campaign provided a list of persuadable voters and their addresses, derived from its microtargeting models, and the company looked for them in the cable providers' billing files. When a record matched, - Rentrak would issue it a unique household ID that identified viewing data from a single set-top box but masked any personally identifiable information.

The Obama campaign had created its own television ratings system, a kind of Nielsen in which the only viewers who mattered were those not yet fully committed to a presidential candidate. But Davidsen had to get the information into a practical form by early May, when Obama strategists planned to start running their anti-Romney ads. She oversaw the development of a software platform the Obama staff called the Optimizer, which broke the day into 96 quarter-hour segments and assessed which time slots across 60 channels offered the greatest number of persuadable targets per dollar. (By September, she had unlocked an even richer trove of data: a cable system in Toledo, Ohio, that tracked viewers' tuner histories by the second.) "The revolution of media buying in this campaign," says Walsh, "was to turn what was a broadcast medium into something that looks a lot more like a narrowcast medium."

When the Obama campaign did use television as a mass medium, it was because the Optimizer had concluded it would be a more efficient way of reaching persuadable targets. Sometimes a national cable ad was a better bargain than a large number of local buys in the 66 media markets reaching battleground states. But the occasional national buy also had other benefits. It could boost fund-raising and motivate volunteers in states that weren't essential to Obama's Electoral College arithmetic. And, says Davidsen, "it helps hide some of the strategy of your buying."

Even without that tactic, Obama's buys perplexed the Romney analysts in Boston. They had invested in their own media-intelligence platform, called Centraforce. It used some of the same aggregated data sources that were feeding into the Optimizer, and at times both seemed to send the campaigns to the same unlikely ad blocks—for example, in reruns on TV Land. But there was a lot more to what Lundry called Obama's "highly variable" media strategy. Many of the Democrats' ads were placed in fringe markets, on marginal stations, and at odd times where few political candidates had ever seen value. Romney's data scientists simply could not decode those decisions without the voter models or persuasion experiments that helped Obama pick out individual targets. "We were never able to figure out the level of advertising and what they were trying to do," says McGoldrick. "It wasn't worth reverse-engineering, because what are you going to do?"

The Community

Although the voter opinion tables that emerged from the Cave looked a lot like polls, the analysts who produced them were disinclined to call them polls. The campaign had plenty of those, generated by a public-opinion team of eight outside firms, and new arrivals at the Chicago headquarters were shocked by the variegated breadth of the research that arrived on their desks daily. "We believed in combining the qual, which we did more than any campaign ever, with the quant, which we [also] did more than any other campaign, to make sure all communication for every level of the campaign was informed by what they found," says David Simas, the director of opinion research.

Simas considered himself the "air-traffic controller" for such research, which was guided by a series of voter diaries that Obama's team commissioned as it prepared for the reelection

campaign. "We needed to do something almost divorced from politics and get to the way they're seeing their lives," he says. The lead pollster, Joel Benenson, had respondents write about their experiences. The entries frequently used the word "disappointment," which helped explain attitudes toward Obama's administration but also spoke to a broader dissatisfaction with economic conditions. "That became the foundation for our entire research program," says Simas.



Carol Davidsen matched Obama 2012's lists of persuadable voters with cable providers' billing information.

Obama's advisors used those diaries to develop messages that contrasted Obama with Romney as a fighter for the middle class. Benenson's national polls tested language to see which affected voters' responses in survey experiments and direct questioning. A quartet of polling firms were assigned specific states and asked to figure out which national themes fit best with local concerns. Eventually, Obama's media advisors created more than 500 ads and tested them before an online sample of viewers selected by focus-group director David Binder.

But the campaign had to play defense, too. When something potentially damaging popped up in the news, like Democratic consultant Hilary Rosen's declaration that Ann Romney had "never worked a day in her life," Simas checked in with the Community, a private online bulletin board populated by 100 undecided voters Binder had recruited. Simas would monitor Community conversations to see which news events penetrated voter consciousness. Sometimes he had Binder show its members controversial material—like a video clip of Obama's "You didn't build

that" comment—and ask if it changed their views of the candidate. "For me, it was a very quick way to draw back and determine whether something was a problem or not a problem," says Simas.

When Wagner started packaging his department's research into something that campaign leadership could read like a poll, a pattern became apparent. Obama's numbers in key battleground states were low in the analytic tables, but Romney's were too. There were simply more undecided voters in such states—sometimes nearly twice as many as the traditional pollsters found. A basic methodological distinction explained this discrepancy: microtargeting models required interviewing a lot of unlikely voters to give shape to a profile of what a nonvoter looked like, while pollsters tracking the horse race wanted to screen more rigorously for those likely to cast a ballot. The rivalry between the two units trying to measure public opinion grew intense: the analytic polls were a threat to the pollsters' primacy and, potentially, to their business model. "I spent a lot of time within the campaign explaining to people that the numbers we get from analytics and the numbers we get from external pollsters did not need strictly to be reconciled," says Walsh. "They were different."

The scope of the analytic research enabled it to pick up movements too small for traditional polls to perceive. As Simas reviewed Wagner's analytic tables in mid-October, he was alarmed to see that what had been a Romney lead of one to two points in Green Bay, Wisconsin, had grown into an advantage of between six and nine. Green Bay was the only media market in the state to experience such a shift, and there was no obvious explanation. But it was hard to discount. Whereas a standard 800-person statewide poll might have reached 100 respondents in the Green Bay area, analytics was placing 5,000 calls in Wisconsin in each five-day cycle—and benefiting from tens of thousands of other field contacts—to produce microtargeting scores. Analytics was talking to as many people in the Green Bay media market as traditional pollsters were talking to across Wisconsin every week. "We could have the confidence level to say, 'This isn't noise,'" says Simas. So the campaign's media buyers aired an ad attacking Romney on outsourcing and beseeched Messina to send former president Bill Clinton and Obama himself to rallies there. (In the end, Romney took the county 50.3 to 48.5 percent.)

For the most part, however, the analytic tables demonstrated how stable the electorate was, and how predictable individual voters could be. Polls from the media and academic institutions may have fluctuated by the hour, but drawing on hundreds of data points to judge whether someone was a likely voter proved more reliable than using a seven-question battery like Gallup's to do the same. "When you see this Pogo stick happening with the public data—the electorate is just not that volatile," says Mitch Stewart, director of the Democratic campaign group Organizing for America. The analytic data offered a source of calm.

Romney's advisors were similarly sanguine, but they were losing. They, too, believed it possible to project the composition of the electorate, relying on a method similar to Gallup's: pollster Neil Newhouse asked respondents how likely they were to cast a ballot. Those who answered that question with a seven or below on a 10-point scale were disregarded as not inclined to vote. But that ignored the experimental methods that made it possible to measure individual behavior and the impact that a campaign itself could have on a citizen's motivation. As a result, the Republicans failed to account for voters that the Obama campaign could be mobilizing even if they looked to Election Day without enthusiasm or intensity.

On the last day of the race, Wagner and his analytics staff left the Cave and rode the elevator up one floor in the campaign's Chicago skyscraper to join members of other departments in a boiler room established to help track votes as they came in. Already, for over a month, Obama's analysts had been counting ballots from states that allowed citizens to vote early. Each day, the campaign

overlaid the lists of early voters released by election authorities with its modeling scores to project how many votes they could claim as their own.

By Election Day, Wagner's analytic tables turned into predictions. Before the polls opened in Ohio, authorities in Hamilton County, the state's third-largest and home to Cincinnati, released the names of 103,508 voters who had cast early ballots over the previous month. Wagner sorted them by microtargeting projections and found that 58,379 had individual support scores over 50.1—that is, the campaign's models predicted that they were more likely than not to have voted for Obama. That amounted to 56.4 percent of the county's votes, or a raw lead of 13,249 votes over Romney. Early ballots were the first to be counted after Ohio's polls closed, and Obama's senior staff gathered around screens in the boiler room to see the initial tally. The numbers settled almost exactly where Wagner had said they would: Obama got 56.6 percent of the votes in Hamilton County. In Florida, he was as close to the mark; Obama's margin was only two-tenths of a percent off. "After those first two numbers, we knew," says Bird. "It was dead-on."

When Obama was reelected, and by a far larger Electoral College margin than most outsiders had anticipated, his staff was exhilarated but not surprised. The next morning, Mitch Stewart sat in the boiler room, alone, monitoring the lagging votes as they came into Obama's servers from election authorities in Florida, the last state to name a winner. The presidency was no longer at stake; the only thing that still hung in the balance was the accuracy of the analytics department's predictions.

The Legacy

A few days after the election, as Florida authorities continued to count provisional ballots, a few staff members were directed, as four years before, to remain in Chicago. Their instructions were to produce another post-mortem report summing up the lessons of the past year and a half. The undertaking was called the Legacy Project, a grandiose title inspired by the idea that the innovations of Obama 2012 should be translated not only to the campaign of the next Democratic candidate for president but also to governance. Obama had succeeded in convincing some citizens that a modest adjustment to their behavior would affect, however marginally, the result of an election. Could he make them feel the same way about Congress?

Simas, who had served in the White House before joining the team, marveled at the intimacy of the campaign. Perhaps more than anyone else at headquarters, he appreciated the human aspect of politics. This had been his first presidential election, but before he became a political operative, Simas had been a politician himself, serving on the city council and school board in his hometown of Taunton, Massachusetts. He ran for office by knocking on doors and interacting individually with constituents (or those he hoped would become constituents), trying to track their moods and expectations.

In many respects, analytics had made it possible for the Obama campaign to recapture that style of politics. Though the old guard may have viewed such techniques as a disruptive force in campaigns, they enabled a presidential candidate to view the electorate the way local candidates do: as a collection of people who make up a more perfect union, each of them approachable on his or her terms, their changing levels of support and enthusiasm open to measurement and, thus, to respect. "What that gave us was the ability to run a national presidential campaign the way you'd do a local ward campaign," Simas says. "You know the people on your block. People have relationships with one another, and you leverage them so you know the way they talk about issues, what they're discussing at the coffee shop."

Few events in American life other than a presidential election touch 126 million adults, or even a

"How Obama's Tech Team Helped Win the Election" by Alexis Madrigal, National Journal, November 16, 2012. Cross published and available online here: <http://www.theatlantic.com/technology/archive/2012/11/when-the-nerds-go-marching-in/265325/>.

When the Nerds Go Marching In

By Alexis C. Madrigal

inShare 635 Nov 16 2012, 7:00 AM ET 445

How a dream team of engineers from Facebook, Twitter, and Google built the software that drove Barack Obama's reelection



Three members of Obama's tech team; from left to right: Harper Reed, Dylan Richard, and Mark Trammell (Photo by Daniel X. O'Neil).

The Obama campaign's technologists were tense and tired. It was game day and everything was going wrong.

Josh Thayer, the lead engineer of Narwhal, had just been informed that they'd lost another one of the services powering their software. That was bad: Narwhal was the code name for the data platform that underpinned the campaign and let it track voters and volunteers. If it broke, so would everything else.

They were talking with people at Amazon Web Services, but all they knew was that they had

packet loss. Earlier that day, they lost their databases, their East Coast servers, and their memcache clusters. Thayer was ready to kill Nick Hatch, a DevOps engineer who was the official bearer of bad news. Another of their vendors, PalominoDB, was fixing databases, but needed to rebuild the replicas. It was going to take time, Hatch said. They didn't have time.

They'd been working 14-hour days, six or seven days a week, trying to reelect the president, and now everything had been broken at just the wrong time. It was like someone had written a Murphy's Law algorithm and deployed it at scale.

They'd been working 14-hour days, six or seven days a week, trying to reelect the president, and now everything had been broken at just the wrong time.

And that was the point. "Game day" was October 21. The election was still 17 days away, and this was a live action role playing (LARPing!) exercise that the campaign's chief technology officer, Harper Reed, was inflicting on his team. "We worked through every possible disaster situation," Reed said. "We did three actual all-day sessions of destroying everything we had built."

Hatch was playing the role of dungeon master, calling out devilishly complex scenarios that were designed to test each and every piece of their system as they entered the exponential traffic-growth phase of the election. Mark Trammell, an engineer who Reed hired after he left Twitter, saw a couple game days. He said they reminded him of his time in the Navy. "You ran firefighting drills over and over and over, to make sure that you not just know what you're doing," he said, "but you're calm because you know you can handle your shit."

The team had elite and, for tech, senior talent -- by which I mean that most of them were in their 30s -- from Twitter, Google, Facebook, Craigslist, Quora, and some of Chicago's own software companies such as Orbitz and Threadless, where Reed had been CTO. But even these people, maybe *especially* these people, knew enough about technology not to trust it. "I think the Republicans fucked up in the hubris department," Reed told me. "I know we had the best technology team I've ever worked with, but we didn't know if it would work. I was incredibly confident it would work. I was betting a lot on it. We had time. We had resources. We had done what we thought would work, and it still could have broken. Something could have happened."

In fact, the day after the October 21 game day, Amazon services -- on which the whole campaign's tech presence was built -- went down. "We didn't have any downtime because we had done that scenario already," Reed said. Hurricane Sandy hit on another game day, October 29, threatening the campaign's whole East Coast infrastructure. "We created a hot backup of all our applications to US-west in preparation for US-east to go down hard," Reed said.

"We knew what to do," Reed maintained, no matter what the scenario was. "We had a runbook that said if this happens, you do this, this, and this. They did not do that with Orca."

THE NEW CHICAGO MACHINE vs. THE GRAND OLD PARTY

Orca was supposed to be the Republican answer to Obama's perceived tech advantage. In the days leading up to the election, the Romney campaign pushed its (not-so) secret weapon as the answer to the Democrats' vaunted ground game. Orca was going to allow volunteers at polling places to update the Romney camp's database of voters in real time as people cast their ballots. That would supposedly allow them to deploy resources more efficiently and wring every last vote out of Florida, Ohio, and the other battleground states. The product got its name, a Romney spokesperson told NPR PBS, because orcas are the only known predator of the one-tusked narwhal.

Orca was not even in the same category as Narwhal. It was like the Republicans were touting the iPad as a Facebook killer.

The billing the Republicans gave the tool confused almost everyone inside the Obama campaign. Narwhal wasn't an app for a smartphone. It was the architecture of the company's sophisticated data operation. Narwhal unified what Obama for America knew about voters, canvassers, event-goers, and phone-bankers, and it did it in real time. From the descriptions of the Romney camp's software that were available then and now, Orca was not even in the same category as Narwhal. It was like touting the iPad as a Facebook killer, or comparing a GPS device to an engine. And besides, in the scheme of a campaign, a digitized strike list is cool, but it's not, like, a gamechanger. It's just a nice thing to have.

So, it was with more than a hint of schadenfreude that Reed's team heard that Orca crashed early on election day. Later reports posted by rank-and-file volunteers describe chaos descending on the polling locations as only a fraction of the tens of thousands of volunteers organized for the effort were able to use it properly to turn out the vote.

Of course, they couldn't snicker too loudly. Obama's campaign had created a similar app in 2008 called Houdini. As detailed in Sasha Issenberg's groundbreaking book, *The Victory Lab*, Houdini's rollout went great until about 9:30am Eastern on the day of the election. Then it crashed in much the same way Orca did.

In 2012, Democrats had a new version, built by the vendor, NGP VAN. It was called Gordon, after the man who killed Houdini. But the 2008 failure, among other needs, drove the 2012 Obama team to bring technologists in-house.

With election day bearing down on them, they knew they could not go down. And yet they had to accommodate much more strain on the systems as interest in the election picked up toward the end, as it always does. Mark Trammell, who worked for Twitter during its period of exponential growth, thought it would have been easy for the Obama team to fall into many of the pitfalls that the social network did back then. But while the problems of scaling both technology and culture quickly might have been similar, the stakes were much higher. A fail whale (cough) in the days leading up to or on November 6 would have been neither charming nor funny. In a race that at least some people thought might be very close, it could have cost the President the election.

And of course, the team's only real goal was to elect the President. "We have to elect the President. We don't need to sell our software to Oracle," Reed told his team. But the secondary impact of their success or failure would be to prove that campaigns could effectively hire and deploy top-level programming talent. If they failed, it would be evidence that this stuff might be best left to outside political technology consultants, by whom the arena had long been handled. If Reed's team succeeded, engineers might become as enshrined in the mechanics of campaigns as social-media teams already are.

We now know what happened. The grand technology experiment worked. So little went wrong that Trammell and Reed even had time to cook up a little pin to celebrate. It said, "YOLO," short for "You Only Live Once," with the Obama Os.

When Obama campaign chief Jim Messina signed off on hiring Reed, he told him, "Welcome to the team. Don't fuck it up." As Election Day ended and the dust settled, it was clear: Reed had not fucked it up.

The campaign had turned out more volunteers and gotten more donors than in 2008. Sure, the

field organization was more entrenched and experienced, but the difference stemmed in large part from better technology. The tech team's key products -- Dashboard, the Call Tool, the Facebook Blaster, the PeopleMatcher, and Narwhal -- made it simpler and easier for anyone to engage with the President's reelection effort.

The nerds shook up an ossifying Democratic tech structure and the politicos taught the nerds a thing or two about stress, small-p politics, and the meaning of life.

But it wasn't easy. Reed's team came in as outsiders to the campaign and by most accounts, remained that way. The divisions among the tech, digital, and analytics team never quite got resolved, even if the end product has salved the sore spots that developed over the stressful months. At their worst, in early 2012, the cultural differences between tech and everybody else threatened to derail the whole grand experiment.

By the end, the campaign produced exactly what it should have: a hybrid of the desires of everyone on Obama's team. They raised hundreds of millions of dollars online, made unprecedented progress in voter targeting, and built everything atop the most stable technical infrastructure of any presidential campaign. To go a step further, I'd even say that this clash of cultures was a good thing: The nerds shook up an ossifying Democratic tech structure and the politicos taught the nerds a thing or two about stress, small-p politics, and the significance of elections.

YOLO: MEET THE OBAMA CAMPAIGN'S CHIEF TECHNOLOGY OFFICER



The President hugging Harper Reed as shown on his Instagram feed.

If you're a nerd, Harper Reed is an easy guy to like. He's brash and funny and smart. He gets you and where you came from. He, too, played with computers when they weren't cool, and learned to code because he just could not help himself. You could call out nouns, phenomena, and he'd be right there with you: BBS, warez, self-organizing systems, Rails, the quantified self, Singularity. He wrote his first programs at age seven, games that his mom typed into their Apple IIC. He, too, has a memory that all nerds share: Late at night, light from a chunky monitor illuminating his face, fingers flying across a keyboard, he figured something out.

TV news segments about cybersecurity might look lifted straight from his memories, but the b-roll they shot of darkened rooms and typing hands could not convey the sense of exhilaration he felt when he built something that works. Harper Reed got the city of Chicago to create an open and real-time feed of its transit data by reverse engineering how they served bus location information. Why? Because it made his wife Hiromi's commute a little easier. Because it was fun to extract the data from the bureaucracy and make it available to anyone who wanted it. Because he is a nerd.

Yet Reed has friends like the manager of the hip-hop club Empire who, when we walk into the place early on the Friday after the election, says, "Let me grab you a shot." Surprisingly, Harper Reed is a chilled vodka kind of guy. Unsurprisingly, Harper Reed read Steven Levy's *Hackers* as a kid. Surprisingly, the manager, who is tall and handsome with rock-and-roll hair flowing from beneath a red beanie, returns to show Harper photographs of his kids. They've known each other for a long while. They are really growing up.

As the night rolls on, and the club starts to fill up, another friend approached us: DJ Hiroki, who was spinning that night. Harper Reed knows the DJ. Of course. And Hiroki grabs us another shot. (At this point I'm thinking, "By the end of the night, either I pass out or Reed tells me something good.") Hiroki's been DJing at Empire for years, since Harper Reed was the crazy guy you can see on his public Facebook photos. In one shot from 2006, a skinny Reed sits in a bathtub with a beer in his hand, two thick band tattoos running across his chest and shoulders. He is not wearing any clothes. The caption reads, "Stop staring, it's not there i swear!" What makes Harper Reed different isn't just that the photo exists, but that he kept it public during the election.

He may be like you, but he also juggles better than you, and is wilder than you, more fun than you, cooler than you.

Yet if you've spent a lot of time around tech people, around Burning Man devotees, around startups, around San Francisco, around BBSs, around Reddit, Harper Reed probably makes sense to you. He's a cool hacker. He gets profiled by Mother Jones even though he couldn't talk with Tim Murphy, their reporter. He supports open source. He likes Japan. He says fuck a lot. He goes to hipster bars that serve vegan Mexican food, and where a quarter of the staff and clientele have mustaches.

He may be like you, but he also juggles better than you, and is wilder than you, more fun than you, cooler than you. He's what a king of the nerds really looks like. Sure, he might grow a beard and put on a little potbelly, but he wouldn't tuck in his t-shirt. He is not that kind of nerd. Instead, he's got plugs in his ears and a shock of gloriously product-mussed hair and hipster glasses and he doesn't own a long-sleeve dress shirt, in case you were wondering.

"Harper is an easy guy to underestimate because he looks funny. That might be part of his brand," said Chris Sacca, a well-known Silicon Valley venture capitalist and major Obama bundler who brought a team of more than a dozen technologists out for an Obama campaign hack day.

Reed, for his part, has the kind of self-awareness that faces outward. His self-announced flaws bristle like quills. "I always look like a fucking idiot," Reed told me. "And if you look like an asshole, you have to be really good."

It was a lesson he learned early out in Greeley, Colorado, where he grew up. "I had this experience where my dad hired someone to help him out because his network was messed up and he wanted me to watch. And this was at a very unfortunate time in my life where I was wearing very baggy pants and I had a Marilyn Manson shirt on and I looked like an asshole. And my father took me aside and was like, 'Why do you look like an asshole?' And I was like, 'I don't know. I don't have an answer.' But I realized I was just as good as the guys fixing it," Reed recalled. "And they didn't look like me and I didn't look like them. And if I'm going to do this, and look like an idiot, I have to step up. Like if we're all at zero, I have to be at 10 because I have this stupid mustache."

And in fact, he may actually be at 10. Sacca said that with technical people, it's one thing to look at their resumes and another to see how they are viewed among their peers. "And it was amazing how many incredibly well regarded hackers that I follow on Twitter rejoiced and celebrated [when Reed was hired]," Sacca said. "Lots of guys who know how to spit out code, they really bought that."

By the time Sacca brought his Silicon Valley contingent out to Chicago, he called the technical team "top notch." After all, we're talking about a group of people who had Eric Schmidt sitting in with them on Election Day. You had to be good. The tech world was watching.

Terry Howerton, the head of the Illinois Technology Association and a frank observer of Chicago's tech scene, had only glowing things to say about Reed. "Harper Reed? I think he's wicked smart," Howerton said. "He knows how to pull people together. I think that was probably what attracted the rest of the people there. Harper is responsible for a huge percentage of the people who went over there."

Reed's own team found their co-workers particularly impressive. One testament to that is several startups might spin out of the connections people made at the OFA headquarters, such as Optimizely, a tool for website A/B testing, which spun out of Obama's 2008 bid. (Sacca's actually an investor in that one, too.)

"A CTO role is a weird thing," said Carol Davidsen, who left Microsoft to become the product manager for Narwhal. "The primary responsibility is getting good engineers. And there really was no one else like him that could have assembled these people that quickly and get them to take a pay cut and move to Chicago."

And yet, the very things that make Reed an interesting and beloved person are the same things that make him an unlikely pick to become the chief technology officer of the reelection campaign of the President of the United States. Political people wear khakis. They only own long-sleeve dress shirts. Their old photos on Facebook show them canvassing for local politicians and winning cross-country meets.

I asked Michael Slaby, Obama's 2008 chief technology officer, and the guy who hired Harper Reed this time around, if it wasn't risky to hire this wild guy into a presidential campaign. "It's funny to hear you call it risky, it seems obvious to me," Slaby said. "It seems crazy to hire someone like me as CTO when you could have someone like Harper as CTO."

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THE NERDS ARE INSIDE THE BUILDING

The strange truth is that campaigns have long been low-technologist, if not low-technology, affairs. Think of them as a weird kind of niche startup and you can see why. You have very little time, maybe a year, really. You can't afford to pay very much. The job security, by design, is nonexistent. And even though you need to build a massive "customer" base and develop the infrastructure to get money and votes from them, no one gets to exit and make a bunch of money. So, campaign tech has been dominated by people who care about the politics of the thing, not the technology of the thing. The websites might have looked like solid consumer web applications, but they were not under the hood.

For all the hoopla surrounding the digital savvy of President Obama's 2008 campaign, and as much as everyone I spoke with loved it, it was not as heavily digital or technological as it is now remembered. "Facebook was about one-tenth of the size that it is now. Twitter was a nothing burger for the campaign. It wasn't a core or even peripheral part of our strategy," said Teddy Goff, Digital Director of Obama for America and a veteran of both campaigns. Think about the killer tool of that campaign, my.barackobama.com; It borrowed the my from MySpace.

Sure, the '08 campaign had Facebook co-founder Chris Hughes, but Hughes was the spokesperson for the company, not its technical guy. The '08 campaigners, Slaby told me, had been "opportunistic users of technology" who "brute forced and baling wired" different pieces of software together. Things worked (most of the time), but everyone, Slaby especially, knew that they needed a more stable platform for 2012.

In 2008, Facebook was about one-tenth of the size that it is now. Twitter was a nothing burger for the campaign. It wasn't a core or even peripheral part of the strategy.

Campaigns, however, even Howard Dean's famous 2004 Internet-enabled run at the Democratic nomination, did not hire a bunch of technologists. Though they hired a couple, like Clay Johnson, they bought technology from outside consultants. For 2012, Slaby wanted to change all that. He wanted dozens of engineers in-house, and he got them.

"The real innovation in 2012 is that we had world-class technologists inside a campaign," Slaby told me. "The traditional technology stuff inside campaigns had not been at the same level." And yet the technologists, no matter how good they were, brought a different worldview, set of personalities, and expectations.

Campaigns are not just another Fortune 500 company or top-50 website. They have their own culture and demands, strange rigors and schedules. The deadlines are hard and the pressure would be enough to press the t-shirt of even the most battle-tested startup veteran.

To really understand what happened behind the scenes at the Obama campaign, you need to know a little bit about its organizational structure. Tech was Harper Reed's domain. "Digital" was Joe Rospars' kingdom; his team was composed of the people who sent you all those emails, designed some of the consumer-facing pieces of BarackObama.com, and ran the campaign's most-excellent accounts on Facebook, Twitter, Tumblr, video, and the like. Analytics was run by Dan Wagner, and those guys were responsible for coming up with ways of finding and targeting voters they could persuade or turn out. Jeremy Bird ran Field, the on-the-ground operations of organizing voters at the community level that many consider Obama's secret sauce. The tech for the campaign was supposed to help the Field, Analytics, and Digital teams do their jobs better. Tech, in a campaign or at least this campaign or perhaps any successful campaign, has to play a

supporting role. The goal was not to build a product. The goal was to reelect the President. As Reed put it, if the campaign were Moneyball, he wouldn't be Billy Beane, he'd be "Google Boy."

There's one other interesting component to the campaign's structure. And that's the presence of two big tech vendors interfacing with the various teams -- Blue State Digital and NGP Van. The most obvious is the firm that Rospars, Jascha Franklin-Hodge, and Clay Johnson co-founded, Blue State Digital. They're the preeminent progressive digital agency, and a decent chunk -- maybe 30 percent -- of their business comes from providing technology to campaigns. Of course, BSD's biggest client was the Obama campaign and has been for some time. BSD and Obama for America were and are so deeply enmeshed, it would be difficult to say where one ended and the other began. After all, both Goff and Rospars, the company's principals, were paid staffers of the Obama campaign. And yet between 2008 and 2012, BSD was purchased by WPP, one of the largest ad agencies in the world. What had been an obviously progressive organization was now owned by a huge conglomerate and had clients that weren't other Democratic politicians.

One other thing to know about Rospars, specifically: "He's the Karl Rove of the Internet."

One other thing to know about Rospars, specifically: "He's the Karl Rove of the Internet," someone who knows him very well told me. What Rove was to direct mail -- the undisputed king of the medium -- Rospars is to email. He and Goff are the brains behind Obama's unprecedented online fundraising efforts. They know what they were doing and had proven that time and again.

The complex relationship between BSD and the Obama campaign adds another dimension to the introduction of an inside team of technologists. If all campaigns started bringing their technology in house, perhaps BSD's tech business would begin to seem less attractive, particularly if many of the tools that such an inside team created were developed as open source products.

So, perhaps the tech team was bound to butt heads with Rospars' digital squad. Slaby would note, too, that the organizational styles of the two operations were very different. "Campaigns aren't traditionally that collaborative," he said. "Departments tend to be freestanding. They are organized kind of like disaster response -- siloed and super hierarchical so that things can move very quickly."

Looking at it all from the outside, both the digital and tech teams had really good, mission-oriented reasons for wanting their way to carry the day. The tech team could say, "Hey, we've done this kind of tech before at larger scale and with more stability than you've ever had. Let us do this." And the digital team could say, "Yeah, well, we elected the president and we know how to win, regardless of the technology stack. Just make what we ask for."

The way that the conflict played out was over things like the user experience on the website. Jason Kunesh was the director of UX for the tech team. He had many years of consulting under his belt for big and small companies like Microsoft and LeapFrog. He, too, from an industry perspective knew what he was doing. So, he ran some user interrupt tests on the website to determine how people were experiencing www.barackobama.com. What he found was that the website wasn't even trying to make a go at persuading voters. Rather, everyone got funneled into the fundraising "trap." When he raised that issue with Goff and Rospars, he got a response that I imagine was something like, "Duh. Now STFU," but perhaps in more words. And from the Goff/Rospars perspective, think about it: the system they'd developed could raise \$3 million *from a single email.* The sorts of moves they had learned how to make had made a difference of tens, if not hundreds of millions of dollars. Why was this Kunesh guy coming around trying to tell them how to

run a campaign?

From Kunesh's perspective, though, there was no reason to think that you had to run this campaign the same as you did the last one. The outsider status that the team both adopted and had applied to them gave them the right to question previous practices.

Tech sometimes had difficulty building what the Field team, a hallowed group within the campaign's world, wanted. Most of that related to the way that they launched Dashboard, the online outreach tool. If you look at Dashboard at the end of the campaign, you see a beautifully polished product that let you volunteer any way you wanted. It's secure and intuitive and had tremendously good uptime as the campaign drew to a close.

But that wasn't how the first version of Dashboard looked.

The tech team's plan was to roll out version 1 with a limited feature set, iterate, roll out version 2, iterate, and so on and so forth until the software was complete and bulletproof. Per Kunesh's telling, the Field people were used to software that looked complete but that was unreliable under the hood. It looked as if you could do the things you needed to do, but the software would keep falling down and getting patched, falling down and getting patched, all the way through a campaign. The tech team did not want that. They might be slower, but they were going to build solid products.

In the movie version of the campaign, there's probably a meeting where I'm about to get fired and I throw myself on the table.

Reed's team began to trickle into Chicago beginning in May of 2011. They promised, over-optimistically, that they'd release a version of Dashboard just a few months after the team arrived. The first version was not impressive. "August 29, 2011, my birthday, we were supposed to have a prototype out of Dashboard, that was going to be the public launch," Kunesh told me. "It was freaking horrible, you couldn't show it to anyone. But I'd only been there 13 weeks and most of the team had been there half that time."

As the tech team struggled to translate what people wanted into usable software, trust in the tech team -- already shaky -- kept eroding. By February of 2012, Kunesh started to get word that people on both the digital and field teams had agitated to pull the plug on Dashboard and replace the tech team with somebody, anybody, else.

"A lot of the software is kind of late. It's looking ugly and I go out on this Field call," Kunesh remembered. "And people are like, 'Man, we should fire your bosses man... We gotta get the guys from the DNC. They don't know what the hell you're doing.' I'm sitting there going, 'I'm gonna get another margarita.'"

While the responsibility for their early struggles certainly falls to the tech team, there were mitigating factors. For one, no one had ever done what they were attempting to do. Narwhal had to connect to a bunch of different vendors' software, some of which turned out to be surprisingly arcane and difficult. Not only that, but there were differences in the way field offices in some states did things and how campaign HQ thought they did things. Tech wasted time building things that it turned out people didn't need or want.

"In the movie version of the campaign, there's probably a meeting where I'm about to get fired and I throw myself on the table," Slaby told me. But in reality, what actually happened was Obama's campaign chief Jim Messina would come by Slaby's desk and tell him, "Dude, this has to work."

And Slaby would respond, "I know. It will," and then go back to work.

In fact, some shakeups were necessary. Reed and Slaby sent some product managers packing and brought in more traditional ones like former Microsoft PM Carol Davidsen. "You very much have to understand the campaign's hiring strategy: 'We'll hire these product managers who have campaign experience, then hire engineers who have technical experience -- and these two worlds will magically come together.' That failed," Davidsen said. "Those two groups of people couldn't talk to each other."

Then, in the late spring, all the products that the tech team had been promising started to show up. Dashboard got solid. You didn't have to log in a bunch of times if you wanted to do different things on the website. Other smaller products rolled out. "The stuff we told you about for a year is actually happening," Kunesh recalled telling the Field team. "You're going to have one login and have all these tools and it's all just gonna work."

Perhaps most importantly, Narwhal really got on track, thanks no doubt to Davidsen's efforts as well as Josh Thayer's, the lead engineer who arrived in April. What Narwhal fixed was a problem that's long plagued campaigns. You have all this data coming in from all these places -- the voter file, various field offices, the analytics people, the website, mobile stuff. In 2008, and all previous races, the numbers changed once a day. It wasn't real-time. And the people looking to hit their numbers in various ways out in the field offices -- number of volunteers and dollars raised and voters persuaded -- were used to seeing that update happen like that.

But from an infrastructure level, how much better would it be if you could sync that data in real time across the entire campaign? That's what Narwhal was supposed to do. Davidsen, in true product-manager form, broke down precisely how it all worked. First, she said, Narwhal wasn't really one thing, but several. Narwhal was just an initially helpful brand for the bundle of software.

In reality, it had three components. "One is vendor integration: BSD, NGP, VAN [the latter two companies merged in 2010]. Just getting all of that data into the system and getting it in real time as soon as it goes in one system to another," she said. "The second part is an API portion. You don't want a million consumers getting data via SQL." The API allowed people to access parts of the data without letting them get at the SQL database on the backend. It provided a safe way for Dashboard, the Call Tool (which helped people make calls), and the Twitter Blaster to pull data. And the last part was the presentation of the data that was in the system. While the dream had been for all applications to run through Narwhal in real time, it turned out that couldn't work. So, they split things into real-time applications like the Call Tool or things on the web. And then they provided a separate way for the Analytics people, who had very specific needs, to get the data in a different form. Then, whatever they came up with was fed back into Narwhal.

It's just change management. It's not complicated; it's just hard.

By the end, Davidsen thought all the teams' relationships had improved, even before Obama's big win. She credited a weekly Wednesday drinking and hanging out session that brought together all the various people working on the campaign's technology. By the very end, some front-end designers who were technically on the digital team had embedded with the tech squad to get work done faster. Tech might not have been fully integrated, but it was fully operational. High fives were in the air.

Slaby, with typical pragmatism, put it like this. "Our supporters don't give a shit about our org chart. They just want to have a meaningful experience. We promise them they can play a meaningful role in politics and they don't care about the departments in the campaign. So we have to do the work

on our side to look integrated and have our shit together," he said. "That took some time. You have to develop new trust with people. It's just change management. It's not complicated; it's just hard."

WHAT THEY ACTUALLY BUILT



Of course, the tech didn't exist for its own sake. It was meant to be used by the organizers in the field and the analysts in the lab. Let's just run through some of the things that actually got accomplished by the tech, digital, and analytics teams beyond of Narwhal and Dashboard.

They created the most sophisticated email fundraising program ever. The digital team, under Rospars leadership, took their data-driven strategy to a new level. Any time you received an email from the Obama campaign, it had been tested on 18 smaller groups and the response rates had been gauged. The campaign thought all the letters had a good chance of succeeding, but the worst-performing letters did only 15 to 20 percent of what the best-performing emails could deliver. So, if a good performer could do \$2.5 million, a poor performer might only net \$500,000. The genius of the campaign was that it learned to stop sending poor performers.

Obama became the first presidential candidate to appear on Reddit, the massive popular social networking site. And yes, he really did type in his own answers with Goff at his side. One fascinating outcome of the AMA is that 30,000 Redditors registered to vote after President dropped in a link to the Obama voter registration page. Oh, and the campaign also officially has the most tweeted tweet and the most popular Facebook post. Not bad. I would also note that Laura Olin, a former strategist at Blue State Digital who moved to the Obama campaign, ran the best campaign Tumblr the world will probably ever see.

With Davidsen's help, the Analytics team built a tool they called The Optimizer, which allowed the campaign to buy eyeballs on television more cheaply. They took set-top box (that is to say, your cable or satellite box or DVR) data from Davidsen's old startup, Navik Networks, and correlated it with the campaign's own data. This occurred through a third party called Epsilon: the campaign sent its voter file and the television provider sent their billing file and boom, a list came back of people who had done certain things like, for example, watched the first presidential debate. Having that data allowed the campaign to buy ads that they knew would get in front of the most of their people at the least cost. They didn't have to buy the traditional stuff like the local news, either. Instead, they could run ads targeted to specific types of voters during reruns or off-peak hours.

According to CMAG/Kantar, the Obama's campaign's cost per ad was lower (\$594) than the Romney campaign (\$666) or any other major buyer in the campaign cycle. That difference may not sound impressive, but the Obama campaign itself aired more than 550 thousand ads. And it wasn't just about cost, either. They could see that some households were only watching a couple hours of TV a day and might be willing to spend more to get in front of those harder-to-reach people.

Goff described the Facebook tool as "the most significant new addition to the voter contact arsenal that's come around in years, since the phone call."

The digital, tech, and analytics teams worked to build Twitter and Facebook Blasters. They ran on a service that generated microtargeting data that was built by Will St. Clair. It was code named ~~Täargue~~ Taargüs for some reason. With Twitter, one of the company's former employees, Mark Trammell, helped build a tool that could specifically send individual users direct messages. "We built an influence score for the people following the [Obama for America] accounts and then cross-referenced those for specific things we were trying to target, battleground states, that sort of stuff." Meanwhile, the teams also built an opt-in Facebook outreach program that sent people messages saying, essentially, "Your friend, Dave in Ohio, hasn't voted yet. Go tell him to vote." Goff described the Facebook tool as "the most significant new addition to the voter contact arsenal that's come around in years, since the phone call."

Last but certainly not least, you have the digital team's Quick Donate. It essentially brought the ease of Amazon's one-click purchases to political donations. "It's the absolute epitome of how you can make it easy for people to give money online," Goff said. "In terms of fundraising, that's as innovative as we needed to be." Storing people's payment information also let the campaign receive donations via text messages long before the Federal Elections Commission approved an official way of doing so. They could simply text people who'd opted in a simple message like, "Text back with how much money you'd like to donate." Sometimes people texted much larger dollar amounts back than the \$10 increments that mobile carriers allow.

It's an impressive array of accomplishments. What you can do with data and code just keeps advancing. "After the last campaign, I got introduced as the CTO of the most technically advanced campaign ever," Slaby said. "But that's true of every CTO of every campaign every time." Or, rather, it's true of one campaign CTO every time.

EXIT MUSIC



Harper Reed after the election (Photo by Daniel X. O'Neil).

That next most technically advanced CTO, in 2016, will not be Harper Reed. A few days after the election, sitting with his wife at Wicker Park's Handlebar, eating fish tacos, and drinking a Daisy Cutter pale ale, Reed looks happy. He'd told me earlier in the day that he'd never experienced stress until the Obama campaign, and I believe him.

He regaled us with stories about his old performance troupe, Jugglers Against Homophobia, wild clubbing and DJs. "It was this whole world of having fun and living in the moment," Reed said. "And there was a lot of doing that on the Internet."

"I spent a lot of time hacking doing all this stuff, building websites, building communities, working all the time," Reed said, "and then a lot of time drinking, partying, and hanging out. And I had to choose when to do which."

We left Handlebar and made a quick pitstop at the coffee shop, Wormhole, where he first met Slaby. Reed cracks that it's like Reddit come to life. Both of them remember the meeting the same way: Slaby playing the role of square, Reed playing the role of hipster. And two minutes later, they were ready to work together. What began 18 months ago in that very spot was finally coming to an end. Reed could stop being Obama for America's CTO and return to being "Harper Reed, probably one of the coolest guys ever," as his personal webpage is titled.

But of course, he and his whole team of nerds were changed by the experience. They learned what it was like to have -- and work with people who had -- a higher purpose than building cool stuff. "Teddy [Goff] would tear up talking about the President. I would be like, 'Yeah, that guy's

cool," Reed said. "It was only towards the end, the middle of 2012, when we realized the gravity of what we were doing."

Part of that process was Reed, a technologist's technologist, learning the limits of his own power. "I remember at one point basically breaking down during the campaign because I was losing control. The success of it was out of my hands," he told me. "I felt like the people I hired were right, the resources we argued for were right. And because of a stupid mistake, or people were scared and they didn't adopt the technology or whatever, something could go awry. We could lose."

And losing, they felt more and more deeply as the campaign went on, would mean horrible things for the country. They started to worry about the next Supreme Court Justices while they coded.

"There is the egoism of technologists. We do it because we can create. I can handle all of the parameters going into the machine and I know what is going to come out of it," Reed said. "In this, the control we all enjoyed about technology was gone."

We finished our drinks, ready for what was almost certainly going to be a long night, and headed to our first club. The last thing my recorder picked up over the bass was me saying to Harper, "I just saw someone buy Hennessy. I've never seen someone buy Hennessy." Then, all I can hear is that music.

"How the Obama Campaign Won the Race for Voter Data" by Dan Balz,
Washington Post, July 28, 2013. Accessed online at
http://www.washingtonpost.com/politics/how-the-obama-campaign-won-the-race-for-voter-data/2013/07/28/ad32c7b4-ee4e-11e2-a1f9-ea873b7e0424_story.html on August 18, 2013.

The Washington Post

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How the Obama campaign won the race for voter data

By **Dan Balz**, Published: July 28

Joel Kowsky

BLOOMBERG

Engineers and developers work at President Obama's campaign headquarters in Chicago in December 2011.

From the moment Barack Obama took the oath of office on Jan. 20, 2009, and every day thereafter, his team was always preparing for the 2012 campaign. Everyone said Obama's 2008 operation had rewritten the book on organizing. But that was just a beginning, a small first step toward what the team envisioned when it began planning the reelection campaign.

In one of their first conversations about 2012, campaign manager Jim Messina said he told the president that they could not rerun 2008. Obama seemed puzzled. "You know we won that one," Obama said. Messina said too much had changed. For one thing, Obama was now an incumbent with a record. But technology had also leapfrogged forward, with new devices, new platforms and vastly more opportunities to exploit social media. The whole campaign would have to be different.

The president sent the team off to Chicago, far away from the hothouse of Washington and Beltway chatter, to use 2011 to build the foundation and reassemble the army from 2008. As the Republican candidates were gearing up and then battling one another through the summer and fall of 2011, the Obama team was investing enormous amounts of time, money and creative energy in what resembled a high-tech political start-up whose main purpose was to put more people on the streets, armed with more information about the voters they were contacting, than any campaign had ever attempted.

The Obama team had to be better in 2012. The weak economy made the president vulnerable to defeat. His political advisers knew well that turning out the vote would be far more challenging in the reelection effort than it had been in 2008. Many of his early supporters were disappointed and some

were outright frustrated with Obama's performance in office. The advisers recognized that Republicans were trying to block his agenda by questioning whether he had the leadership skills or the tenacity to get done what his first campaign had promised. Obama advisers also knew this campaign would have to be far more negative than the first — with few of the aspirational themes of 2008 — and they began preparing to attack Mitt Romney, the presumed challenger, long before the Republican primaries and caucuses began.

One of the hallmarks of Obama's 2012 campaign was its prodigious appetite for research. The trio at the top — Messina, senior strategist David Axelrod and White House senior adviser David Plouffe — were enthusiastic consumers of research. Though different in their approaches to politics — Axelrod operated intuitively, Plouffe's watchwords were "Prove it" and Messina wanted to be able to measure everything — they all pushed the campaign for more research, testing, analysis and innovation.

Message and media operated on one track. The other track focused on identifying, registering, mobilizing and ultimately turning out Obama voters. At the Chicago headquarters, these efforts were guided by Messina and Jen O'Malley Dillon, the deputy campaign manager, along with a sizable team of political organizers and tech-savvy newcomers.

"There's always been two campaigns since the Internet was invented, the campaign online and the campaign on the doors. What I wanted was, I didn't care where you organized, what time you organized, how you organized, as long as I could track it, I can measure it, and I can encourage you to do more of it."

Jim Messina, President Obama's 2012 campaign manager

The first steps toward building the reelection operation around a single target — maximizing turnout to reach 270 electoral votes — were taken in the months after Obama's 2008 victory. Campaign staffers compiled a series of after-action reports. "We did a very detailed postmortem where we looked at all kinds of numbers, looking at the general stuff like the number of door knocks we made, phone calls we made, number of voters that we registered," said Mitch Stewart, who would direct the campaign's 2012 effort in battleground states. "But then we broke it down by field organizer, we broke it down then by volunteer. We looked at the best way or the best examples in states of what their volunteer organization looked like."

The project produced a three-ring binder that contained nearly 500 pages and was filled with recommendations on how to strengthen what was already considered a state-of-the-art field operation. Another early step was the decision to massively expand the investment in technology, digital, cable, new media and particularly analytics.

The Obama campaign had the usual contingent of pollsters and ad makers and opposition researchers and, like all campaigns today, a digital director. But it also had a chief technology officer (who had never done politics before), a chief innovation officer and a director of analytics, which would become one of the most important additions and a likely fixture in campaigns of the future. The team hired software engineers and data experts and number-crunchers and digital designers and video producers by the score. They filled the back of a vast room resembling a brokerage house trading floor or tech start-up that occupied the sixth floor of One Prudential Plaza overlooking Millennium Park in Chicago.

No campaign had ever invested so heavily in technology and analytics, and no campaign had ever had such stated ambitions. "Technology was another big lesson learned from 2008, leap of faith and labor of love and angst-ridden entity and all the other things that you can imagine, because we were building things in-house mostly with people that had not done campaign work before," Dillon later told me. "The deadlines and breaking and testing — is it going to work, what do we do? . . . At the end of the day, it was certainly worth it, because you can't customize our stuff, and so we just couldn't buy off the shelf for anything and you know that, and fortunately we had enough time to kind of build the stuff. I don't know who else will ever have the luxury of doing that again."

Messina was as data driven as any presidential campaign manager in modern times, and Dillon had concentrated her efforts while at the Democratic National Committee in 2009 and 2010 on the programs that would make Obama's groundbreaking 2008 campaign look old-fashioned in comparison. They wanted all the data the campaign accumulated about voters to be integrated. The campaign had a voter list and a donor list and volunteer lists and other lists, but what it wanted was the ability to link all the contacts each person had with the operation into one database.

"There's always been two campaigns since the Internet was invented, the campaign online and the campaign on the doors," Messina told me. "What I wanted was, I didn't care where you organized, what time you organized, how you organized, as long as I could track it, I can measure it, and I can encourage you to do more of it." It took the technology team nearly a year, but it produced software that allowed all of the campaign's lists to talk to one another. The team named it Narwhal, after a whale of amazing strength that lives in the Arctic but is rarely seen. Harper Reed, the chief technology officer, described it as the software platform for everything else the campaign wanted to do and build.

Nikki Kahn

THE WASHINGTON POST

Obama speaks at a campaign event at Colorado State University in Fort Collins, Colo., on Aug. 28, 2012.

Nikki Kahn

THE WASHINGTON POST

Supporters chant "four more years" during Obama's speech in Kissimmee, Fla., on Sept. 8, 2012.

The next goal was to create a program that would allow everyone — campaign staffers in Chicago, state directors and their staff in the battlegrounds, field organizers, volunteers going door to door and volunteers at home — to communicate simply and seamlessly. The Obama team wanted something that allowed the field organizers in the Des Moines or Columbus or Fairfax offices to have access to all the campaign's information about the voters for whom they were responsible. They wanted volunteer leaders to have online access as well. That brought about the creation of Dashboard, which Messina later said was the hardest thing the campaign did but which became the central online organizing vehicle. It was enormously complicated to develop, made all the more difficult because the engineers who were building it had never worked on a campaign and did not instinctively understand the work of field organizers. Some of them were sent out to the states briefly as organizers to better

understand the needs of those on the front lines.

"Dashboard is what we needed to communicate," Dillon said. "It was all about the users, so if the users didn't have a good experience, there was no point in it. . . . That's why it was the Holy Grail."

Reed described it as a way to bring the field office to the Internet. "When you walk into a field office, you have many opportunities," he said. "We'll hand you a call sheet. You can make calls. You can knock on doors, and they'll have these stacks there for you. They'll say: 'Harper, you've knocked on 50 doors. That's great. Here's how you compare to the rest of them.' But it's all very offline. It's all very ad hoc, and it's not very modern. And so what we set out to do was create that offline field experience online."

Frank Polich

GETTY IMAGES

Jim Messina, Obama's campaign manager, talks with reporters during a tour of the re-election headquarters in Chicago.

Reed said that near the end of the campaign they received an e-mail from a wounded Afghanistan war veteran who was in a hospital. He was logging into Dashboard and participating in the organizing effort the way any other volunteer walking precincts was doing. Reed was astonished by the message. He said, "I could have quit that day, and I would have been satisfied with my role."

The Obama leaders not only wanted all the lists to be able to talk to one another, they also wanted people to be able to organize their friends and family members. This was taking a concept introduced in 2004 by George W. Bush's reelection team — the notion that voters are more likely to listen to people they know than to paid callers or strangers knocking on their door — and updating it to take advantage of new technology, namely the explosion of social media.

Early in 2011, some Obama operatives visited Facebook, where executives were encouraging them to spend some of the campaign's advertising money with the company. "We started saying, 'Okay, that's nice if we just advertise,'" Messina said. "But what if we could build a piece of software that tracked all this and allowed you to match your friends on Facebook with our lists, and we said to you, 'Okay, so-and-so is a friend of yours, we think he's unregistered, why don't you go get him to register?' Or 'So-and-so is a friend of yours, we think he's undecided. Why don't you get him to be decided?' And we only gave you a discrete number of friends. That turned out to be millions of dollars and a year of our lives. It was incredibly complex to do."

But this third piece of the puzzle provided the campaign with another treasure trove of information and an organizing tool unlike anything available in the past. It took months and months to solve, but it was a huge breakthrough. If a person signed on to Dashboard through his or her Facebook account, the campaign could, with permission, gain access to that person's Facebook friends. The Obama team called this "targeted sharing." It knew from other research that people who pay less attention to politics are more likely to listen to a message from a friend than from someone in the campaign. The team could supply people with information about their friends based on data it had independently gathered. The campaign knew who was and who wasn't registered to vote. It knew who had a low

propensity to vote. It knew who was solid for Obama and who needed more persuasion — and a gentle or not-so-gentle nudge to vote. Instead of asking someone to send a message to all of his or her Facebook friends, the campaign could present a handpicked list of the three or four or five people it believed would most benefit from personal encouragement.

Joel Kowsky

BLOOMBERG

Harper Reed, chief technology officer for U.S. President Barack Obama's re-election campaign, speaks to engineers at campaign headquarters in Chicago on Dec. 13, 2011.

Digital director Teddy Goff told my colleague Aaron Blake, "For people who allowed us, we were able to say to them: 'All right, you just watched a video about registering to vote. Don't just share it with all your friends on Facebook. We've run a match, and here are your 10 friends on Facebook who we think may not be registered to vote and live in Ohio, Colorado, Virginia, Florida.'" This was especially helpful in trying to reach voters under age 30. On Obama's target lists, the voter file contained no good contact information for half of those young voters — they didn't have land lines, and no other information was available. But Goff said 85 percent of that group were on Facebook and could be reached by a friend of a friend. Reed described another example. Someone interested in health care might click on an ad on Facebook, and up would pop an infographic about health care. At the end of it would be a "share" button, and if the person clicked on it, names of friends the person could share the information with would appear. The campaign knew from its own database which of those friends were most likely to respond to information about health care. "We went through and we looked at all those friends and found the ones that were the best matches for that specific piece of content," Reed said.

Google's Eric Schmidt, who offered advice to the campaign, said: "If you don't know anything about campaigns you would assume it's national, but a successful campaign is highly, highly local, down to the Zip code. The revolution in technology is to understand where the undecideds are in this district and how you reach them." That was what the integration of technology and old-fashioned organizing was designed to do for Obama in 2012.

Joel Kowsky

BLOOMBERG

An iPhone displaying an Obama 2012 election campaign application sits at Obama's campaign headquarters in Chicago on Dec. 13, 2011.

Dan Wagner had come to the DNC after the 2008 election to expand what was initially a tiny analytics operation. In early 2010, others on the Obama team had an epiphany about the value of analytics. It came just before the special election to fill the Senate seat of the late Edward M. Kennedy in Massachusetts. Many Democrats were still in denial about the direction of the race, incredulous that a little-known Republican state senator named Scott Brown could have enough momentum to defeat Democratic state Attorney General Martha Coakley. Wagner, who was operating with the analytics team out of the DNC, analyzed the numbers and surmised that Brown would win. He delivered his

conclusions and the data to Messina. "He said, 'We're going to lose, and here's why we're going to lose,' and it happened almost exactly like that," Messina said. "That's when we first started saying this modeling can really be something."

Dillon and national field director Jeremy Bird brought Wagner to the reelection campaign. Eventually the team modeled practically everything — voters, states, volunteers, donors, anything it could think of to improve efficiency — to give it greater confidence in its decision making. It wanted to know who was most likely to serve as a volunteer, and it created a model to find out. The campaign established record numbers of offices in the states, and record numbers of staging areas for volunteers, based in part on analysis of how much more likely people were to volunteer if they were close to an office. "We built a model on volunteer likelihood," Stewart said. "We built a model on turnout, we built a model on support, we built a model on persuasion — who's most persuadable."

From modeling and testing, the campaign refined voter outreach. Virtually every e-mail it sent included a test of some sort — the subject line, the appeal, the message — designed to maximize contributions, volunteer hours and eventually turnout on Election Day. The campaign would break out 18 smaller groups from e-mail lists, create 18 versions of an e-mail, and then watch the response rate for an hour and go with the winner — or take a combination of subject line and message from different e-mails and turn them into the finished product. Big corporations had used such testing for years, but political campaigns had not.

The team's attention to detail rivaled that of the most successful corporations. One innovation was the recruitment of corporate trainers or coaches, who volunteered to help teach everyone how to manage. "We recruited a whole group of pro bono executive coaches," Bird said. "These are people that coach Fortune 100 companies." Obama's team recruited them as volunteers, but instead of having them knock on doors, they were asked to provide management training. "We had them partner up with our state leadership," Bird said. "They didn't need to know anything about campaigns, because we didn't want their advice on how to run a campaign. We wanted their advice on how to be a manager."

The campaign also sought advice from what the New York Times later called a "dream team" of academics who described themselves as a "consortium of behavioral scientists." The group included political scientists, psychologists and behavioral economists. The campaign was operating well outside the traditional network of political consultants.

Throughout 2011, Obama advisers were baffled by the slow start to the Republican presidential race. They knew from their experience in 2008 how long it took to build a field operation capable of winning a campaign. They were even more keenly aware of the lead times and money required to assemble the technological infrastructure to support a sophisticated get-out-the-vote operation for 2012. Republicans could see that the Obama campaign was spending tens of millions of dollars in 2011. They just weren't sure on what.

Nikki Kahn

THE WASHINGTON POST

Approximately 9,000 people gathered in the rain for rally with President Barack Obama at Cleveland State University in Cleveland, Ohio, on October 5, 2012.

The gap between the Obama and Romney operations crystallized in the key battleground state of Ohio in the closing weeks of the general-election campaign. Members of Obama's team had been on the ground in Ohio for years. They knew the state intimately. Obama had at least 130 offices there, plus 500 or so staging areas for volunteers. He had almost 700 staffers on the Ohio payroll alone. Thousands of volunteers contacted voters.

Romney had to put together an organization in a matter of months. He had about 40 offices and 157 paid staff members, although most of them were on the Republican National Committee's payroll. Scott Jennings, Romney's Ohio state director, said after the election that there was no way the Republicans could conquer Obama's head start. "Our ground game was as good as it could have possibly been, given the time and resources we had to work with," he said. "There's just no substitute for time. Six months . . . wasn't enough to overcome six years of a constant campaign run by the other side. Truly it is remarkable to see what they did, in the rearview mirror."

Aaron Pickrell, Obama's chief Ohio strategist, told a story about himself that illustrated the disparity between the two campaigns' ground operations. An Obama volunteer knocked on his door during the summer, just to check in and see if he had any questions. The volunteer did not know who Pickrell was. He knew, based on campaign data, only that Pickrell should be a solid Obama voter, someone who needed to be contacted once at most.

Pickrell and his wife later ordered absentee ballots. When the ballots arrived, they set them aside on the kitchen table, where they sat for two weeks. "I got thrown back into the database of people who needed to be contacted," he said. Soon an Obama volunteer knocked on their door to remind them to turn in the ballots. Once they did, there was no more contact. That was the level of the campaign's efficiency. Meanwhile, Pickrell said he received a dozen direct-mail pieces from the Romney campaign, a waste of money and effort on the Republicans' part. He got no direct mail from the Obama campaign because the database said he didn't need persuading. Rich Beeson, Romney's political director, eventually learned the scope and sophistication of the Obama operation. "They took that to another level," he said.

Through modeling, voters were rated on a scale of 1 to 100 on their likelihood to support Obama. A similar scale was used to predict the likelihood that people would turn out. So if someone had a high support score and a low turnout score, meaning that person was very likely to support Obama but not so likely to vote, the campaign tried to make sure that person got registered and then cast a ballot, preferably during the period of early voting. Banking those sporadic voters became a top priority.

The Obama team had done support and turnout estimations in 2008 but more experimentally. This time, the campaign added a third measure, a persuasion score. This helped weed out people who said they were independent but really were not. In the final weeks of the campaign, the team focused on voters with persuasion scores of 40 to 60. Those with higher scores were likely to vote for Obama without much persuasion. The others probably weren't going to back the president no matter how open they said they were.

"In the old days you would say, 'Here's a list of people we think are independents, go to those houses,' " Messina said. "But you waste your volunteers' time all over the place because despite what someone says, there are a very small amount of undecided voters." By knowing the voters and

modeling the electorate, the campaign wasted less time pounding the pavement.

No get-out-the-vote operation works precisely as planned — or as characterized in after-action reports by the winning campaign. It always sounds better than it is. On the streets, it never looks as smooth as described at headquarters. But the payoffs for Obama were real on Election Day.

View Photo Gallery: A look back at moments from Democratic President Obama's campaign.

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- Conservative observer Ben Howe recorded the level of input the campaign had from industry leader Google in this article: "Google and Democrats deny that Google is helping Democrats" Redstate.com, February 28, 2013. Available online at <http://www.redstate.com/2013/02/28/google-and-democrats-claiming-google-not-helping-democrats/>, and accessed August 18, 2013.

Google and Democrats deny that Google is helping Democrats

Yes, I'm doubling down.

By: Ben Howe (Diary) | February 28th, 2013 at 04:40 PM | 23

RESIZE: AAA

Google

obama loves google
google loves obama

A couple weeks ago, I warned conservatives about Google's entanglement with the Left, and the possibility that Google could provide data intelligence to Democrats. Not the usual consumer data that everybody uses, but a level of real-time behavioral data far beyond what Republicans could ever achieve using available consumer data. That concern was dismissed as a conspiracy theory by some people.

The question isn't *whether* Google collaborates with Democrats, but *how* Google collaborates with Democrats.

We know that Obama campaign manager Jim Messina received personal mentoring on both technology approaches and management style from Google executive chairman Eric Schmidt, his friend since the 2008 campaign. We know that Google employees overwhelmingly contributed to Democrats in the last cycle (and aggregate individual employee contributions outnumbered the company's PAC contributions). We know that Google vice president and "chief Internet evangelist" Vint Cerf received a presidential appointment to the National Science Board following last year's election.

Is it paranoid to believe that Google is *deeply invested* in helping Democrats? No.

Still, I decided to take a deeper look at the connections between Google and the Obama campaign.

Jim Messina called on **Google's Eric Schmidt**, Apple's Steve Jobs, and Hollywood's Steven Spielberg for their advice on building an organization. Schmidt gave Messina what turned out to be an invaluable piece of advice:

Messina said Google Chairman Eric Schmidt gave him simple advice: "You do not want political people, you want smart people who you are going to draw what you want and they're going to go build it." So Messina went out and hired someone to

head the data department who had never worked on a campaign before.

What better pool of talent to draw from than Schmidt's own company? Schmidt himself certainly wasn't shy about being deeply involved with the campaign. He even helped himself to the first slice of a cake, purchased by Obama campaign Dev Ops Director Scott VanDenPlas, emblazoned with "Don't F*ck This Up." Schmidt later told Bloomberg Businessweek that the Obama campaign was the "best-run campaign ever."

Google's Schmidt also personally visited OFA's Chicago HQ, where he spent time with OFA Chief Technology Officer Harper Reed and OFA Engineer Mark Trammell – Schmidt is the guy with the official OFA lanyard with photo in the mom jeans sitting on the table in the photo below, Reed is in the background by the smiley face, and Trammell is on the far right with the Santa Claus Starter Kit™ beard:



Michael Slaby, OFA's Chief Integration and Innovation Officer, was a panelist (PDF) at left wing (of course) activism conferences at Google headquarters in Mountain View, CA, which should not be surprising since he was also the chief technology strategist for Eric Schmidt's venture capital fund, Tomorrow Ventures LLC. Call me crazy, but I'm guessing their paths have crossed a time or two, and that their conversations have probably had quite a bit to do with politics and policy.

Obama's impressive data team also boasts a large number of high-profile connections to Google, starting at the top with **Rayid Ghani**, OFA Chief Scientist. Not only has Ghani keynoted an

address at Google Research Labs, according to his online CV (PDF), but he also spoke this month at his grad school alma mater Carnegie Mellon University in a lecture series sponsored by – you guessed it – Google. Ghani's former department at Carnegie Mellon boasts seven alumni on Google's payroll on their website.

Ghani's role on the Obama campaign was to direct Project Dreamcatcher, which used "text analytics to gauge voter sentiment" about issues and speeches. I wonder how he came up with that idea? Could it have been in talking with Katharina Probst, Senior Software Engineer and Tech Lead at Google, who, according to her own site, is "working on new features for Gmail and Gmail Ads?" (Google is currently facing some heat over how it exploits Gmail user data for advertisers – but they would *never* exploit user data to help the Obama campaign, right?)

Probst and Ghani not only went to undergrad at the University of the South and grad school at Carnegie Mellon University together, but they have also co-authored two refereed journal articles together and presented four conference papers together. Something tells me *their* paths have crossed a time or two, including while Ghani was on the campaign.

Many Google employees personally volunteered for Ghani's team – the question for conservatives is *what exactly did they do?* I bet Ethan Roeder, OFA Director of Data could tell us. Before joining the Obama campaign, Roeder was the Director of Data, Technology, and Election Administration at the Voting Information Project (PDF), a "Collaboration between Google, Pew Center on the States," and the New Organizing Institute, according to Roeder's LinkedIn profile.

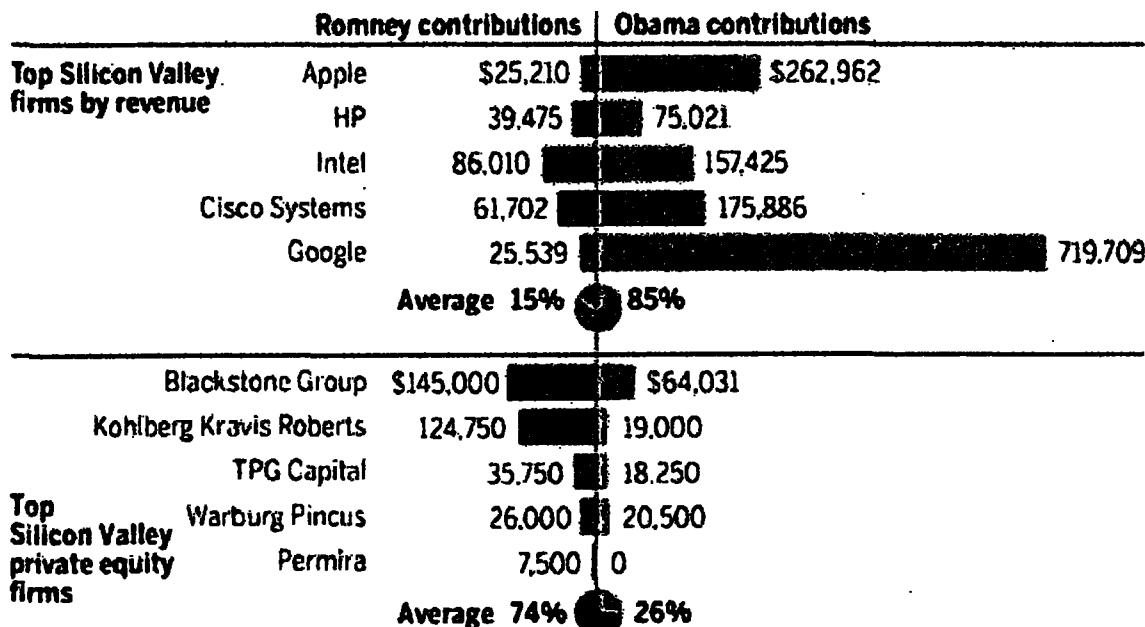
Speaking of people at Google volunteering time and resources, I can't imagine Catherine Bracy, OFA Community Outreach Lead, Product Manager, Tech4Obama Program Manager, and co-director of Obama's San Francisco technology field office doesn't have a direct line to some of the key decision makers at Google who would approve employee sabbaticals to work on campaigns. Bracy, according to her LinkedIn profile, was an administrative director at Harvard's Berkman Center for Internet & Society, which receives millions in funding from Google.

Why does that matter?

Well, Bracy's primary responsibilities at Berkman Center "included oversight of the center's budgets and operations, fundraising, project management and event planning." Ostensibly, she was involved in asking Google for the money it paid to support Berkman – what a great asset for a presidential campaign to have, huh? It was such a great asset, in fact, that Obama received over \$719,000 in donations from Google employees, helping him on the path to an average 6:1 fundraising advantage over Romney from the Silicon Valley area.

Where Silicon Valley political money went

Employees of Silicon Valley's largest companies who donated to presidential campaigns overwhelmingly went for President Barack Obama. But employees of the valley's top private equity firms mostly donated to his Republican opponent, Mitt Romney.



Sources: Federal Election Commission, Center for Responsive Politics

BAY AREA NEWS GROUP

And that kind of money advantage is, in fact, the direct result of Bracy's work for the campaign, if *Mother Jones* has anything to say about it:

Bracy reached out to heavyweights in the Bay Area's digital world, from Craigslist to Google, before helping to launch the Obama campaign's San Francisco technology field office last March.

And *The Atlantic* reported last year that Bracy and others were considered to be the "stars" of several closed-door fundraisers targeting the technology community:

In late January, Goff, Reed, and Bracy hosted a fundraiser at San Francisco's Founders Den, a SoMa working space and private club. Thirty dollars got donors into a panel reception, and \$500 gave them access to a "small roundtable discussion" starting an hour and a half earlier.

The Atlantic report also notes "The Obama campaign wasn't interested in commenting on this sort of thing." THERE's a big shocker....

Bracy also brags on her LinkedIn profile that she personally was responsible for recruiting over 100 volunteers from the Silicon Valley community for the campaign, and oversaw the development of 14 products. That list of volunteers may (or may not have) included:

- OFA Senior Software Engineer **Justin Vincent**, who was a software engineer at Google from March 2008 to July 2011
- OFA Lead Engineer **Angus Durocher**, who was the lead web developer for YouTube/Google from 2006 to 2010
- OFA Director of Voter Experience **Anthea Watson Strong**, who worked with OFA Director of Data Ethan Roeder on the Voting Information Project

Or maybe OFA CTO **Harper Reed**, who was besties with Schmidt, hired those guys. I don't know.

It's no surprise that Bracy consulted for Google on the Google Political Innovation Summit immediately following the 2012 election, or that she is now the International Program Manager at Code for America that, surprise, surprise, received Google Foundation funding in 2012.

Look, I'm not alleging that Google is buying drones, getting its policy people appointed to senior White House positions and then collaborating on official White House policy with their former colleagues through private email (Gmail) accounts, rolling over for the majority of subpoenas (not warrants) the Department of Justice issues them for user data, that those Department of Justice subpoenas and user data disclosures torpedo the aspirations of GOP 2016 presidential hopefuls, or that they're tracking your browsing habits and reading your Gmail to make a buck while helping their friends in power.

All I'm saying is that, maybe when people from Google, or from Salon.com, which just happen to be owned by Robert McKay, Chairman of the left wing donor activist group, Democracy Alliance (along with, unsurprisingly, another former Google employee), deny that Google collaborates with Democrats, maybe we shouldn't just take their word for it.

Journalist Joshua Green reported for Business Week the extent to which 2012 campaign manager Jim Messina recruited all the expert talent and advice he could find – in the tech world, and beyond. Available online at <http://www.businessweek.com/articles/2012-06-14/obamas-ceo-jim-messina-has-a-president-to-sell> and accessed August 22, 2013.

Obama's CEO: Jim Messina Has a President to Sell

The day after Jim Messina quit his job as White House deputy chief of staff last January, he caught a plane to Los Angeles, paid a brief visit to his girlfriend, and then commenced what may be the highest-wattage crash course in executive management ever undertaken. He was about to begin a new job as Barack Obama's campaign manager, and being a diligent student with access to some very smart people, he arranged a rolling series of personal seminars with the CEOs and senior executives of companies that included Apple (AAPL), Facebook (FB), Zynga (ZNGA), Google (GOOG), Microsoft (MSFT), Salesforce (CRM), and DreamWorks (DWA). "I went around the country for literally a month of my life interviewing these companies and just talking about organizational growth, emerging technologies, marketing," he says at Obama's campaign headquarters in Chicago.



Charles Dharapak/AP Photo

In two long, private conversations, Steve Jobs tore into Messina for all the White House was doing wrong and what it ought to be doing differently, before going on to explain how the campaign could exploit technology in ways that hadn't been possible before. "Last time you were programming to only a couple of channels," Jobs told him, meaning the Web and e-mail. "This time, you have to program content to a much wider variety of channels—Facebook, Tumblr, Twitter, YouTube (GOOG), Google—because people are segmented in a very different way than they were four years ago." When Obama declared for president, the iPhone hadn't been released. Now, Jobs told him, mobile technology had to be central to the campaign's effort. "He knew exactly where everything was going," Messina says. "He explained viral content and how our stuff could break out, how it had to be interesting and clean."

At DreamWorks Studios, Steven Spielberg spent three hours explaining how to capture an audience's attention and offered a number of ideas that will be rolled out before Election Day. An

early example of Spielberg's influence is RomneyEconomics.com, a website designed by the Obama team to tell the story—a horror story, by their reckoning—of Mitt Romney's career at Bain Capital. Afterward, Spielberg insisted that Messina sit down with the DreamWorks marketing team. Hollywood movie studios are expert, as presidential campaigns also must be, at spending huge sums over a few weeks to reach and motivate millions of Americans.

A certain awestruck tone surfaces when Messina talks about these encounters and what they taught him. At 42, he is tall and slightly stooped, with an innocent face, a flop of blonde hair, and a sheepdog friendliness made somewhat surreal by the arsenal of profanity he deploys when not speaking for the record. Messina, who's from Denver, managed his first campaign as an undergraduate at the University of Montana and in the 20 years since has never lost a race. Before joining Obama in 2008, he alternated between running campaigns and working on Capitol Hill. He made his name as chief of staff to Senator Max Baucus of Montana, becoming known as "Baucus's muscle" for his skill as a behind-the-scenes enforcer. In 2005 he ran the Democrats' successful pushback against George W. Bush's plan to privatize Social Security. "He had a talent for getting K Street to see that it was to their advantage to get on board with whatever Baucus was doing," says Jim Manley, a former top aide to Senate Majority Leader Harry Reid. At the White House, Messina helped cut the deal with the pharmaceutical industry that cleared the way for the health-care reform law.

Messina is unusual in Washington, at once a hard-bitten political fixer known for handling unpleasant tasks—"In the White House he was given all the, pardon my French, the s-t work," says Baucus—and also earnestly devoted to self-improvement in a way few Washington operatives would want revealed. A sign on his old computer in Baucus's office, hung with no evident irony and left there by the staff as a token of fondness, reads, "Be Better Today Than You Were Yesterday."

Along with his conversations with CEOs, Messina's regimen for the new job included reading a hundred years' worth of campaign histories piled on a shelf above his desk. But his obsession runs to the future, not the past, and to business as much as politics. Messina is convinced that modern presidential campaigns are more like fast-growing tech companies than anything found in a history book and his own job like that of the executives who run them. "What they've done is more readily applicable to me, because they all started very small and got big very quickly," he says.

EXHIBIT F

This exhibit details the Obama campaign's pioneering techniques in cross-referencing multiple streams of data, including data from cookies and trackers collecting a website visitor's location and browsing habits and history (c.f. Exhibit E). The campaign's data and technology team hired people with high-level, particular skill sets to accomplish these goals (c.f. Exhibit G). It also went so far as to create its own transaction processing service, inside the campaign, to mirror what its vendor was doing if the vendor went down, and it needed to recreate large numbers of individual transactions. The campaign used all its data to target highly particular demographic sub-groups and even individuals using both the information from the trackers and multiple other sources. The campaign had the capability to assign each individual visitor a unique alphanumeric signifier and then personalize both ads and e-mail communications, including solicitations.

Below is Time Magazine's November 7, 2012 story, "Obama Wins: How Chicago's Data-Driven Campaign Triumphed," (c.f. Exhibit E and Exhibit G). Time refers to the campaign's goal to cross-reference all its data as the "megafire." This enabled the campaign to precisely target different groups of voters for both fundraising and get-out-the-vote. For example, the campaign's west coast fundraising strategy targeted women between ages 40 and 49 for a dinner with actor George Clooney. Its east coast strategy offered donors a chance to dine with actress Sarah Jessica Parker. To get out the vote the campaign identified women in Miami under age 35 who watched certain TV shows and targeted ads to that specific audience.

Inside the Secret World of the Data Crunchers Who Helped Obama Win

Data-driven decisionmaking played a huge role in creating a second term for the 44th President and will be one of the more closely studied elements of the 2012 cycle



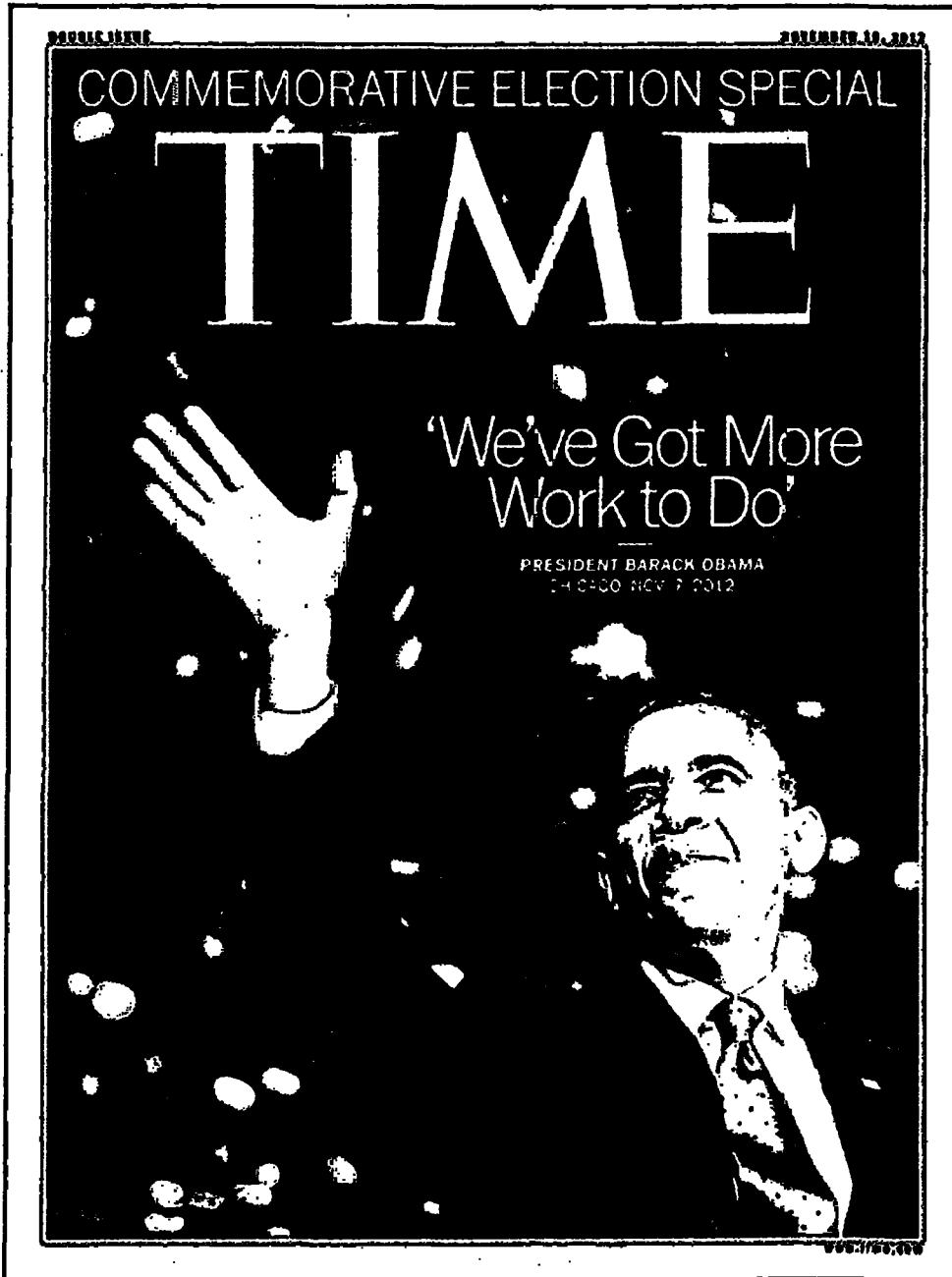
Daniel Shea for TIME

"The cave" at President Obama's campaign headquarters in Chicago

In late spring, the backroom number crunchers who powered Barack Obama's campaign to victory noticed that George Clooney had an almost gravitational tug on West Coast females ages 40 to 49. The women were far and away the single demographic group most likely to hand over cash, for a chance to dine in Hollywood with Clooney — and Obama.

So as they did with all the other data collected, stored and analyzed in the two-year drive for reelection, Obama's top campaign aides decided to put this insight to use. They sought out an East Coast celebrity who had similar appeal among the same demographic, aiming to replicate the millions of dollars produced by the Clooney contest. "We were blessed with an overflowing menu of options, but we chose Sarah Jessica Parker," explains a senior campaign adviser. And so the next Dinner with Barack contest was born: a chance to eat at Parker's West Village brownstone.

(MORE: Four More Years: Obama Wins Re-election)



For the general public, there was no way to know that the idea for the Parker contest had come from a data-mining discovery about some supporters: affection for contests, small dinners and celebrity. But from the beginning, campaign manager Jim Messina had promised a totally different, metric-driven kind of campaign in which politics was the goal but political instincts might not be the

means. "We are going to measure every single thing in this campaign," he said after taking the job. He hired an analytics department five times as large as that of the 2008 operation, with an official "chief scientist" for the Chicago headquarters named Rayid Ghani, who in a previous life crunched huge data sets to, among other things, maximize the efficiency of supermarket sales promotions.

Exactly what that team of dozens of data crunchers was doing, however, was a closely held secret. "They are our nuclear codes," campaign spokesman Ben LaBolt would say when asked about the efforts. Around the office, data-mining experiments were given mysterious code names such as Narwhal and Dreamcatcher. The team even worked at a remove from the rest of the campaign staff, setting up shop in a windowless room at the north end of the vast headquarters office. The "scientists" created regular briefings on their work for the President and top aides in the White House's Roosevelt Room, but public details were in short supply as the campaign guarded what it believed to be its biggest institutional advantage over Mitt Romney's campaign: its data.

On Nov. 4, a group of senior campaign advisers agreed to describe their cutting-edge efforts with TIME on the condition that they not be named and that the information not be published until after the winner was declared. What they revealed as they pulled back the curtain was a massive data effort that helped Obama raise \$1 billion, remade the process of targeting TV ads and created detailed models of swing-state voters that could be used to increase the effectiveness of everything from phone calls and door knocks to direct mailings and social media.

(Election 2012: Photos From the Finish Line)

How to Raise \$1 Billion

For all the praise Obama's team won in 2008 for its high-tech wizardry, its success masked a huge weakness: too many databases. Back then, volunteers making phone calls through the Obama website were working off lists that differed from the lists used by callers in the campaign office. Get-out-the-vote lists were never reconciled with fundraising lists. It was like the FBI and the CIA before 9/11: the two camps never shared data. "We analyzed very early that the problem in Democratic politics was you had databases all over the place," said one of the officials. "None of them talked to each other." So over the first 18 months, the campaign started over, creating a single massive system that could merge the information collected from pollsters, fundraisers, field workers and consumer databases as well as social-media and mobile contacts with the main Democratic voter files in the swing states.

The new megafire didn't just tell the campaign how to find voters and get their attention; it also allowed the number crunchers to run tests predicting which types of people would be persuaded by certain kinds of appeals. Call lists in field offices, for instance, didn't just list names and numbers; they also ranked names in order of their persuadability, with the campaign's most important priorities first. About 75% of the determining factors were basics like age, sex, race, neighborhood and voting record. Consumer data about voters helped round out the picture. "We could [predict] people who were going to give online. We could model people who were going to give through mail. We could model volunteers," said one of the senior advisers about the predictive profiles built by the data. "In the end, modeling became something way bigger for us in '12 than in '08 because it made our time more efficient."

Early on, for example, the campaign discovered that people who had unsubscribed from the 2008 campaign e-mail lists were top targets, among the easiest to pull back into the fold with some personal attention. The strategists fashioned tests for specific demographic groups, trying out message scripts that they could then apply. They tested how much better a call from a local volunteer would do than a call from a volunteer from a non-swing state like California. As Messina

had promised, assumptions were rarely left in place without numbers to back them up.

MORE: TIME Staff: Live Twitter Reactions

The new megafire also allowed the campaign to raise more money than it once thought possible. Until August, everyone in the Obama orbit had protested loudly that the campaign would not be able to reach the mythical \$1 billion fundraising goal. "We had big fights because we wouldn't even accept a goal in the 900s," said one of the senior officials who was intimately involved in the process. "And then the Internet exploded over the summer," said another.

A large portion of the cash raised online came through an intricate, metric-driven e-mail campaign in which dozens of fundraising appeals went out each day. Here again, data collection and analysis were paramount. Many of the e-mails sent to supporters were just tests, with different subject lines, senders and messages. Inside the campaign, there were office pools on which combination would raise the most money, and often the pools got it wrong. Michelle Obama's e-mails performed best in the spring, and at times, campaign boss Messina performed better than Vice President Joe Biden. In many cases, the top performers raised 10 times as much money for the campaign as the underperformers.

Chicago discovered that people who signed up for the campaign's Quick Donate program, which allowed repeat giving online or via text message without having to re-enter credit-card information, gave about four times as much as other donors. So the program was expanded and incentivized. By the end of October, Quick Donate had become a big part of the campaign's messaging to supporters, and first-time donors were offered a free bumper sticker to sign up.

(PHOTOS: Election 2012: Photos from the Finish Line)

Predicting Turnout

The magic tricks that opened wallets were then repurposed to turn out votes. The analytics team used four streams of polling data to build a detailed picture of voters in key states. In the past month, said one official, the analytics team had polling data from about 29,000 people in Ohio alone — a whopping sample that composed nearly half of 1% of all voters there — allowing for deep dives into exactly where each demographic and regional group was trending at any given moment. This was a huge advantage: when polls started to slip after the first debate, they could check to see which voters were changing sides and which were not.

It was this database that helped steady campaign aides in October's choppy waters, assuring them that most of the Ohioans in motion were not Obama backers but likely Romney supporters whom Romney had lost because of his September blunders. "We were much calmer than others," said one of the officials. The polling and voter-contact data were processed and reprocessed nightly to account for every imaginable scenario. "We ran the election 66,000 times every night," said a senior official, describing the computer simulations the campaign ran to figure out Obama's odds of winning each swing state. "And every morning we got the spit-out — here are your chances of winning these states. And that is how we allocated resources."

Online, the get-out-the-vote effort continued with a first-ever attempt at using Facebook on a mass scale to replicate the door-knocking efforts of field organizers. In the final weeks of the campaign, people who had downloaded an app were sent messages with pictures of their friends in swing states. They were told to click a button to automatically urge those targeted voters to take certain actions, such as registering to vote, voting early or getting to the polls. The campaign found that roughly 1 in 5 people contacted by a Facebook pal acted on the request, in large part because the message came from someone they knew.

(MORE: Why the Importance of Early Voting Is Here to Stay)

Data helped drive the campaign's ad buying too. Rather than rely on outside media consultants to decide where ads should run, Messina based his purchases on the massive internal data sets.

"We were able to put our target voters through some really complicated modeling, to say, O.K., if Miami-Dade women under 35 are the targets, [here is] how to reach them," said one official. As a result, the campaign bought ads to air during unconventional programming, like *Sons of Anarchy*, *The Walking Dead* and *Don't Trust the B— in Apt. 23*, skirting the traditional route of buying ads next to local news programming. How much more efficient was the Obama campaign of 2012 than 2008 at ad buying? Chicago has a number for that: "On TV we were able to buy 14% more efficiently ... to make sure we were talking to our persuadable voters," the same official said.

The numbers also led the campaign to escort their man down roads not usually taken in the late stages of a presidential campaign. In August, Obama decided to answer questions on the social news website Reddit, which many of the President's senior aides did not know about. "Why did we put Barack Obama on Reddit?" an official asked rhetorically. "Because a whole bunch of our turnout targets were on Reddit."

That data-driven decisionmaking played a huge role in creating a second term for the 44th President and will be one of the more closely studied elements of the 2012 cycle. It's another sign that the role of the campaign pros in Washington who make decisions on hunches and experience is rapidly dwindling, being replaced by the work of quants and computer coders who can crack massive data sets for insight. As one official put it, the time of "guys sitting in a back room smoking cigars, saying 'We always buy *60 Minutes*'" is over. In politics, the era of big data has arrived.

PHOTOS: Last Days on the Road with Obama

Reproduced below are printouts from website privacy statements. The first is from Edgeflip, the company co-founded by Rayid Ghani, the Obama 2012 campaign's chief data scientist (c.f. Exhibit G). Among other things, Edgeflip optimized the efficiency of supermarket advertising (see Exhibit E "Inside the Secret World of the Data Crunchers who Helped Obama Win

<http://swampland.time.com/2012/11/07/inside-the-secret-world-of-quants-and-data-crunchers-who-helped-obama-win/print/>). The second is from the May 2013 statement of barackobama.com's privacy statement. Among other similarities, note items such as "location," "device ID" "IP address" and "ISP" (Internet Service Provider) and "referring URL" (or site) is specifically included in both statements and highlighted below.



Edgeflip, LLC Privacy Policy

EFFECTIVE DATE: July 2, 2013

What Information Do We Collect About You and Why?

Information We Collect Directly From You

Information that We Collect About You from Social Networking Sites

Information We Collect Automatically

How We Use Your Information

How We Share Your Information

Our Use of Cookies and Other Tracking Mechanisms

Third Party Analytics and Tracking

User Generated Content

Third-Party Links

Security of My Personal Information

Can I Access and Modify My Personal Information?

What Choices Do I Have Regarding Use of My Personal Information?

Children Under 13

Contact Us

Changes to This Policy

Edgeflip, LLC ("Edgeflip," "we," "us" or "our") values your privacy. In this Privacy Policy ("Policy"), we describe how we collect, use, and disclose information that we obtain about visitors to our website, www.edgeflip.com (the "Site"), and the services available through our Site (collectively, the "Services").

By visiting the Site, or using any of our Services, you agree that your personal information will be handled as described in this Policy. Your use of our Site or Services, and any dispute over privacy, is subject to this Policy and our [Terms of Use](#), including its applicable limitations on damages and the resolution of disputes. The Edgeflip Terms of Use are incorporated by reference into this Policy.

What Information Do We Collect About You and Why?

We may collect information about you directly from you, such as automatically through your use of our Site or Services. We also collection information about you from third parties, such as, for example, providers of public records regarding voter registration and voting.

Information We Collect Directly From You. Certain areas and features of our Site and Services may require registration. During the registration process, we may collect the information you register with, such as your name and email address. You may also provide us with additional information such as your date of birth, mailing address, telephone number and demographic information; however, you are not required to provide us with this information.

Information that We Collect About You from Social Networking Sites. You may log into our Site through your Facebook account. If you do so, you must enter your Facebook email address and password. We will ask that you grant us permission to: (i) access and collect your Facebook basic information (this includes your name, profile picture, gender, networks, user IDs, list of friends, date of birth, email address, and any other information you have set to public on your Facebook account); (ii) send you email; (iii) post to Facebook on your behalf; (iv) access all information posted to your

newsfeed (such as, for example, your and your friends' location, photos, birthdays, posts, likes, interests); and (v) access your Facebook data at any time even if you are not using Facebook. If you allow us to have access to this information, then we will have access to this information even if you have chosen not to make that information public to all Facebook users.

We store the information that we receive from Facebook with other information that we may collect from you or receive about you from third parties.

For information about how Facebook may use and disclose information that it collects from or about you, please consult Facebook's privacy policy. We have no control over how any third party site uses or discloses the personal information it collects about you.

Information We Collect Automatically. We may automatically collect the following information about your use of our Site or Services through cookies, web beacons, and other technologies: your domain name, your browser type and operating system, web pages you view, links you click on, your access time, your IP address, your device ID, how you interact with our site and services, the length of time you visit our Site and use our Services, and the referring URL, or the webpage that led you to our Site.

Please see the section "Our Use of Cookies and Other Tracking Mechanisms" below for more information about our use of cookies and other tracking mechanisms.

How We Use Your Information

We use the information that we gather about you for the following purposes:

To provide our Services to you, to communicate with you about your use of our Services, to respond to your inquiries, and for other customer service purposes.

To tailor the content and information that we may send or display to you, to offer location customization, and personalized help and instructions, and to otherwise personalize your experiences while using the Site or our Services.

For marketing and promotional purposes. For example, we may use your information, such as your email address, to send you news and newsletters, special offers, and promotions, or to otherwise contact you about products or information we think may interest you.

To better understand how users access and use our Site and Services, both on an aggregated and individualized basis, in order to improve our Site and Services and respond to user desires and preferences, and for other research and analytical purposes.

To administer our customer loyalty program.

If you have granted us permission, to post to Facebook on your behalf.

How We Share Your Information

We may share the information that we collect about you, including personally identifiable information, as follows:

Facebook Users. Your username and profile picture will be visible to all other Edgeflip users, regardless of whether they are your Facebook friends. In addition, when you join Edgeflip, if you grant us permission to post on your Wall, a notification will be visible on your Facebook page telling your friends that you have started using Edgeflip. The Edgeflip Application also will be visible on your Facebook page under "applications."

Affiliates. We may disclose the information we collect from you to our affiliates or subsidiaries; however, if we do so, their use and disclosure of your personally identifiable information will be subject to this Policy.

Service Providers. We may disclose the information we collect from you to third party vendors, service providers, contractors or agents who perform functions on our behalf.

Business Transfers. If we are acquired by or merged with another company, if substantially all of our assets are transferred to another company, or as part of a bankruptcy proceeding, we may transfer the information we have collected from you to the other company.

In Response to Legal Process. We also may disclose the information we collect from you in order to comply with the law, a judicial proceeding, court order, or other legal process, such as in response to a court order or a subpoena.

To Protect Us and Others. We also may disclose the information we collect from you where we believe it is necessary to investigate, prevent, or take action regarding illegal activities, suspected fraud, situations involving potential threats to the safety of any person, violations of our Terms of Use or this Policy, or as evidence in litigation in which Edgeflip is involved.

Aggregate and De-Identified Information. We may share aggregated or otherwise de-identified information about users with third parties for marketing, advertising, research or similar purposes.

Our Use of Cookies and Other Tracking Mechanisms

We use cookies and other tracking mechanisms to track information about your use of our Site or Services. We may combine this information with other personal information we collect from you. Cookies are alphanumeric identifiers that we transfer to your computer's hard drive through your web browser for record-keeping purposes. Some cookies allow us to make it easier for you to navigate our Site and Services, while others are used to enable a faster log-in process or to allow us to track your activities at our Site and Service. There are two types of cookies: session and persistent cookies.

Session Cookies. Session cookies exist only during an online session. They disappear from your computer when you close your browser or turn off your computer. We use session cookies to allow our systems to uniquely identify you during a session or while you are logged into the Site. This allows us to process your online transactions and requests and verify your identity, after you have logged in, as you move through our Site.

Persistent Cookies. Persistent cookies remain on your computer after you have closed your browser or turned off your computer. We use persistent cookies to track aggregate and statistical information about user activity.

Third Party Cookies. We may also engage third parties to track and analyze Site data. We use the data collected by such third parties to help us administer and improve the quality of the Site and to analyze Site usage. Such third parties may combine the information that we provide about you with other information that they have collected. This Policy does not cover such third parties' use of the data.

Disabling Cookies. Most web browsers automatically accept cookies, but if you prefer, you can edit your browser options to block them in the future. The Help portion of the toolbar on most browsers will tell you how to prevent your computer from accepting new cookies, how to have the browser notify you when you receive a new cookie, or how to disable cookies altogether. Visitors to our Site who disable cookies will be able to browse certain areas of the Site, but some features may not function.

Clear GIFs, pixel tags and other technologies. Clear GIFs are tiny graphics with a unique identifier, similar in function to cookies. In contrast to cookies, which are stored on your computer's hard drive, clear GIFs are embedded invisibly on web pages. We may use clear GIFs (a.k.a. web beacons, web bugs or pixel tags), in connection with our Site to, among other things, track the activities of Site visitors, help us manage content, and compile statistics about Site usage. We and our third party service providers also use clear GIFs in HTML e-mails to our customers, to help us track e-mail response rates, identify when our e-mails are viewed, and track whether our e-mails are forwarded.

Third Party Analytics and Tracking. We use automated devices and applications, such as Google Analytics, to evaluate usage of our Site. We also may use other analytic means to evaluate our Services. We use these tools to help us improve our Services, performance and user experiences. These entities may use cookies and other tracking technologies to perform their services. We do not share your personal information with these third parties.

User Generated Content

Users may submit their own content to our Site, including, without limitation, pictures, reviews, comments and other text. We are not responsible for the privacy of any information that you choose to submit through this Site, our Services, or through any public forum, such as a blog, or for the accuracy of any information contained in those postings. Any information that you disclose becomes public information. We cannot prevent such information from being used in a manner that may violate this Policy, the law, or your personal privacy.

Third-Party Links

Our Site and Services may contain links to third-party websites. Any access to and use of such linked

websites is not governed by this Policy, but instead is governed by the privacy policies of those third party websites. We are not responsible for the information practices of such third party websites.

Security of My Personal Information

We have implemented commercially reasonable precautions, including, where appropriate, password protection, encryption, SSL, firewalls, and internal restrictions on who may access data to protect the information we collect from loss, misuse, and unauthorized access, disclosure, alteration, and destruction. Please be aware that despite our best efforts, no data security measures can guarantee 100% security.

You should take steps to protect against unauthorized access to your password, phone, and computer by, among other things, signing off after using a shared computer, choosing a robust password that nobody else knows or can easily guess, and keeping your log-in and password private. We are not responsible for any lost, stolen, or compromised passwords or for any activity on your account via unauthorized password activity.

Can I Access and Modify My Personal Information?

You may modify any personal information that you have submitted by logging into your account and updating your account settings. Please note that copies of information that you have updated, modified or deleted may remain viewable in cached and archived pages of the Site for a period of time.

If you would like to access or modify your Facebook profile information, or adjust the types of information we receive from Facebook, you must adjust your Facebook account settings directly through Facebook. We have no control over how Facebook shares your information with us or other third parties. The information you provide to Facebook is subject to the Facebook Privacy Policy.

What Choices Do I Have Regarding Use of My Personal Information?

Our clients may send periodic promotional or informational emails to you. If you would like to stop receiving such communications, you may ask us to stop sharing your email address with our clients. We will respect that request and stop sharing your email address going forward. Please note that it may take up to 10 business days for us to forward your opt-out request to our clients with whom we have previously shared your email address, and it is ultimately up to our clients to honor such a request.

Children Under 13

Our Services are not designed for children under 13. If we discover that a child under 13 has provided us with personal information, we will delete such information from our systems.

Special Notice to California Consumers

California residents may request a list of all third parties to which we have disclosed certain personal information about you for the third party's own marketing purposes. You may make one request per calendar year. In your request, please attest that you are a California resident and provide a current California address for our response to you. We will respond to you within thirty (30) days. You may request this information in writing by contacting us at:

Edgeflip, LLC
303 E Wacker Drive
Suite 2300
Chicago, IL 60601

Contact Us

If you have questions about the privacy aspects of our Services or would like to make a complaint, please contact us at: privacy@edgeflip.com.

Changes to This Policy

This Policy is current as of the Effective Date set forth above. We may change this Policy from time to time, so please be sure to check back periodically. We will post any changes to this Policy on our Site, at <http://www.edgeflip.com/privacy.html>. If we make any changes to this Policy that materially affect our practices with regard to the personal information we have previously collected from you, we will endeavor to provide you with notice in advance of such change by highlighting the change on our Site.

DONATE

Log in Create account

Organizing for Action

PRIVACY POLICY

LAST REVISED: MAY 21, 2013

This website or mobile application is operated by Organizing for Action. This privacy policy ("Policy") explains how personal information is collected, used, and disclosed by Organizing for Action with respect to your use of the barackobama.com Web site and other Organizing for Action Web sites and mobile applications which display this Policy (the "Sites") so you can make an informed decision about using the Sites. This Policy also applies to personal information collected on other web sites on our behalf by third party vendors. **We reserve the right to change the provisions of this Policy at any time. We will alert you that changes have been made by indicating on the Policy the date it was last updated. We encourage you to review this Policy from time to time to make sure that you understand how any personal information you provide will be used.**

WHAT IS PERSONAL INFORMATION?

As used herein, the term "personal information" means information that specifically identifies an individual (such as a name, address, telephone number, mobile number, e-mail address, or credit card number) and information about that individual or his or her activities that is directly linked to personally identifiable information. Personal information does not include "aggregate" information, which is data we collect about the use of the Sites or about a group or category of services or users, from which individual identities or other personal information has been removed. This Policy in no way restricts or limits our collection and use of aggregate information.

WHAT PERSONAL INFORMATION DO WE COLLECT?

Active Collection: Personal information may be collected in a number of ways when you visit our Sites. We collect certain information you voluntarily provide to us, such as when you create an account or a profile, make a donation, make a purchase, send us an email or sign up to receive email or text message updates, fill out a form, connect through a social feed, sign up to be a volunteer or host an event, request information, or apply for an internship. Such information may include personal information, such as your name, mailing address, email address, phone number, geographic location, and credit card information. We may also collect demographic information you may voluntarily provide from time to time, such as in response to questionnaires and surveys, including gender, ethnicity, education, and interest information. If this information is tied to personally identifiable information, it will be treated as personal information. Personal and

demographic information may also be collected if you provide such information in connection with creating a profile or group, leaving comments, posting blog comments or other content, sending an email or message to another user, or participating in any interactive forums or features on the Sites. In addition, from time to time we may collect demographic, contact or other personal information you provide in connection with your participation in surveys, contests, games, promotions, and other activities on the Sites. We may also obtain information from other sources and combine that with information we collect on our Sites.

Passive Collection: When you use the Sites, some information is also automatically collected, such as your Internet Protocol (IP) address, your operating system, the browser type, the address of a referring web site, and your activity on our Sites. If you access the Sites from a mobile device, we may also collect information about the type of mobile device you use, your device's unique ID, the type of mobile Internet browsers you use, and information about the location of your device (for information about how to opt-out of this data collection, please see "What Choices Do You Have Regarding the Use of Your Information?" below). We treat this information as personal information if we combine it with or link it to any of the identifying information mentioned above. Otherwise, it is used in the aggregate only.

We may also automatically collect certain information through the use of "cookies" or web beacons. Cookies are small data files stored on your hard drive at the request of a website. Among other things, cookies help us improve our Sites and your experience. Information obtained from cookies and linked to personally identifying information is treated as personal information. If you wish to block, erase, or be warned of cookies, please refer to your browser manufacturer to learn about these functions. When you view a video on our Sites, a third party may also set a "flash cookie" on your computer. Removing and rejecting browser cookies does not necessarily affect third party flash cookies used in connection with our Sites. To delete or disable flash cookies, please visit <http://www.adobe.com/products/flashplayer/security> for more information. However, if you choose to remove or reject browser or flash cookies, this could affect certain features on our Sites. Web beacons are small, invisible graphic images that may be used on the Sites or in emails relating to the Sites to collect certain information about usage and effectiveness and monitor user activity on the Sites.

Collection By Third Parties: Third party vendors, such as Google, Yahoo Tremor and 24/7 RealMedia, may use cookies or other technologies to serve ads or deliver content on this or other websites based on your visits to this site and other sites on the Internet and to provide analytics services. These third parties may automatically collect information about your visits to this and other websites, your IP address, your ISP, the browser you use to visit our Site, pages viewed, time spent on pages, links clicked and conversion information. They do this using cookies, clear gifs or other technologies.

Information collected may be used by Organizing for Action and third parties, among other things, to analyze and track data, to solicit donations, to deliver advertising or content on this or other websites based on your prior activities on this or other sites or targeted to your interests, and to better understand the usage and visitation of our Sites and the other sites tracked by these third parties. This Policy does not apply to, and we are not responsible for, cookies or clear gifs used by the third parties, and we encourage you to check the privacy policies of advertisers and/or ad services to learn about their use of cookies and other technology. If you would like to opt out of these cookies or obtain more information about

this practice, click here. In some cases, third party vendors may collect personal information from you, such as your name and email address, on other web sites and provide this information to us, or Organizing for Action may collect personal information that you enter directly within an advertising unit. This Policy does apply to such personal information collected online in this manner, and we will treat such information in the same manner as information collected on our Sites.

HOW DO WE USE THE PERSONAL INFORMATION WE COLLECT?

We use personal information collected through our Sites for the purposes described in this Policy or elsewhere on the Sites. For example, we may use personal information we collect:

- to provide the services, products, or information you request, and to process and complete such requests and any related transactions;
- to send you confirmations, receipts, updates, alerts, and support and administrative messages and otherwise facilitate your use of, and our administration and operation of, the Sites;
- to notify you about important changes to the Sites;
- to send you newsletters and otherwise provide you with information or services you request or that we think will be of interest to you, such as sending you information to keep you informed about various issues, events, resources, promotions, contests, products and services;
- to connect you with other supporters, and to solicit volunteers, donations and support for Organizing for Action issues and organizations that we support;
- to request feedback and to otherwise contact you about your use of the Sites;
- to respond to your emails, submissions, questions, comments, and requests and to provide customer service;
- to monitor and analyze site usage and trends, and to personalize and improve the Sites and our users' experiences on the Sites, such as providing content, or features that match your profiles or interests, and to increase the Sites' functionality and user friendliness;
- to serve ads, on this Site or other websites or media, based on the information you provide and the actions you take;
- to notify and contact contest and sweepstakes entrants; and
- for any other purpose for which the information was collected.

We may store and process personal information in the United States and other countries.

WHAT PERSONAL INFORMATION DO WE SHARE WITH THIRD PARTIES?

It is our policy not to share the personal information we collect from you through our Sites with third parties, except as described in this Policy or as otherwise disclosed on the Sites. For example, we may share personal information as follows:

- with vendors, consultants, and other service providers or volunteers who are engaged by or working with us and who need access to such information to carry out their work for us;
- with organizations, groups or causes that we believe have similar viewpoints, principles or objectives;
- when you give us your consent to do so, including if we notify you on the Sites, that the information you provide will be shared in a particular manner and you provide such information;
- when we believe in good faith that we are lawfully authorized or required to do so or that doing so is reasonably necessary or appropriate to comply with the law or legal processes or respond to lawful requests, claims or legal authorities, including responding to lawful subpoenas, warrants, or court orders;
- when we believe in good faith that doing so is reasonably necessary or appropriate to respond to claims or to protect the rights, property, or safety of Organizing for Action, our users, our employees, our volunteers, copyright owners, third parties or the public, including without limitation to protect such parties from fraudulent, abusive, inappropriate, or unlawful activity or use of our Site;

- to enforce or apply this Policy, our Terms of Service, or our other policies or agreements; and
- in connection with, or during negotiations of, any merger, reorganization, acquisition, asset sale, financing or lending transaction or in any other situation where personal information may be disclosed or transferred as one of the assets of Organizing for Action.

We are not responsible for the actions of any service providers or other third parties, nor are we responsible for any additional information you provide directly to any third parties, and we encourage you to become familiar with their privacy practices before disclosing information directly to any such parties. Nothing herein restricts the sharing of aggregated or anonymized information, which may be shared with third parties without your consent.

ONLINE PETITIONS:

When you sign an online petition, you understand that such petition is public information and that we may make the petition, and your name, city, state, and any comments provided in connection therewith publicly available. In addition, we may provide such petitions or compilations thereof, including your comments, name, city, and state to national, state or local leaders, or to the press.

INTERACTIVE FEATURES:

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Reprinted below are three articles. The first two articles are from the New York Times and the third is from the web privacy analytics firm Evidon.

The New York Times articles are from February and October 2012 and detail the sorts of detail presidential campaigns can glean using internet cookies and other "trackers." According to the Times, by using this technology campaigns can identify voters by voter registration, what charities they give to, and even what cars they drive. Furthermore this technology could track user's browsing history in such a manner that if the user was an evangelical a religion-friendly solicitation or other communication could be sent. While campaigns assigned an alphanumeric code to each individual to protect privacy the cumulative effect of these capabilities was such that "while the campaigns are not aiming at consumers by name — only by the code — the effect is the same.

The article from Evidon details the number of cookies or trackers used by both the Romney and Obama campaigns during the 2012 election cycle. Evidon documented eighty-seven unique trackers used by the Obama campaign, or roughly half the number Romney's campaign utilized.

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February 20, 2012

Online Data Helping Campaigns Customize Ads

By TANZINA VEGA

Political campaigns, which have borrowed tricks from Madison Avenue for decades, are now fully engaged on the latest technological frontier in advertising: aiming specific ads at potential supporters based on where they live, the Web sites they visit and their voting records.

In recent primaries, two kinds of Republican voters have been seeing two different Mitt Romney video ads pop up on local and national news Web sites. The first, called "It's Time to Return American Optimism," showed the candidate on the campaign trail explaining how this was an election "to save the soul of America." It was aimed at committed party members to encourage a large turnout. The second video ad, geared toward voters who have not yet aligned themselves with a candidate, focused more on Mr. Romney as a family man. Versions of the two ads were seen online in Florida, Iowa, New Hampshire and South Carolina.

Kenneth M. Goldstein, the president of the Campaign and Media Analysis Group at Kantar Media, part of the advertising giant WPP, said Mr. Romney's directed ads represented a sea change in political advertising.

"Forty years ago, you'd watch the same evening news ad as your Democratic neighbor," Mr. Goldstein said.

The technology that makes such customized advertising possible is called microtargeting, which is similar to the techniques nonpolitical advertisers use to serve up, for example, hotel ads online to people who had shopped for vacations recently.

In the last few years, companies that collect data on how consumers behave both online and off and what charitable donations they make have combined that vast store of information with voter registration records.

As a result, microtargeting allows campaigns to put specific messages in front of specific voters —

something that has increased in sophistication with the large buckets of data available to political consultants.

Zac Moffatt, the digital director for Mr. Romney's campaign, worked with a company called Targeted Victory for the online ads. "Two people in the same house could get different messages," Mr. Moffatt said. "Not only will the message change, the type of content will change."

Few campaigns like to talk about this kind of advertising. Representatives from the Obama campaign and the Gingrich campaign would not confirm whether they were using targeted ads tied to voter data. Saul Anuzis, chairman of the Republican National Committee on Technology, said he expected spending on digital political ads to reach 10 to 15 percent of campaign budgets in the 2012 election season.

Those numbers pale beside what campaigns will spend on television or direct mail. But the chief benefit of microtargeting is that campaigns can spend their money more efficiently by finding a particular audience and paying \$5 to \$9 per thousand displays of an ad, Mr. Anuzis said.

"We can now literally target the household," Mr. Anuzis said.

Microtargeting is largely done by a handful of campaign consultant groups including Aristotle, CampaignGrid and Targeted Victory, which collect some of their data from direct marketing companies like Acxiom and Experian. The companies are reluctant to discuss which candidates are their clients, but according to a Federal Election Commission filing, CampaignGrid does work with the Ron Paul "super PAC," Endorse Liberty.

The process for targeting a user with political messages takes three steps. The first two are common to any online marketing: a "cookie," or digital marker, is dropped on a user's computer after the user visits a Web site or makes a purchase, and that profile is matched with offline data like what charities a person supports, what type of credit card a person has and what type of car he or she drives. The political consultants then take a third step and match that data with voting records, including party registration and how often the person has voted in past election cycles, but not whom that person voted for.

Throughout the process, the targeted consumers are tagged with an alphanumeric code, removing their names and making the data anonymous. So while the campaigns are not aiming at consumers by name — only by the code — the effect is the same. Campaigns are able to aim at specific possible voters across the Web. Instead of buying an ad on, say, The Miami Herald Web site, a campaign can buy an audience.

Another advantage is that these ads can be bought quickly — using an auction process to obtain ad space — when campaigns need to move rapidly to aim at an audience, for example, to counter a bad debate performance or an unflattering newspaper article.

“If you can get in front of a news story, if you can help frame the debate rather than respond to the debate,” Mr. Anuzis said, “that makes a big difference.”

John Simpson, media director at Blue State Digital, which worked with the Obama campaign in 2008, said bidding technology means strategists can “get a campaign up and running very fast and also potentially pull it down very fast.”

In 2009, Chris Christie, then a candidate for governor in New Jersey, worked with CampaignGrid to respond to accusations from Gov. Jon S. Corzine that he supported cutting health care coverage including mammograms. In response, Mr. Christie’s campaign quickly created a video ad showing him sitting at a kitchen table with his wife and telling the story of his mother’s struggle with breast cancer.

It was aimed at female Republican voters who were searching for information on breast cancer. “It’s awful for the governor to try to desperately hold on to power by scaring people,” Mr. Christie said at the end of the video.

Mike DuHaime, a partner at Mercury Public Affairs who ran Mr. Christie’s campaign, said of the ad: “I think the biggest thing in politics is just being able to move quickly. I don’t know if it won us the campaign, but it kept us from losing.”

When Gov. Bobby Jindal of Louisiana was running for re-election last year, his campaign used a number of ads with different messages. Blaise Hazelwood, the president of Grassroots Targeting, the company that worked on Mr. Jindal’s campaign, said voter registration data was critical to the success of the digital campaign.

“We want to hit the people who can actually go out and vote,” Ms. Hazelwood said. The digital campaign ran in September and October, and the company placed ads online to reach registered Republicans as well as registered Democrats. There were more registered Democrats in the state, and early polling had shown that some were “favorable towards Jindal,” Ms. Hazelwood said.

Critics say that the ability to limit political messages to registered voters toes the line of social discrimination. Daniel Kreiss, an assistant professor at the School of Journalism and Mass Communication at the University of North Carolina at Chapel Hill, called some of the targeting

techniques a form of political redlining.

"These practices, as they get more sophisticated, leave entire segments of the population out of the political communication of the campaign," Professor Kreiss said, adding that "campaigns aren't going to spend resources on people who aren't seen as being important."

Prof. Joseph Turow of the Annenberg School for Communication at the University of Pennsylvania said that ads aimed at registered voters, while efficient for the campaign, benefited the candidate in another way.

"Different people getting different ideas about a candidate maximize the chances that a person would agree with you."

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October 13, 2012

Campaigns Mine Personal Lives to Get Out Vote

By CHARLES DUHIGG

Strategists affiliated with the Obama and Romney campaigns say they have access to information about the personal lives of voters at a scale never before imagined. And they are using that data to try to influence voting habits — in effect, to train voters to go to the polls through subtle cues, rewards and threats in a manner akin to the marketing efforts of credit card companies and big-box retailers.

In the weeks before Election Day, millions of voters will hear from callers with surprisingly detailed knowledge of their lives. These callers — friends of friends or long-lost work colleagues — will identify themselves as volunteers for the campaigns or independent political groups.

The callers will be guided by scripts and call lists compiled by people — or computers — with access to details like whether voters may have visited pornography Web sites, have homes in foreclosure, are more prone to drink Michelob Ultra than Corona or have gay friends or enjoy expensive vacations.

The callers are likely to ask detailed questions about how the voters plan to spend Election Day, according to professionals with both presidential campaigns. What time will they vote? What route will they drive to the polls? Simply asking such questions, experiments show, is likely to increase turnout.

After these conversations, when those targeted voters open their mailboxes or check their Facebook profiles, they may find that someone has divulged specifics about how frequently they and their neighbors have voted in the past. Calling out people for not voting, what experts term “public shaming,” can prod someone to cast a ballot.

Even as campaigns embrace this ability to know so much more about voters, they recognize the risks associated with intruding into the lives of people who have long expected that the privacy of the voting booth extends to their homes.

“You don’t want your analytical efforts to be obvious because voters get creeped out,” said a Romney campaign official who was not authorized to speak to a reporter. “A lot of what we’re doing is behind the scenes.”

In statements, both campaigns emphasized their dedication to voters’ privacy.

“We are committed to protecting individual privacy at every turn — adhering to industry best practices on privacy and going above and beyond what’s required by law,” said Adam Fetcher, an Obama campaign spokesman.

Ryan Williams, a spokesman for the Romney campaign, said: “The Romney campaign respects the privacy rights of all Americans. We are committed to ensuring that all of our voter outreach is governed by the highest ethical standards.”

In interviews, however, consultants to both campaigns said they had bought demographic data from companies that study details like voters’ shopping histories, gambling tendencies, interest in get-rich-quick schemes, dating preferences and financial problems. The campaigns themselves, according to campaign employees, have examined voters’ online exchanges and social networks to see what they care about and whom they know. They have also authorized tests to see if, say, a phone call from a distant cousin or a new friend would be more likely to prompt the urge to cast a ballot.

The campaigns have planted software known as cookies on voters’ computers to see if they frequent evangelical or erotic Web sites for clues to their moral perspectives. Voters who visit religious Web sites might be greeted with religion-friendly messages when they return to mittromney.com or barackobama.com. The campaigns’ consultants have run experiments to determine if embarrassing someone for not voting by sending letters to their neighbors or posting their voting histories online is effective.

“I’ve had half-a-dozen conversations with third parties who are wondering if this is the year to start shaming,” said one consultant who works closely with Democratic organizations. “Obama can’t do it. But the ‘super PACs’ are anonymous. They don’t have to put anything on the flier to let the voter know who to blame.”

While the campaigns say they do not buy data that they consider intrusive, the Democratic and Republican National Committees combined have spent at least \$13 million this year on data acquisition and related services. The parties have paid companies like Acxiom, Experian or Equifax, which are currently subjects of Congressional scrutiny over privacy concerns.

Vendors affiliated with the presidential campaigns or the parties said in interviews that their businesses had bought data from Rapleaf or Intelius, companies that have been sued over alleged privacy or consumer protection violations.

Officials at both campaigns say the most insightful data remains the basics: a voter's party affiliation, voting history, basic information like age and race, and preferences gleaned from one-on-one conversations with volunteers. But more subtle data mining has helped the Obama campaign learn that their supporters often eat at Red Lobster, shop at Burlington Coat Factory and listen to smooth jazz. Romney backers are more likely to drink Samuel Adams beer, eat at Olive Garden and watch college football.

The preoccupation with influencing voters' habits stems from the fact that many close elections were ultimately decided by people who almost did not vote. Each campaign has identified millions of "low-propensity voters."

Persuading such voters is difficult, political professionals say, because direct appeals have already failed. So campaigns must enlist more subtle methods. In particular, according to campaign officials from both parties, two tactics will be employed this year for the first time in a widespread manner.

The first builds upon research into the power of social habits. The Obama and Romney campaigns, as well as affiliated groups, have asked their supporters to provide access to their profiles on Facebook and other social networks to chart connections to low-propensity voters in battleground states like Colorado, North Carolina and Ohio.

When one union volunteer in Ohio recently visited the A.F.L.-C.I.O.'s election Web site, for instance, she was asked to log on with her Facebook profile. Computers quickly crawled through her list of friends, compared it to voter data files and suggested a work colleague to contact in Columbus. She had never spoken to the suggested person about politics, and he told her that he did not usually vote because he did not see the point.

"We talked about how if you don't vote, you're letting other people make choices for you," said the union volunteer, Nicole Rigano, a grocery store employee. "He said he had never thought about it like that, and he's going to vote this year. It made a big difference to know ahead of time what we have in common. It's natural to trust someone when you already have a connection to them."

Another tactic that will be used this year, political operatives say, is asking voters whether they plan to walk or drive to the polls, what time of day they will vote and what they plan to

do afterward.

The answers themselves are unimportant. Rather, simply forcing voters to think through the logistics of voting has been shown, in multiple experiments, to increase the odds that someone will actually cast a ballot.

"Voting is habit-forming," said David W. Nickerson, a professor at the University of Notre Dame and a co-author of a study of such tactics. Dr. Nickerson is currently engaged in electoral work, though he would not specify for which campaigns or party. "When someone is asked to form a mental image of the act of voting, it helps trigger that habit."

It is difficult to gauge which campaign is using data more effectively. Though both parties use similar data sets, the Obama campaign and the Democratic Party conduct most analysis and experiments in house and have drawn on a deep pool of data from four years ago.

The Romney campaign, by contrast, has relied on outside analytic firms and has focused more on using data to create persuasive messages and slightly less on pushing voters to the polls.

Officials for both campaigns acknowledge that many of their consultants and vendors draw data from an array of sources — including some the campaigns themselves have not fully scrutinized. And as the race enters its final month, campaign officials increasingly sound like executives from retailers like Target and credit card companies like Capital One, both of which extensively use data to model customers' habits.

"Target anticipates your habits, which direction you automatically turn when you walk through the doors, what you automatically put in your shopping cart," said Rich Beeson, Mr. Romney's political director. "We're doing the same thing with how people vote."

Jo Craven McGinty contributed reporting.

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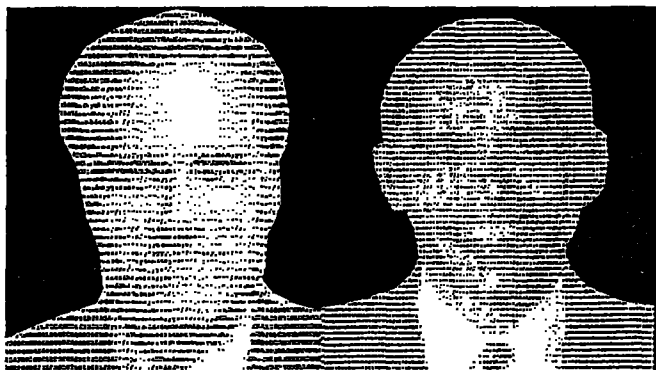
The Invisible Vote

Oct 27, 2012

By Andy Kahl

EVIDON
GLOBAL
TRACKER
report

(http://betteradblog.files.wordpress.com/2012/02/evidon_globaltracker_logo_r2.png) This post is another in our Evidon Global Tracker Report series. Featuring proprietary insight into and analysis of third-party tracking across the web, articles in the series represent the kind of data you'll find in the Evidon Global Tracker Report. The next comprehensive report will be published in January, 2013.



(/sites/default/files/2012/10/data_ports2.png) In the months leading up to the election, tracking technologies increased on candidate websites by an average of over 75%.

Last November, one year away from US presidential elections, we took a look (<http://purplebox.ghostery.com/?p=1016022155>) at the number of tracking technologies adopted by President Obama and the slate of hopefuls for the Republican nomination. At the time, the Obama campaign had adopted 41 unique tracking technologies, and the Romney campaign (pre-nomination) was utilizing 34.

Nine months later, with the election less than 8 weeks away, the campaigns are in full swing. This includes, as all US citizens are aware, a barrage of advertising... but the marketing deluge isn't limited to television and billboards. From May to September, Ghostery panel members encountered 87 unique tracking technologies on [BarackObama.com](#), an increase of over 112% from the same period nine months prior. MittRomney.com increased tracking technologies by over 41%, with 48 unique tools encountered. That's an average increase of 76.5% across both sites.

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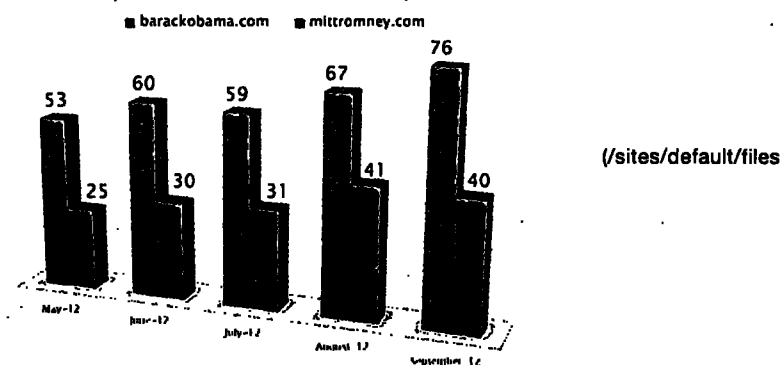
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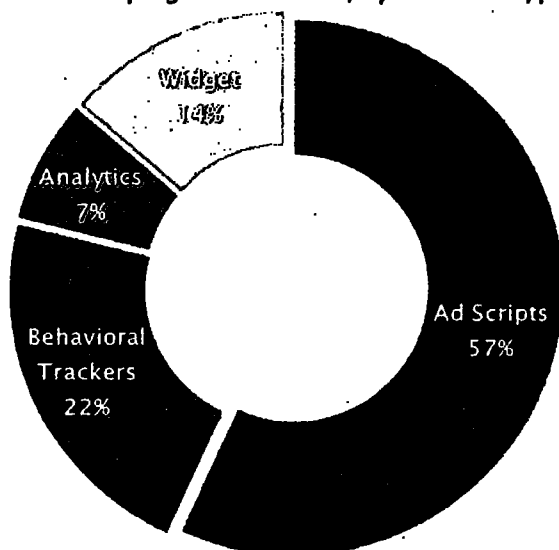
Unique Trackers Encountered by Month



/2012/10/both_trsbymonth.png)

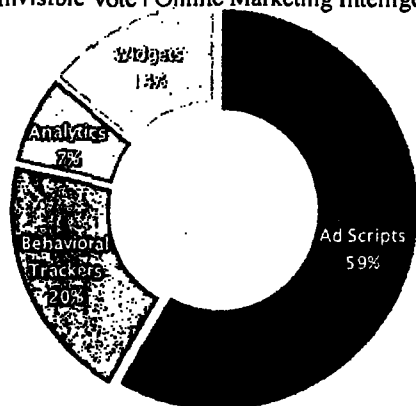
Many of the tools are what you might expect - analytics, social, and advertising tools that any web publisher with an eye toward self-measurement and basic marketing might adopt. Between the two sites, however, there were 97 unique tracking technologies - far more than the average site employs. We get a better understanding of what the campaigns are seeking from these 3rd-party tools when we break them down according

Both Campaigns Combined, By Element Type

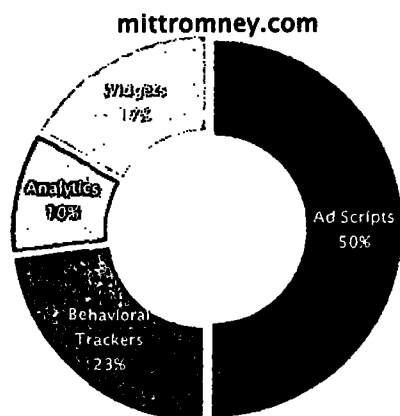


to element type.

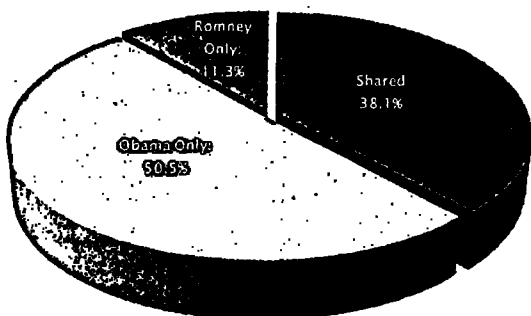
Both sites are focused primarily on ad technologies, as ad network scripts make up over half of the tracking technology on each site. This may seem unintuitive - if neither site shows advertisements, why all the ad networks? Ad network scripts and behavioral trackers serve similar purposes - they help qualify or mark a web user for future ad delivery (so that when the same user is visiting, say, a news site; ad network scripts are aware of their previous visit to the presidential campaign site). The networks are also present in the form of conversion pixels - invisible scripts used to measure the effectiveness of advertising elsewhere on the web. Neither site is using inventory to serve ads, but all of these network pixels indicate numerous relationships with ad networks to deliver campaign ads on other sites. As you might suspect with such aggressive ad campaigns that span such a relatively short amount of time, both camps endeavor to leave no stone unturned in their search for ad inventory.



Page widgets represent about 16% of all the tools utilized on average. Unlike network conversion pixels and other data collection tools, widgets like social buttons, comment forms, and audio/video players take actual page real-estate and must be considered in the aesthetic design of the site. Popular tools are only available in limited numbers - even with the arrival and expansion of new social networks, there are still only a few sharing scripts considered 'must-haves'. These factors place a natural ceiling on the number of widget-type tools that are added to a site. This ceiling does not deter both campaigns from focusing on and featuring prominently the ability to share your support for the campaign via social networks. Much (<http://www.fastcompany.com/1070028/how-obama-won-it-web>) has (http://www.nytimes.com/2008/11/10/business/media/10carr.html?_r=0) been (<http://www.slideshare.net/james.burnes/how-obama-won-using-digital-and-social-media-presentation>) written (<http://www.usnews.com/opinion/articles/2008/11/19/barack-obama-and-the-facebook-election>) about how the Obama campaign excelled with using technology - particularly social networks - to win the White House in 2008, and both campaigns appear to be embracing that philosophy in 2012.



More interesting is the frequency of behavioral tracking beacons and web analytics tools. Inclusion of some analytics tools is common for any site - designers and marketers measure things like page performance and user interaction to improve server configuration and site layout. Behavioral trackers are similar to ad conversion pixels, but instead of measuring your previous interaction with an ad, these scripts place cookies that help qualify you for ad delivery later. With a combined unique count of 21 behavioral data collectors and 7 analytics scripts, the presidential campaigns are digging much deeper - or at least casting a wider net - than a typical site. Inclusions of tools like these indicate that campaigns may be using demographic and geographic analysis to measure their popular support and/or tailor their message. Data analysis for a presidential campaign is a non-trivial task, and it would appear that both campaigns have plenty of data to keep themselves busy. But does one side have a data collection advantage over the other? The Obama campaign has obviously utilized more tools, but a look at unique adoption suggests the advantage may be more than simply volume. Of the 97 tools found, 37 were shared between the sites. MittRomney.com features 11 tracking technologies found exclusively on his site, while BarackObama.com is home to 49 trackers that you won't find across the aisle.



Both campaigns have invested heavily in data collection to target their online advertising, working with dozens of third party data collection technology providers. Instead of managing their campaign websites as though they were traditional content sites, both campaigns are managing them as though they were sophisticated online commerce sites. This anonymous tracking of users across the web empowers the campaigns to target them with advertising messages to win their vote the way an e-commerce provider targets consumers to win a transaction. But, as is the case with any website owner, the campaigns need to realize that being on top of which technology partners are appearing on their site, and ensuring clarity into what these partners can and can't do with the data, is essential. Additionally, looking at the tremendous growth in use of tracking technology in recent weeks reveals a significant windfall for online data collectors and ad targeting companies from both the Romney and Obama campaigns. For more analysis, see the *New York Times* story "Tracking Voters' Clicks Online to Try to Sway Them" (<http://www.nytimes.com/2012/10/28/us/politics/tracking-clicks-online-to-try-to-sway-voters.html?hp&r=C>), which cites this study.

Global Tracker Report data is compiled with Ghostrank, Evidon's Ghostery (<http://www.ghostery.com>)@ panel of over 7 million monthly users worldwide who opt in to report the tracking code they encounter as they browse the web. If you have ideas about data you'd like to see featured in this series, or ways we can present this data, email Andy at Evidon.com (<mailto:andy@evidon.com>). If you'd like more information about how to receive the Global Tracker Report, email info at Evidon.com (<mailto:info@evidon.com>).

Category: Insights

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Below is an article from Mother Jones magazine, October 2, 2012: "Inside the Obama Campaign's Hard Drive. It describes how the 2012 Obama campaign built on existing tools: they knew, "you were a pro-choice teacher who once gave \$40 to save the endangered Rocky Mountain swamp gnat." The role of e-mail is extremely important. It can "track which blasts you respond to, the links you click on, and whether you unsubscribe." The campaign's Narwhal application was designed to "link all of this data together... if the campaign knows that a particular voter is a pro-life Catholic union member, it will leave him off email blasts relating to reproductive rights and personalize its pitch by highlighting Obama's role in the auto bailout – or Romney's outsourcing past."

Mother Jones

Inside the Obama Campaign's Hard Drive

Obama's tech guru and his microtargeting whiz kids are building a new kind of Chicago machine. Can they help the president hold on to the Oval Office?

By Tim Murphy | Tue Oct. 2, 2012 3:00 AM PDT

DURING THE 736 DAYS [1] beginning May 9, 2010 [2], Harper Reed walked an average of 8,513 steps, reaching a high mark of 26,141 on September 13, 2010, and a low of 110 on April 21 of this year. (His excuse: broken pedometer.) On that day, Reed, age 34.33 as of this writing, sent one tweet [3], 55 below his average [4]. Reed was traveling from Chicago to Colorado, where he grew up, where he has spent 39.5 percent [5] of his time away from home since 2002, and where, in 1990, he attended his first concert [6] (David Bowie, McNichols Arena, row HH, seat 8). He has read 558 books [7] in three years—roughly 1,350 pages per week at a cost of 4 cents per page. On May 11, 2011, he slept 14.8 hours [8] before waking up at precisely 2:47 p.m. It was a personal best.

On his site, where he describes himself as "pretty awesome [10]," Reed painstakingly tabulates everything from his weight to his exact location. A certifiable hipster with gauged earlobes and an occasionally waxed handlebar mustache that complements his roosterlike crest of red hair, Reed is a veteran of the professional yo-yo circuit, a devotee of death metal, and a cofounder of Jugglers Against Homophobia [11]. As chief technology officer [12] for President Obama's reelection effort—responsible for building the apps and databases that will power the campaign's outreach—he and his team of geeks could provide the edge in a race that's expected to be decided by the narrowest of margins.



[9]

FLOWCHART: How Obama for America Gets to Know Jane O. Voter [9].

Much of Reed's work now is so under wraps that it's literally code word classified—Obama for America (OFA) uses terms like "Narwhal" and "Dreamcatcher" to describe its high-tech ops.

Over the last year and a half [13] at the campaign's Chicago headquarters, a team of almost 100 data scientists, developers, engineers, analysts, and old-school hackers have been transforming the way politicians acquire data—and what they do with it. They're building a new kind of Chicago machine, one aimed at processing unprecedented amounts of information and leveraging it to generate money, volunteers, and, ultimately, votes.

Reed describes his campaign role as making sure technology is a "force multiplier [14]." And that's about as much as he'll say on the matter. The campaign declined to make Reed available for an interview, or to offer anyone who could so much as comment on the complexity of Reed's mustache. "Unfortunately, we do not discuss anything that has to do with our digital strategy," says spokeswoman Katie Hogan. Much of Reed's work now is so under wraps that it's literally code word classified—Obama for America (OFA) uses terms like "Narwhal [15]" and "Dreamcatcher [16]" to describe its high-tech ops. So in the spirit of the sweeping data-mining operation he helped build, I set out to learn as much as I could from Reed's online footprint.

IN APRIL 2011 [12], Reed arrived on the sixth floor of 130 East Randolph Street, the nerve center of the Obama campaign, by way of Chicago's hacker circuit, where he was, by all accounts, a big fucking deal. After studying philosophy [17] and computer science

at Iowa's Cornell College, he moved to the Windy City in 2001 and began spearheading dozens of digital projects [18] of varying degrees of seriousness. WeOwntheSun.com [19], produced with two [20] other [21] future Obama hires, invited visitors to purchase plots of land on the surface of the sun (a steal at \$4.95 per square kilometer). Eventually, he ended up at the online T-shirt retailer Threadless [22]. It was there, in a converted Ravenswood Avenue print shop [23] cluttered with go-karts, taxidermy, video games, and a full-size Airstream camper, that Reed, who rose to become the company's chief technology officer, displayed the talents the campaign would later find so valuable.

Threadless wasn't the first company to market arty apparel to the Wicker Park set, but its genius lay in its model. Its website functions as a sort of community center [24], inviting users to submit T-shirt concepts and vote on their favorites. Out of more than a thousand entries [25] each week, a handful are selected. It's almost impossible for a new T-shirt to flop because the target audience already has declared it a hit.

With Reed's help, Threadless built a mini social network and seeded it with just enough incentives to boost its bottom line. Customers are advised on the precise number of shirts left in stock, prompting impulse buys. Profiles display a user's level of involvement in real time. (Reed, for example, "has scored 281 submissions [26], giving an average score of 3.22, helping 10 designs get printed.") The brilliance of Threadless is that it turned customers into workers, and the work itself into a game.

"Before Threadless, I loved users but didn't trust them," Reed told an interviewer [27] in 2009, as he was leaving the company. But now he had no doubt: "Users are king."

That faith in the power of crowdsourcing informed his other ventures. In 2008, Reed hacked the Chicago Transit Authority's bus tracker app [28] and made its information public. He also began looking for interesting ways to use it. Although he felt the system—for all its creaky "urine-soaked [29]" cars—by and large worked, he wanted to understand what happened when it failed. Reed used the CTA's data to track every incident, be it a downed power line or a deer on the tracks, and identify trends. Each day's incidents were scored according to severity (low: 4; high: 90; average: 26). Freecing the data earned him an award from the city [30] and face time with the agency. Another tool, a site called CityPayments.org [31] that aggregated information on government contracts in Chicago, led to an official commendation [32] from the White House.

Yet aside from volunteering briefly [33] for the Obama campaign in 2008, Reed had shown little interest in political work. His plan post-Threadless was to take some time to experiment, immerse himself in cloud computing (he's taken to calling himself a "nephologist"—a mashup of the term for atmospheric analysts and LOL), and work with other startups. Then Michael Slaby [34], a veteran of the 2008 campaign who had been appointed chief integration and innovation officer, came calling.

When Reed joined OFA, he didn't just bring his own expertise; he got the band back together. The campaign counts at least five Threadless alums among its Chicago tech staff, including Scott VanDenPlas, a self-described futurist who runs the campaign's development operations (a hybrid of programming and IT), and Dylan Richard [35], the campaign's director of engineering. A sixth Threadless colleague [36] was invited to design the campaign's online store, which borrows the layout and some of the crowdsourcing ethos from the company.

**Reed's mission:
Assemble a
data-mining
infrastructure that
allows the
campaign to
determine which
voters to target
and how on a scale
that's never been
seen before.**

Reed's mission is simple but ambitious: Assemble a data-mining infrastructure that allows the campaign to determine which voters to target and how to do it on a scale and scope that's never been seen before. It's part of a new, data-driven shift in the way campaigns are run. Think of it as the smart campaign.

THE USE OF DATA mining as a political tool traces its origins [37], at least in spirit, to 1897, when, in the aftermath of William Jennings Bryan's first failed run for the White House, his wife, Mary, and brother, Charles, combed through letters from supporters for relevant personal information. They built a database of 200,000 index cards tracking things like a person's religion, income, party affiliation, and occupation. It became the basis for the perennial candidate's lucrative—although never victorious—direct-mail operation. Knowing your audience is at the heart of politics, but in the last decade, this precept has taken on a new dimension.

Obama's first presidential campaign ushered in a new era of data collection and targeting. The operation's new-media team, which included Facebook cofounder Chris Hughes [38] (now owner and editor in chief of *The New Republic*), utilized social-media platforms to raise record sums from small donors and organize supporters. If an Iowa college student joined the Students for Barack Obama Facebook group, the campaign could follow up to ask him to knock on doors too. It also began to look for efficiencies in-house. Dan Siroker [39], who took a leave of absence from Google to work as director of analytics for the campaign, employed A/B testing to figure out which combination of images, text, and videos were most likely to compel BarackObama.com visitors to reach for their credit cards. (Siroker now provides those services to a vast array of commercial and political clients—including Mitt Romney's campaign and *Mother Jones*—through his company, Optimizely.) All told, Siroker estimated A/B testing boosted OFA's fundraising by \$100 million, 20 percent of its online haul.



Meet other members of the tech team behind [40] Obama for America.

But the campaign struggled with integration gaps. When Reed volunteered his services the weekend before Super Tuesday in 2008, he spent most of his time manually entering voter data into spreadsheets. It was important work, but also tedious: Voter information collected online, via the campaign's social-media platform, couldn't be easily synced up with data gathered offline, by canvassers. The campaign could collect information by the terabyte—the Obama team, in fact, expanded the Democratic Party's voter data by a factor of 10 [41], accruing 223 million new pieces of info in the last two months of the campaign alone—but the issue was integrating and accessing it. That meant, for example, that a volunteer using the campaign's much ballyhooed phone-bank app, which automatically provided volunteers with the names and numbers of voters, might waste precious time talking to a low-priority

target. If in 2008 the Obama operation grew expert at unlocking new tools to mine data and target different constituencies, the challenge—and, by most indications, the major advancement—of 2012 has been to tear down the barriers preventing the campaign from taking full advantage of the information it amasses. That's where Reed and his geek squad come in.

Campaigns typically draw on data from five sources. There's your basic voter file, publicly available information provided by each state, which includes your name, address, and voting record. The party's file [41], compiled by partisan organizations like VoteBuilder, includes more detailed information. Did you vote in a caucus? Did you show up at a straw poll? Did you volunteer for a candidate? Did you bring snacks [42] to a grassroots meet-up? Did you talk to a canvasser about cap-and-trade? Contribution data, which the campaign compiles itself, includes both public information that campaigns disclose to the Federal Election Commission (FEC) and nonpublic data like the names of small-dollar donors.

By the 2000 election [43], political data firms like Aristotle had begun purchasing consumer data in bulk from companies like Acxiom. Now campaigns didn't just know you were a pro-choice teacher who once gave \$40 to save the endangered Rocky Mountain swamp gnat; they also could have a data firm sort you by what type of magazines you subscribed to and where you bought your T-shirts. The fifth source, the increasingly powerful email lists, track which blasts you respond to, the links you click on, and whether you unsubscribe.

In the past, this information has been compartmentalized within various segments of the campaign. It existed in separate databases, powered by different kinds of software that could not communicate with each other. The goal of Project Narwhal was to link all of this data together. Once Reed and his team had integrated the databases, analysts could identify trends and craft sharper messages calibrated to appeal to individual voters. For example, if the campaign knows that a particular voter in northeastern Ohio is a pro-life Catholic union member, it will leave him off email blasts relating to reproductive rights and personalize its pitch by highlighting Obama's role in the auto bailout—or Romney's outsourcing past. A *ProPublica* analysis revealed that a single OFA fundraising email came in no less than 11 different varieties [44].

Similarly, a canvasser in the field will use her smartphone or tablet to access certain personal info about the voters she's trying to contact, and will also be able to call up tips on what issues to raise and what kind of pitch to make, which is derived from the campaign's voter analytics. She is then able to enter more information—what worked and what didn't, which issues resonated—directly into the system. The effect is to transform the historically tactile practice of canvassing into something more empirical.

But perhaps nothing has changed the game for political microtargeters more than the ubiquity of social networks. Privacy rules, which vary from site to site, technically render a lot of data inaccessible; Facebook's terms of use [45] limit the extent to which outside groups can mine the site. But the Obama campaign has found ways around those barriers too. One of the campaign's most useful innovations in 2008 was to create a social-media platform, My.BarackObama.com, that encouraged its 2 million members [46] to log in with their Facebook accounts. Those who did consented to the campaign's harvesting some of their Facebook data.

Four years later, the campaign has grown even more sophisticated. Visit Dashboard [47], the 2012 organizing portal that Reed helped develop, and you're given a never-ending variety of tasks designed to both engage you and learn more about you. If you sign your name to a petition on the site, that's tracked. If, as you're prompted to do time and again, you write a paragraph explaining what the campaign means to you, that text can be mined for relevant signifiers (say, support for LGBT equality) and added to your voter profile.

"I teach this, and to a T my students use the word 'creepy,'" says Daniel Kreiss [48], a professor at the University of North Carolina-Chapel Hill whose new book, *Taking Our Country Back*, focuses on the rise of the Democrats' digital machine. "In terms of just the sheer amount of data that political candidates have on you, I think everyone finds it creepy."

In practice, the Obama team isn't doing anything private companies haven't already been doing for a few years. But the scope of its operation represents a major shift for politics—voters expect to be able to obsessively analyze information about the candidates, not the other way around.

For OFA, though, there's no such thing as TMI.

"In terms of just the sheer amount of data that political candidates have on you, I think everyone finds it creepy."

REED REPRESENTS an approach to technology that distinguishes the Obama campaign from its counterpart in Boston. Whereas Romney has outsourced [49] much of his data-focused operations, this time around Team Obama—which has been advised by representatives from Google and Facebook, according to Bloomberg Businessweek [50]—is trying to emulate a start-up atmosphere in hopes of fostering the kind of innovation rarely associated with stuffy political shops. Fewer consultants, more in-house geeks.

"[They've] taken this sort of data-driven mentality and expanded it across the entire campaign," says Josh Hendler, the former director of technology at the Democratic National Committee, who's staying on the sidelines in 2012. Dashboard, for instance, mimics some of the gaming tactics that Threadless pioneered. Volunteers can see their personal statistics updated in real time—money raised, calls attempted, conversations held, one-on-one meetings convened. A scoreboard allows volunteers to see how they stack up against their peers. The campaign, in turn, can use this data to gauge which field offices are hitting their goals and which ones aren't.

As the campaign becomes ever more absorbed in all things digital, its real-world networks have shifted accordingly. One of Reed's first moves as CTO was to fly with Slaby to San Francisco, where they held an information session for techies [51] at Zeitgeist, a popular Mission District beer garden. In February, OFA unveiled a new satellite technology office [52] in the city's ultra-wired SoMa neighborhood, the first of a handful of such offices slated to open across the country.

Romney's Boston campaign operation, by contrast, had no software engineers on staff until well after the end of the primary season, according to a Mother Jones analysis [53] of payroll data provided to the FEC. Its forays into the digital world have caught attention mostly for their miscues, like an iPhone app that featured a misspelled "America." [54] But the campaign has quietly begun tackling the same challenges faced by OFA, only with a twist. Slate's Sasha Issenberg reported in July [49] that the campaign had recently hired eggheads from places like Google Analytics and Apple in an attempt to reverse engineer the Obama campaign's strategy. Hence Team Obama's shroud of secrecy around its digital ops.

It's ironic that Romney's 2012 campaign is reduced to such a reactive mode since the former consultant was himself an early convert to the data-centric campaign. When Alex Lundry's conservative analytics shop, TargetPoint, approached the Massachusetts gubernatorial candidate in 2002 with the idea of using analytics to identify voters [55], Romney's Bain confidants were stunned: "You mean they don't do this in politics?"

Lundry signed on this summer to lead Team Romney's data efforts but, overall, the campaign has favored contracting the work of microtargeting to private firms. The good news for Romney is that it's never been easier to buy off the rack. As of late June, the Romney campaign had paid \$13 million to Targeted Victory, whose cofounder, Zac Moffatt, is also the campaign's digital director. Moffatt brags that his firm can beam totally different messages [56] to two voters in the same house. That's 2005 stuff for commercial advertisers, but in the political world it still counts as innovation.

At Moffatt's direction, Romney is placing an emphasis on "off the grid" voters [57]—the roughly 30 percent of voters who Moffatt has determined don't watch enough live television to be swayed by commercials. It's a number that will only increase as more and more people consume media on handheld devices or DVR their favorite shows.

In 2010, Targeted Victory began employing Lotame, a company that uses cookies to track your online habits—everything from the websites you comment on to the articles you share with friends. To gauge voter sentiment it even crawled Huffington Post comment

sections, according to the *Wall Street Journal*. (*Huffington Post* says it ended its relationship with Lotame after the incident due to privacy concerns.) Asked about the company's political operations, a spokesman says, "Lotame has been asked to stop talking about it."*

"If it's close, you're absolutely talking about winning and losing the election based on the quality of your data, and the quality of the program."

The line between data mining and cyberstalking is already blurred, especially in the commercial sector. To illustrate their powers, analysts like to point to Target, which used a 25-element "pregnancy prediction score [58]" that guessed online shopper's due dates. Political campaigns are just catching up, but once they do, their privacy practices may be tougher to control because of the protections afforded to political speech. "Basically we have a new world of information management that has emerged, and it's a world that may well claim total impunity from regulation," says Joe Turow, a University of Pennsylvania professor studying voter attitudes toward political data mining.

Crunching data can only take a campaign so far. Microtargeting can help candidates squeeze more dollars out of their supporters, and more value out of those dollars; it can't change the prevailing political environment. Yet in a tight race—and today, presidential elections come down to a handful of percentage points—obsessive intelligence-gathering can provide a critical edge. "If it's close, you're absolutely talking about winning and losing the election based on the quality of your data, and the quality of the program." Hendler says.

IN LATE JUNE, as I finished hoovering up the online traces of the man tasked with assembling the president's data-mining operation, Reed was polishing off book number 558, *A.I. Apocalypse* [59]. It's about a high school computer geek who accidentally unleashes an out-of-control AI program that threatens to overwhelm the world.

Among technologists, singularity—the idea that technological forces will one day usher in a new form of superintelligence that will forever change civilization—is something of a Holy Grail. It's a vision of the future with plenty of appeal for someone who, like Reed, owes his career to the power of collective intelligence. His bio on his personal website notes, right after name-checking Threadless, "I am patiently waiting for the singularity [10]."

The rise of the genius machines probably won't come in 2012. Until then, Harper Reed will have to do.

**This paragraph has been revised from its original print version.*

Source URL: <http://www.motherjones.com/politics/2012/10/harper-reed-obama-campaign-microtargeting>

Links:

- [1] <https://harperreed.org/informatics/>
- [2] <https://harperreed.org/informatics/steps/>
- [3] <https://twitter.com/harper/status/193773399867277313>
- [4] <https://harperreed.org/stats/>
- [5] <https://harperreed.org/where>
- [6] <http://www.flickr.com/photos/natatwo/4811150271/>
- [7] <https://harperreed.org/books/stats/>
- [8] <https://harperreed.org/informatics/sleep/>
- [9] <http://www.motherjones.com/politics/2012/10/obama-campaign-microtargeting-technology>
- [10] <http://Harperreed.org>

Below are printouts of the LinkedIn pages of two employees of the 2012 Obama campaign. The first is for Maria Udell, who worked for the campaign during the second half of 2011. Her own description of her work is as follows: "Pioneered the use of sparse network features in order to identify potential campaign donors. Integrated data from Facebook with other political and demographic datasets." Ms. Udell's current consultancy is as a lead data scientist with DARPA.

The second is Ian Dees who worked for the campaign during its last eight months. His background is in GPS systems and Geographic Information Systems. A self-confessed "map-nerd" he had previous work with one of Garmin's satellite companies. His self-described tasks for the campaign included "realtime analytics" for the campaign's famous "Narwhal" application. As further demonstrated in Exhibit G these examples show just how meticulously the campaign mined its data, and that it needed people with precise geo-location skill sets to achieve its goals.

Madeleine Udell

PhD Student in ICME at Stanford University
San Francisco Bay Area · Higher Education

Join LinkedIn and access Madeleine Udell's full profile. It's free!

As a LinkedIn member, you'll join 225 million other professionals who are sharing connections, ideas, and opportunities.

- See who you and Madeleine Udell know in common
- Get introduced to Madeleine Udell
- Contact Madeleine Udell directly

[View Madeleine's full profile](#)

Madeleine Udell's Overview

Current	Senior Research Scientist at Qadium Solutions Lead Data Scientist at DARPA (Consultant through Data Tactics) Optimization Consultant at Computational Consulting (C2)
Past	Digital Analytics at Obama for America Research Scientist at Apixio Commodities Strategies Summer Analyst at Goldman Sachs see all
Education	Stanford University Yale University
Connections	254 connections
Websites	Personal Website

Madeleine Udell's Summary

I am a PhD candidate in Computational & Mathematical Engineering at Stanford University. I am interested in modeling and solving large-scale optimization problems, and in finding and exploiting structure in high dimensional data. My methodological interests are driven by the framework of convex optimization and of graph theory, which provide powerful tools for formalizing objectives in statistics and machine learning.

I am currently designing an algorithm to maximize a sum of sigmoidal functions, inspired by the venerable spatial theory of voting from political science, with my advisor, Professor Stephen Boyd. I'm also working on ways to use graph partitioning to improve the convergence of distributed optimization algorithms, and the application of results from the matrix completion literature to the multi-armed bandit problem faced by recommendation engines.

Madeleine Udell's Experience**Senior Research Scientist**

Qadium Solutions

September 2012 – Present (1 year 3 months)

Lead Data Scientist

DARPA (Consultant through Data Tactics)

Government Agency; 201-500 employees; Defense & Space Industry

June 2012 – Present (1 year 8 months) · Washington, DC

Optimization Consultant

Computational Consulting (C2)

September 2011 – Present (2 years 3 months) · Stanford, CA

Enabled researchers in physics, biology and computer science to solve complex optimization problems

Digital Analytics

Obama for America

Nonprofit; 1001-5000 employees; Political Organization Industry

September 2011 – December 2011 (4 months) · Chicago, IL

Pioneered the use of sparse network features in order to identify potential campaign donors. Integrated data from Facebook with other political and demographic datasets.

Research Scientist

Apixio

Privately Held; 11-50 employees; Information Technology and Services Industry

June 2011 – September 2011 (4 months) · San Mateo, California

Developed a tool to extract structured information about diseases from the unstructured text of doctors' notes. Detected off-label drug usage using millions of doctors' notes from Stanford Hospital, Planned Parenthood, and other outpatient facilities.

Commodities Strategies Summer Analyst

Goldman Sachs

Public Company; 10,001+ employees; GS; Investment Banking Industry

July 2009 – September 2009 (3 months) · New York, NY

Corrected model of commodities derivatives risk using multiple parameter estimation.

Math and Physics Tutor

Yale University

Educational Institution; 10,001+ employees; Higher Education Industry
October 2007 – May 2009 (1 year 8 months) · New Haven, CT

Summer Analyst in Risk Management

Goldman Sachs

Public Company; 10,001+ employees; GS; Investment Banking Industry
June 2008 – August 2008 (3 months) · New York, NY

Evaluated fundamental, macroeconomic, and statistical risk models. Designed and automated a system to graph and evaluate mutual fund risk.

Madeleine Udell's Languages

- English (Native or bilingual proficiency)
- Spanish (Professional working proficiency)
- French (Professional working proficiency)
- Italian (Elementary proficiency)

Madeleine Udell's Skills & Expertise

R Statistics Convex Optimization Machine Learning Network Optimization Algorithms Mathematical Modeling
Data Mining Statistical Modeling Physics LaTeX Matlab Python Data Analysis Research C++
Applied Mathematics Programming Simulations

Madeleine Udell's Education

Stanford University

PhD, Computational Mathematical Engineering

2009 – 2014 (expected)

Researcher with Stephen Boyd in Electrical Engineering, concentrating on problems at the intersection of convex optimization, machine learning, and graph theory. Applications in online bidding, political science, and recommendation systems.

Yale University

BS, Mathematics and Physics

2005 – 2009

Madeleine Udell's Additional Information

Websites:

- [Personal Website](#)

Groups and
Associations:



Association of Yale Alumni



ICME ALUMNI

Contact Madeleine for:

- career opportunities
- new ventures
- reference requests
- consulting offers
- expertise requests
- getting back in touch

View Madeleine Udell's full profile to...

- See who you and Madeleine Udell know in common
- Get introduced to Madeleine Udell
- Contact Madeleine Udell directly

[View Full Profile](#)

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**Ian Dees****Map Nerd. Data Geek.**

Greater Chicago Area · Computer Software

Join LinkedIn and access Ian Dees's full profile. It's free!

As a LinkedIn member, you'll join 225 million other professionals who are sharing connections, ideas, and opportunities.

- See who you and Ian Dees know in common
- Get introduced to Ian Dees
- Contact Ian Dees directly

[View Ian's full profile](#)
Ian Dees's Overview

Past Engineer at Obama for America
 Software Engineer at Digital Cyclone, Inc., a division of Garmin International, Inc.
 Software Engineer at GE Healthcare

Connections 294 connections

Ian Dees' Experience**Engineer****Obama for America**

Nonprofit; 1001-5000 employees; Political Organization Industry
 February 2012 – November 2012 (10 months)

Created and maintained a system to synchronize data between various vendors for the campaign. Translated between each vendor's data to a common data representation to provide analytics teams with real-time information about what's going on in the field of the campaign.

Software Engineer**Digital Cyclone, Inc., a division of Garmin International, Inc.**

Privately Held; 51-200 employees; Computer Software Industry
 February 2010 – February 2012 (2 years 1 month)

Wrote server-side software that fed feature- and smart-phones with realtime weather data in a memory and bandwidth efficient manner. Lead developer for an Android-based private pilot application created to help plan flights and navigate in real time with GPS and ADS-B support.

Software Engineer**GE Healthcare**

Public Company; 10,001+ employees; GE; Hospital & Health Care Industry
 June 2006 – January 2010 (3 years 8 months)

Ian Dees' Projects**OpenStreetMap**

November 2006 to Present

Team Members: Ian Dees

I've been working on various OpenStreetMap projects for several years. I enjoy making it easier to access and process the vast amounts of data behind OSM and have written JXAPI and pyxapi: projects designed to replicate the OSM API with extra filtering features on top. I've also contributed to JOSM, the powerful offline OSM editor, and run the openstreetmap.us community servers.

Narwhal

March 2012 to November 2012

Team Members: Ian Dees

Narwhal Integration

March 2012 to November 2012

Team Members: Ian Dees, Michael Barrientos, Ryan Kolak

Integrated data from several vendors into the Narwhal ecosystem, allowing realtime analytics and sync and empowering our leaders to make decisions on the most up-to-date data available.

Census Reporter

March 2013 to Present

Team Members: Ian Dees, Joe Germuska, Ryan Pitts

Making it easier for reporters to get access to the complex and deep datasets released by the US Census Bureau.

CARESCAPE Gateway v1.0

2006 to Present

Team Members: Ian Dees, Troy Birk, John Barlow, John Zushke, Ben Hochstadler, Mark Media, Rishi Rane, Ryan Colwell, Blake Fasching, Jason Malmstadt, Mark Nasgowitz, Mark Schaffler, srkhar nuthi, Chris Stoner

The CARESCAPE™ Gateway takes patient data access to an innovative level by helping hospitals implement advanced clinical workflows and research. It

offers easy, bi-directional data transfer between a Hospital Information System (HIS) and/or Clinical Information System (CIS) and patient monitors located on the CARESCAPE Network using the HL7® protocol standard.

The CARESCAPE Gateway... more

Ian Dees' Skills & Expertise

Python XML Java JavaScript Linux Software Engineering HTML Perl Android Android Development
Software Development Git Subversion Mobile Applications Eclipse Agile Methodologies Apache REST Ruby
PostgreSQL

[View All \(27\) Skills](#)

Ian Dees' Organizations

OpenStreetMap US

Board Member
2010 to 2011

Helped run meetings and maintain the server infrastructure for the OpenStreetMap US organization.

Contact Ian for:

- career opportunities
- job inquiries
- reference requests
- consulting offers
- expertise requests
- getting back in touch

View Ian Dees' full profile to...

- See who you and Ian Dees know in common
- Get introduced to Ian Dees
- Contact Ian Dees directly

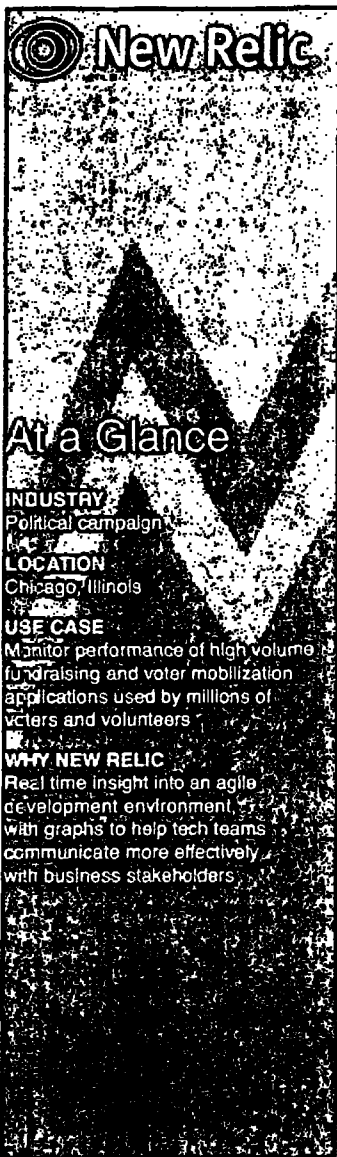
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Not the Ian Dees you were looking for? [View more »](#)

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The following documentation comes from the company, New Relic, one of the Obama campaign's vendors for web services during the 2012 election. After the election senior members of campaign technology team met with New Relic to discuss how New Relic's services were used. In this New Relic document Nick Leeper, the campaign's tech lead for finance describes how "donations were taken through one of our vendors, and through the campaign itself...we had three different data centers behind the payment process, and each layer was multiply redundant."



New Relic

At a Glance

INDUSTRY
Political Campaign

LOCATION
Chicago, Illinois

USE CASE
Monitor performance of high volume fundraising and voter mobilization applications used by millions of voters and volunteers

WHY NEW RELIC
Real time insight into an agile development environment with graphs to help tech teams communicate more effectively with business stakeholders

CODING FORWARD.

Obama Campaign Improves App Performance by 90% with Help from New Relic

Obama for America (OFA) was a political organization charged with re-electing Barack Obama in the 2012 U.S. Presidential election. Headquartered in Chicago, OFA raised funds, persuaded Americans to support the campaign, registered new voters, and mobilized supporters on Election Day. The organization benefited from a robust web presence, raising approximately \$670 million in online donations between April 2011 and

November 2012 — a remarkable feat by any measure, but especially remarkable given an average donation of \$55. Upon Obama's Inauguration in January 2013, OFA transitioned into a nonprofit advocacy group called Organizing for Action, tasked with supporting the President's executive agenda for the remainder of his time in office.

Environment

The OFA infrastructure ran on the Amazon Elastic Compute Cloud (EC2), scaling as necessary to push 280 terabytes of traffic and billions of requests over an 18-month period. Developers used nearly all available components of AWS, with particular reliance on SES (simple email service), S3 (simple storage service), SQS (simple queue service), DynamoDB, and RDS (relational database service) for MySQL.

OFA selected open source solutions whenever possible, entering the majority of code in Rails, Flask and Kohana. The team built payment forms on Jekyll and ran A/B testing on Optimizely. In addition to the storage solutions available on AWS, OFA also deployed the Vertica analytics database, LevelDB on-disk key-value storage, and MongoDB document-based storage. The team monitored system performance using Google Analytics, Chartbeat, Graphite, statsd, and New Relic.

Challenges

In a 21st-century political campaign, technology is a force multiplier. Politics will always require a great deal of old-fashioned face-to-face contact — shaking hands, knocking on doors, etc. — but tech can help increase the impact of those high-touch interactions by engaging prospective voters online, connecting volunteers through social networks, and tracking voter turnout on Election Day.

All of the developers on the OFA team had deep experience in the world of tech startups, but none were quite prepared for the unique intensity and scale of a national Presidential campaign. "Right after the President gave his convention speech, we were doing about two million dollars an hour," says Nick Leeper, Tech Lead for Finance and Fundraising at OFA. "When you're accustomed to hourly donations in the \$10,000 to \$20,000 range, that's an incredible spike. You're basically going from a thousand people using your app to 500,000 in a matter of minutes."

"On a campaign like this, the traffic patterns are just crazy," adds Scott VanDenPlas, Director of DevOps for OFA. "One send through every channel hits 60 million people — and that's just the first and second layer of folks who hear about it."

In such a volatile, high-volume environment, agility and split-second responsiveness are more important than ever. Even so, political campaigns have traditionally outsourced their IT operations, often resulting in a critical communications gap between campaign operations and tech teams. "These days, I don't think you can run the technical side of a campaign through an IT vendor," says Jason Kunesh, Director of User Experience for OFA. "It's become such

a rapidly moving, dynamic environment that you don't have time to put together an RFP when you need something or when something goes wrong. You just need to push out one app after another, scrapping the apps that don't work and optimizing the ones that do. Consider this: over the course of 18 months, our internal team produced more than 200 applications. There's just no way you could do that with a third party."

"In the old model, campaign operatives would produce a spec document and hand it over to a vendor," adds Chris Gansen, Technical Lead for OFA's Dashboard application. "The problem with that approach is that those operatives specialize in getting out the vote, not in building applications. They didn't always know what they wanted — or even what was possible."

In 2008, during Obama's first Presidential run, the campaign relied on a number of third-party vendors, each of whom had their own

"Our campaign manager had two core questions for everything we did. First, does it make our people's lives easier? And second, is it fast? With the right monitoring tools at our disposal, it was easy for us to demonstrate how we could increase the speed of our applications. We found New Relic graphs to be a very simple, very effective way to show business stakeholders why something would or wouldn't work."

Scott VanDenPlas
Director of DevOps, Obama for America

specializations. Complicating matters further, many state campaign offices had their own tech systems in place, each collecting unique data sets from local voters. "Prior to 2012, the national campaign operation was dealing with many silos of data from vendors and individual states, so it was difficult to standardize that data for targeting large groups of voters across the country," says Leeper. "In the four

Solution

Despite the many technological innovations introduced in 2008, the 2012 campaign essentially began from scratch. "In two years, technology becomes stale," explains Kunesh. "In four years, it becomes obsolete. Very little from the 2008 campaign was usable in 2012, so this was really a greenfield operation."

The team began by building a platform known internally as 'Narwhal,' which eventually became the services backend to 18 different applications. Narwhal was designed to integrate data across a wide range of apps, and the OFA team built it to be maximally redundant so that if any part of the system failed, essential functions would still be up and running. "We kept saying that we were building an airplane mid-flight," jokes Ryan Kolak, Team Lead for the Narwhal Project. "While my team made Narwhal a reality, the rest of the team was building apps against APIs and platforms that didn't exist yet. The only way to make it all work was to observe solid fundamentals, making every part of the system fault-tolerant. Without that level of discipline, we would've had chaos on our hands."

One of the OFA team's first decisions — and, as it turns out, one of its best decisions — was to run all applications on AWS. "Instead of

years since Obama's first run, the size and influence of social networks had grown exponentially. But in order to take full advantage of all the connectivity on those networks, and in order to achieve outreach on a truly national scale, we needed to centralize our IT operations and manage all of that data ourselves. Otherwise we would never have a total picture of what was happening on the ground."

trying to run this huge infrastructure ourselves, we were able to focus on optimizing it," says Kolak. "Our first mega-rush of traffic happened in May, when Obama announced his support for gay marriage. Almost immediately, we were pushing four gigabytes per second, and all of our vendors' traffic failed over to our infrastructure. That was the day when all of our pain points were exposed. That was also around the time we began using New Relic, which helped us identify those pain points much more quickly and much more proactively."

The team was especially careful to protect the campaign's donation function from any possible failure. "Donations were taken through one of our vendors and through the campaign itself," explains Leeper. "We built an API to emulate the way the vendor works. So we had the vendor's system and our own system, and then we split our own system between Amazon East and Amazon West. We therefore had three different data centers behind the payment process, and each layer was multiply redundant. We could lose an entire region — which ended up happening when Hurricane Sandy landed on the East Coast in late October — and still be totally fine."

OFA created flexible APIs that would take full advantage of the campaign's huge storehouse of voter information, enabling stakeholders to manipulate a wide array of data more freely than previous campaigns ever thought possible. "For years, Democratic operatives wanted to increase visibility and alignment across campaign teams, so any change on one team would be reflected to other teams right away," says VanDenPlas. "Everybody thought that was impossible, because no vendor had been able to do it. But with our centralized tech operation and our new APIs, we managed to make it happen with just one or two days of work."

"When we demoed that change, people actually brought champagne to the meeting," adds Kunesh. "They watched the changes on one screen and then on the other screen, and the entire room broke out in cheers. It was crazy."

For all its success in solving some of the most persistent problems facing a present day online political campaign, the OFA team insists that specific solutions are less important than the team's overall approach. "Narwhal was built to solve very unique problems," says Kunesh. "Trying to emulate what we did with that platform would be a mistake. Instead, I would encourage campaigns to hire tech teams with a wide range of experience. None of us are language zealots; we're all polyglots. And we understand not just technology, but how to map that technology over to other disciplines like business or design. It goes back to rejecting the old silo strategy, opting instead for a more centralized, holistic approach. Having people with a broad perspective, sharp folks with their feet in more than one world, puts you in a much better position to build around failure scenarios and create healable applications."

"When you're building software in an agile environment, it's easy to overlook simple fixes during the initial build. New Relic pointed us to some of the blind spots that had emerged during our first few months of work. And within a few days, we'd increased our response times across the board by 90 percent."

Jason Kunesh
Director of User Experience, Obama for America

Even so, any tech team will fail to make an impact if it can't communicate effectively with business users. And New Relic quickly became an essential tool for helping developers explain their processes and priorities to non-tech team members. "We helped our business users break some bad habits," says Gansen. "They were accustomed to requesting new features whenever an application needed improvements. Using New Relic data, we could show them that a new feature would leave our system underserved, and we would encourage them to focus on refining what we already had."

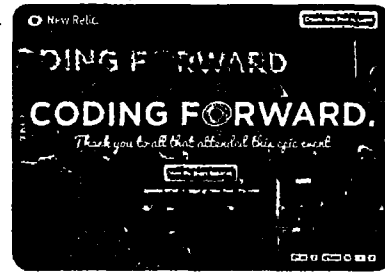
"Our campaign manager had two core questions for all of our projects," adds VanDenPlas. "First, does it make our people's lives easier? And second, is it fast? With the right monitoring tools at our disposal, it was easy for us to demonstrate how we could increase the speed of our applications. We found New Relic graphs to be a very simple, very effective way to show business stakeholders why something would or wouldn't work."

Results

When the OFA team deployed New Relic, they saw huge results in minutes. "The first time we turned New Relic onto Narwhal, we realized that a 10-row table containing all of our consumer keys was causing a big slowdown in queries," says Kolak. "Within 30 minutes, we'd made a patch and cached those keys. It was maybe two lines of code, and making that single change reduced 160 millisecond requests by 100 milliseconds. That was an 80 percent increase in Narwhal performance in our first hour of using this software."

The following days brought even more dramatic improvements. "When you're building software in an agile environment, it's easy to overlook simple fixes during the initial build," explains Kunesh. "New Relic pointed us to some of the blind spots that had emerged during our first few months of work. And within a few days, we'd increased our response times across the board by 90 percent."

With tools like New Relic at their disposal, the OFA tech team could focus more energy on iteration and less on reinvention. Iterative culture is on the rise everywhere — from fly-by-night startups to large corporations — but political campaigns, with their multi-year cycles,



New Relic provided real time insight into an agile development environment.

are an especially compelling laboratory for truly agile development. "If people look back in a year or two, I really hope they're not using the code we wrote because it's going to stagnate," says Kunesh. "Things change. Vendors change. Technologies change. Apps come and go. That's just the way things are. Personally, I'll be very happy if people look back at our work and say, 'You put a really smart team together. You put them in the same room and you gave them really tough problems to solve. And you inspired the next campaign to tackle even bigger problems on their own terms and in their own way.'"

About New Relic

New Relic, Inc. is the premier all-in-one SaaS cloud application performance management solution. We provide comprehensive and actionable visibility into your web & mobile data centers. Our agile SaaS platform combines real user monitoring, web monitoring, server monitoring, and iOS and Android mobile monitoring in one powerful dashboard experience. Our 35,000+ developer and operations clients use our cloud solution every day to optimize over 58 billion daily performance metrics.

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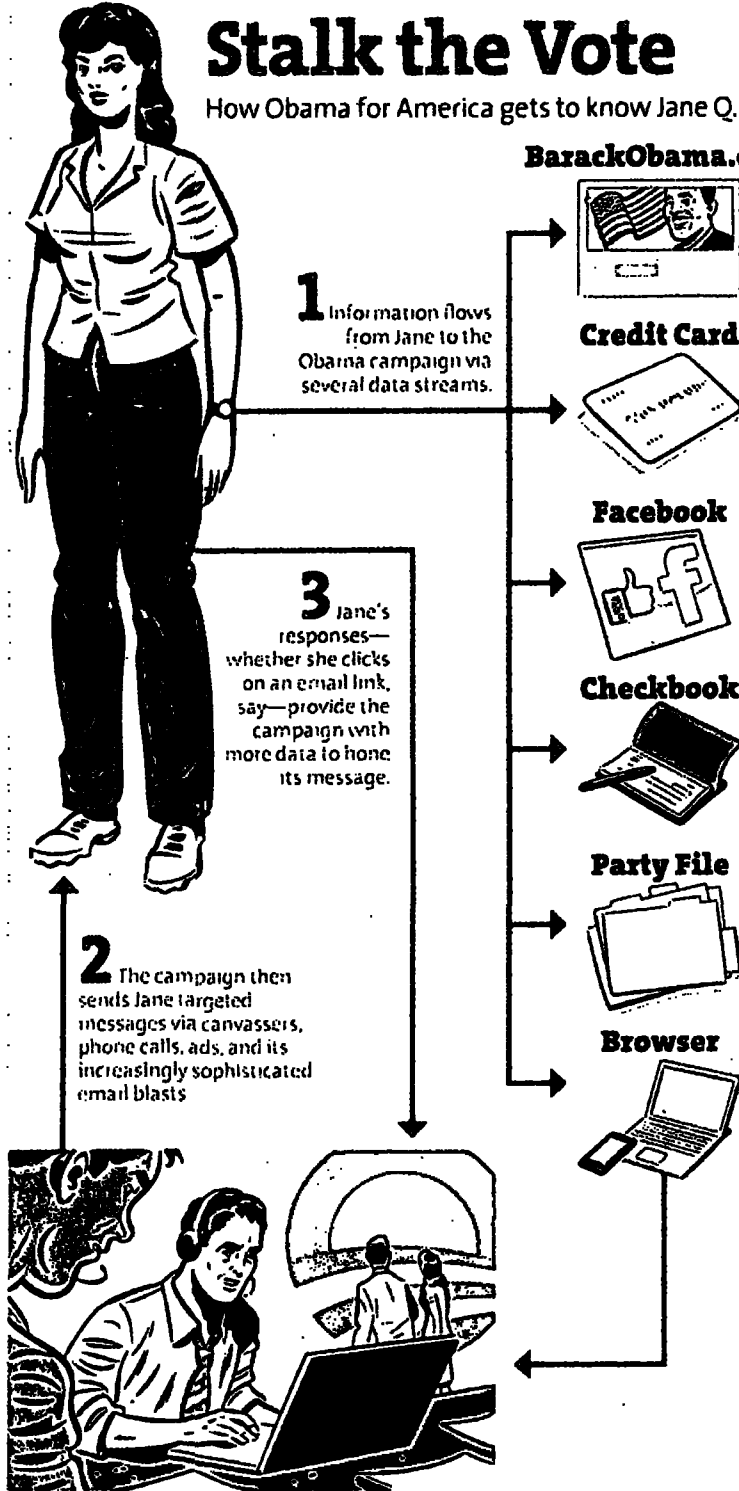
This article, "Stalk the Vote," from the September/October 2012 issue of Mother Jones, outlines the full range of sources the Obama campaign could use to "stalk" a voter/contributor and build a profile of him or her. Note how this list of resources begins with the Dashboard portal on barackobama.com where the individual is tagged as to where he or she came from on the web to get there, and is subsequently encouraged to enter a variety of personally identifying information. The list and ends with the cookies loaded on the individual's browser which keeps track of an individual's activity on the web; not only where the individual visited (Huffington Post) but also what he or she did there (post to Pinterest).

ILLUSTRATION BY JEFFREY L. BROWN

Stalk the Vote

How Obama for America gets to know Jane Q. Voter

BarackObama.com





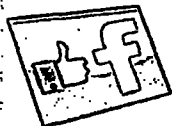
BarackObama.com

Following a Twitter link to the site, Jane is prompted by the portal Dashboard to enter her name, address, zip, email, phone number, gender, ethnicity, and education. Cookies track her activity, telling the campaign that after watching a video she looked for information on women's health and the environment. Obama for America (OFA) will also encourage her to join like-minded groups of supporters, finding out that she's a young, Spanish-speaking nurse in a military family who lives in a rural community. This information will be used to determine how best to keep her engaged.



Credit Card

OFA has worked with Catalist, the data collection company founded by über-operative Harold Ickes (see page 36). Catalist buys consumer databases showing that Jane subscribes to, say, *Wired* and *Yoga Journal*, drives a Prius, and shops at both Victoria's Secret and Diapers.com. While Catalist can't share Jane's precise details, it can provide lists of voters with similar interests and habits, helping OFA further hone its messages.



Facebook

BarackObama.com also encourages Jane to log in with her Facebook ID, which provides OFA access to public portions of her profile. Obama's union allies have used this information to single out which of a user's friends might be convinced to vote.



Checkbook

OFA gets lists of past donors from the Democratic Party, so it knows that Jane gave \$10 to Obama in 2008 and \$20 to Bill Bradley in 2000. It also buys lists of donors, email subscribers, and petition signers from liberal organizations, learning that Jane once gave \$5 to EMILY's List and a minute of her time—and 10 bucks—for child trafficking victims when stopped by a canvasser. This helps calculate the likelihood that she'll give again, and what issues matter to her.



Party File

Via party records, OFA knows in which elections Jane voted and her volunteer and canvassing history. Because she brought brownies to a meet-up for a Senate candidate in 2010, spent five hours phone-banking for Kerry in 2004, and told a door knocker for John Edwards that she'd never back a candidate who doesn't support NASA, she'll be ID'd as a pro-science voter and likely volunteer.



Browser

Campaigns rely heavily on marketing firms to put together composite sketches of Jane's "digital body language"—using cookies to figure out that she reads the *Daily Beast* and posts on Pinterest. Such data can be used to pepper Jane with ads that hit close to home—and her home page. —T.M.

Post

(previous thread)

PRINT

EMAIL

Tweet 77

Like

63

1/PRINT 1/FORWAR

/18847G D7PATH-N

2 ODE

EXHIBIT G

Documentation from Public Record of Obama for America's all-star tech team.

184

From: <http://www.p2012.org/candidates/obamaorg.html> (accessed August 18, 2013):

The following information is taken from the organization chart, linked above, of the Obama campaign. What you will see is a reproduction of the various departments carrying out the tasks and analysis described in detail in Exhibits E & F. The campaign recruited a stable of talent from across software industry: from giants like Facebook, Twitter, Facebook, Google, YouTube, and Microsoft, but also from successful startups like Threadless and Groupon and somewhat less known (outside trade publications etc.) successes such as Zynga. The campaign didn't stop there, but also recruited the best data analysts it could find, and a team of modelers to experiment with the data. As Sasha Issenberg notes in his article for MIT Technology Review (see Exhibit E) Mitt Romney's campaign employed a data analytics team only one-tenth the size.

I. Technology, DATA and Analytics

Chief Integration and Innovation Officer Michael Slaby

(April 2011) Chief technology strategist at Tomorrow Ventures, LLC from Feb. 2009. Executive vice president, digital global practice chair at Edelman, 2010-March 2011. Technology director on the Obama-Biden Transition Project. Started on Obama's 2008 campaign in March 2007 as new media strategist and production lead, then deputy new media director and finally chief technology officer. Deputy campaign manager on Vi Daley's re-election campaign for Alderman in Chicago, 2007. Production manager at The Strategy Group, 2006. Interned for Sen. Dick Durbin in Chicago, 2005-06; and head waiter at Oceanique. Worked for several multimedia design and web application and platform development startup companies including no ink, inc. A.B. in English literature from Brown University, 2001. [twitter](#)

CTO, CIO and CAO reported to Michael Slaby and he reported to Messina.

Technology

Chief Technology Officer James Harper Reed

(from late April 2011; according to *Chicago Tribune* Reed "will focus on helping field operators improve voter contact") Describes self as "an engineer excited about real time, social software and the open source software movement." On his [blog](#) he wrote, "I spent most of 2010 doing my best to avoid deliverables and enjoy not having a day to day job." At Rackspace to April 2010. CTO of skinnyCorp, LLC (Threadless.com), 2005-09. Web programmer at Cramer and Krasselt, 2004-05. Security and software engineer at World Book Publishing, 2001-04. Founder of NaTa2.com, a small hosting company, 1997-2008. B.A. in computer science and philosophy from Cornell College in Mt Vernon, Iowa, 2001. Grew up in Greeley, CO.

Deputy Chief Technology Officer Mike Conlow

Previously deputy technology director at the DNC. Director of analytics at OMP. Director of data analysis and reporting on Obama for America, June-Nov. 2008. Senior analyst at the DNC, 2006-07. Senior research associate at the Federal Reserve Bank of Philadelphia, 2005-06. Bachelor's degree in economics from University of Massachusetts, Amherst, 2004.

Director of Development Dan Ratner

(May 2011) Describes self as "Chicago-based serial entrepreneur..." Co-founder and CEO of ContactKarma, a social recommendation engine. CEO of High Note Enterprises. Entrepreneur in residence at the Nanobusiness Alliance; chairman of the Nanotechnology Alliance. With his wife founded in 2005 and operated Sittercity, the nation's first and largest site for matching parents and babysitters, petsitters, elder care, tutors, and housesitters. Founder and CEO of Snapdragon Technologies, 1997-2001. CTO of Wired Business, 2000-01. Graduate of Brown University, 1997.

Director of Engineering Dylan Richard

(May 2011) Vice president of engineering (2009-10), director of software development (2008-09) and senior engineer (2007-08) at skinnyCorp. Co-founder/advisor at mk2 development, 2007-10. Senior developer at Crate & Barrel, 2000-07.

Senior Security Engineer Ben Hagen

(Sept. 2011) Security consultant for Neohapsis, 2010-11. Security consultant (2007-10) and security engineer (2004-07) for Motorola. M.S. in information assurance from Iowa State University, 2004.

Senior Engineers
Justin Vincent

(July 2011) Project Narwhal, person matching. Previously a software engineer at Google, March 2008-July 2011. B.S., B.A. in computer science, mathematics from University of Washington, 2007.

Chris Gansen

(Sept. 2011) lead engineer on Dashboard. Came to the campaign after six years at IBM Interactive. B.S. in computer science from University of Michigan, 2005.

Jesse Kriss

(Oct. 2011) Principal at jklabs from July 2009. Developer/designer/lead architect at Figure 53, July 2009-Sept. 2011. Research developer at IBM, 2005-10. User interface design consultant at eJamming, Inc. 2004-05. M.A. in human-computer interaction from Carnegie Mellon University, 2004; B.A. in music from Carleton College, 2003.

Engineers

John Anders Conbere

(May 2011) lead engineer on the API services team. Came to the campaign from position as software developer for Estatefy in Seattle, WA, 2010-11. Independent software developer (Anders Conbere Consulting), 2007-10. Software developer at Joyent, 2008-09. Systems engineer at Atlas Solutions (acquired by Microsoft), 2007-08. B.S. in mathematics from Western Washington University, 2005.

Ryan Kolak

(July 2011) lead engineer of Narwhal integration Internet programmer at Cole-Parmer Instrument Company, senior internet programmer at Thermo Fisher Scientific, 2005-11. Web developer at Clever Ideas, 2002-05. Web developer at Computer Discount Warehouse, 2001-02. Software engineer at IntegrationWare. Studied at University of Illinois at Urbana-Champaign.

Christopher Coté

(March 2012) "lead engineer for digital and tech integration" Vice president of technology at SpotOn, Inc., Oct. 2010-March 2012. Senior developer at Dancing Mammoth, Inc. 2007-09. Technologist and developer at the Ann Arbor District Library, 2003-05. Programmer at JB Chicago, 2001-03. Studied technology at Columbia College Chicago.

Josh Thayer

(April 2012) lead engineer of Narwhal Engineer at Craigslist in San Francisco, Feb. 2001-March 2012.

Ryan Resella

(May 2012) on the voter contact team; lead engineer on GottaRegister.com Fellow (Jan.-Nov. 2011) and technical lead (Nov. 2011-May 2012) at Code for America, in the SF Bay area. IT specialist, IT analyst, and then senior IT analyst for the City of Santa Clarita, 2005-10. IT at Companies Incorporated, 2004-05. M.P.A. (2010) and B.S. in computer science (2006) from Cal State University-Northridge.

Gabriel Burt

(June 2011) Software engineer for Novell, 2007-11. Software engineer for IBM, 2006-07. B.S. in computer engineering from University of Illinois at Urbana-Champaign, 2005.

Zane Shelby

(June 2011) Mobile software engineer at TripIt and Concur Technologies, 2010-11. Software engineer at Cozi, 2007-08. Software engineer (2006-07) and associate software engineer (2005-06) at aQuantive; company acquired by Microsoft in Aug. 2007. M.S. in computer science from Northeastern University, 2010. B.A. in computer science from UC Santa Cruz, 2004.

Will St. Clair

(July 2011) Interactive developer at Stone Ward, 2010-11. University of Texas at Austin.

Nick Leeper

(Aug. 2011) "lead engineer of finance/fundraising" Co-founder/engineer at Absolocal from May 2010. Senior software developer at Pioneer Hi-Bred International, Inc., 2001-11. Co-owner/developer of Truespin Media, 2004-10. MIS from Iowa State University, 2001.

Derek Brooks

(Aug. 2011) "lead engineer of voter contact and protection" Co-founder/engineer at Absolocal, May 2010-Aug. 2011 and senior application engineer at Dipity from Jan. 2010. Owner/engineer at Broox Productions, from 2001. Application engineer at Red 5 Interactive, Inc. 2007-10. Co-owner/developer of Truespin Media, 2004-10. Application developer for Pioneer Hi-Bred Int'l, Inc., 2003-07. B.A. in computer science from Cornell College, 2003.

Clint Ecker

(Sept. 2011) Project manager, web developer, and technical contributor at Ars Technica, 2008-11. Senior web developer at Stone Ward, 2006-08. B.S. in computer engineering technology and A.S. in electrical engineering technology from Purdue University, 2004.

Kevin Der

(2012) Software engineer at Quora, 2009-12. Technical director at Pixar Animation Studios, 2008-09. Software engineer at Facebook, 2007-08. Candidate for Ph.D. in computer science at Stanford University; B.S. in computer science and engineering from MIT, 2006.

Nathan Kontny

On leave from positions as founder of Cityposh, Jan. 2011 and CTO at Inkling Inc. from Jan. 2006; based in Chicago.

Ivan Indrautama

Previously at Threadless.

Ian Dees

(Feb. 2012...system to synchronize data between various vendors for the campaign) Software engineer at Digital Cyclone, Inc, a division of Garmin International, Inc., Feb. 2010-Feb. 2012. Software engineer at GE Healthcare, 2006-10.

Abi Noda

(March 2012) Co-founder of OrangeQC, in Chicago, June 2009. Independent consultant, Jan.-Aug. 2011. Lead developer at Doejo, April 2009-Feb. 2011. Studied computer science at University of Illinois at Urbana-Champaign.

Chirag Patel

(April 2012) Co-founder and senior vice president at Halo Monitoring, Inc., March 2007-April 2012. Software contractor at Stack Software, Inc, 2004-07. Design engineer at Adtran, 1998-2002. Educated at Rutgers and the University of Alabama in Huntsville.

Michael Barrientos

(June 2012) Senior software engineer at Jetlore, Sept. 2011-June 2012. Software engineer at Google, 2007-09. Software engineer at Applied Signal Technology, 2003-07. M.S. in computer science from Stanford University, 2011; B.S. in electrical engineering and computer science from UC Berkeley, 2002.

Data

Lead Database Engineer Jay Edwards

(Feb. 2012) Operations engineer, research engineer at Twitter, Inc., 2007-10. Network engineer at Webxites, 2006-07. Managing partner of Jayed, LLC, doing tech. infrastructure work for small businesses, schools and individuals, 2002-05. SAP R/3 Basis administrator at Tyco, 2000-02. QA engineer at Metricom, 1999-2000. Consultant, 1997-99.

Database Engineer Noel McKinney

(July 2011) Principal and co-owner of The Constant Group Inc., Aug. 2005-present. Vice president of engineering and development (2010-11) and senior software developer (2009-10) at Insignis. Database administrator at Spectrum Global Fund Administration LLC, 2005. Software developer at Insignis, 2001-05. M.S. in computer science from DePaul University, 2001; M.S. in social and applied economics from Wright State University, 1991; B.S. in management (finance) from Purdue University, Kerannert School of Management, 1987.

Database Administrator William Wanjohi

(Nov. 2011) Data analyst at Seyfarth Shaw, 2009-11. Litigation support analyst at Debevoise & Plimpton, 2007-09. Research/doc. reviewer at Viacom, second half of 2006. Legal assistant at Harkins Cunningham LLP, first half of 2006. B.S. in engineering from Swarthmore College.

• DEVOPS

DevOps takes projects that are in semi-final form, catching revisions made by the developers and ensuring their availability and stability in the live environment.

Lead DevOps Scott VanDenPlas

(May 2011) Co-founder of MaxRes Contract Research, Jan. 2010. Director of tech. ops. at Sprout Social in early 2011. Engineer at skinnyCorp, 2008-10. Network operations manager at the Field Museum of Natural History, 2007-08. CIO at Originate Home Loans, 2006-07. Network operations manager at Insignis, 2001-06. Senior network engineer at Aisa Technologies, 2000-01. Graduate of University of Illinois at Urbana-Champaign, 2000.

DevOps Engineer Nick Hatch

(Aug. 2011) Came to the campaign from position as customer support engineer at Urban Airship. B.S. in biochemistry from Western Washington University, 2009.

DevOps Engineer John (JP) Schneider

(Feb. 2012) Systems engineer at Threadless.com, 2010-12. IT operations manager at The Field Museum, 2008-10. Customer information systems analyst at Elkay Manufacturing, 2000-08.

DevOps Engineer Brian Holcomb

(May 2012) Previously senior Unix administrator for the National Science Foundation through Digital Solutions Inc. and then Optimos Inc., from Jan. 2008. Systems administrator at OmniTI, 2007-Jan. 2008. Systems analyst III at Jacobs Engineering, 2003-07. Systems engineer at Argus Systems Group, 2000-02. Bachelor's degree in computer science and math from University of Illinois at Urbana-Champaign.

and: DNC Director of Systems Engineering Leo Zhadanovsky was deployed to Obama headquarters from June 2012.

DevOps Product Manager Betsy Elizabeth Huigens, also in IT

15044380761

• **PRODUCT MANAGERS**

Product Manager for Digital, Finance and Voter work streams Mari Huertas

(Feb. 2012) Digital products manager at World Book, 2008-11. World Languages and Literacy Editor for the Wright Group at The McGraw-Hill Companies, 2005-08. Project coordinator at Nieman, Inc. 2003-05.

Product Manager for Dashboard David Osborne

(March 2011-Aug. 2012, then RFD in Richmond, VA) Contractor on the Measures of Effective Teaching Project for the Bill & Melinda Gates Foundation, 2009-11. Project manager of the School Survey at the NYC Department of Education, 2008-09. Portsmouth regional field director on Sen. Chris Dodd's NH primary campaign, 2007. Field director on Merle Johnson's campaign for Iowa State Senate in Fall 2006 (Ankeny); one of Sen. Evan Bayh's Camp Bayh graduates. B.A. in American studies from Northwestern University in Chicago, June 2005.

Director of Voter Experience Winnie Lam

(June 2012)...electronic voter registration and directing Americans to their polling places. On sabbatical from Google; head of product management, customer service (Aug. 2009-June 2012), senior product manager, international payments May 2006-Aug. 2009), and engineering project manager (Sept. 2004-May 2006). Senior technical project manager at AOL Netscape, 2002-04. Associate project manager at Sapient Corporation, 2000-01. B.S. in systems design engineering from University of Waterloo.

Director of Voter Experience Anthea Watson Strong

(started May 2011 as product manager on the technology team; with the campaign to May 2012)

Director of User Experience Jason Kunesh

(May 2011) Co-founder of Fuzzy Math, LLC, 2009-May 2011. President of Kunesh Interaction Design, 2007-09. Lead information architect at Orbitz, 2003-07; also night instructor at the School of Art Institute of Chicago, 2005-07. Senior strategy consultant at Cyberworks Media Group, 2002-03. Manager of multimedia design at DiamondCluster International, 1999-2002. M.S. in human computer interaction from DePaul University, 2006. B.A. in English from University of Wisconsin, 1992. twitter

• **USER EXPERIENCE**

UI/UX Engineer Aaron Salmon

(May 2011) Owner of Auraworks Ltd., a sole proprietorship, since 2007. Co-founder OhSoWe.com. Front-end development and user interface consultant for Solfo, design and usability director for mk2 development, 2008-10. Art director at Tecture, LLC, 2007-08. Internet designer/developer at Quicksilver Associates, 2005-07. Web design supervisor at The CORE Organization, 2002-05. eLearning creative developer for Integrated Performance Systems, 2001-02. Web developer/team lead at Unety Systems, 1999-2001. Web authoring and publishing certificate from Chippewa Valley Technical College.

UI/UX Web Engineer Ben Korody

(Aug.-Nov. 2012) Senior web developer for Cuban Council, Aug. 2009-Aug. 2019. Production artist at Inverted Creative, 2008-09. Interactive developer at IP Pixel, 2006-08. Studied art and visual communications at Loyola University of Chicago.

User Experience Advisor Scout Addis

(started volunteering in 2011) Director of User Experience at Practice Fusion from Jan. 2012; user experience architect at Zendesk, Jan.-Aug. 2012. Owner/consultant at Graceland Heavy Industries, April 2009-Jan. 2012. Senior business analyst for Barclay's Global Investors, 2008-09. Senior product manager at TeaLeaf Technology, 2007-08. Interaction design consultant at Cooper, 2004-07. B.F.A. in theater management from University of Illinois at Urbana-Champaign, 1986.

Mark Trammell

(June 2012, per The Atlantic "helped build a [Twitter] tool that could specifically send individual users direct messages") Senior design researcher at Twitter, Oct. 2009-June 2012. User experience architect at Digg, 2008-09. Web standards evangelist at PayPal, mid-2007. Web administrator at the University of Florida, 2000-07. M.S. in decision and information science, 2002; B.B.A. in operations and information technology from The College of William and Mary, 2000. Served in the U.S. Navy, 1993-98.

UX Designer Dave Castleton

(June 2011 to Feb. 2012)

UX Intern Gabriela Rivas

• San Francisco Tech Field Office
(from Feb. 2012, independently developed various smaller projects)

Lead Engineer Angus Durocher

(2011) Involved with the online sector for over a decade. Lead web developer for YouTube/Google, 2006-10. Ops, engineering, production at Roll Your Own Search Engine (Rollyo) from 2005. Co-founder and CTO of Crow Hill Art since 2002. UE engineer/interface engineer/head of production at Bigstep.com. CD-ROM game developer. Moved to San Francisco in 1997. Reporter in Austin, TX and earlier in Haines, AK. Studied at Bates College as well as UNH in Durham, and Brown University.

Community Outreach Lead Catherine Bracy

(started on the campaign in June 2011 as a product manager) Consultant to the John S. and James L. Knight Foundation, 2010-11. Administrative director at the Berkman Center for Internet & Society at Harvard University, 2002-10. B.A. in communication from Boston College, 2002.

Quality Assurance Harry Mattison

(Sept. 2012) Senior software engineer (2008-12) and quality assurance manager (2001-08) at Autodesk. Policy director on Khazei for U.S. Senate in Massachusetts, 2011. Quality assurance manager at Revit Technology, 1999-2001. Principal product designer at Pegasystems, 1998-99. Group leader at Parametric Technology, 1994-98. B.S. in mechanical engineering from Yale, 1994.

Integration and Innovation Director Ashley Arenson

Previously account executive at mcgarrybowen and assistant account executive at Energy BBDO. B.A. in liberal arts, economics from Villanova University.

Director of Support Brady Kriss

(Nov. 2011...recruited, selected, trained and managed a rotating team of interns and volunteers) L.L.M. in intellectual property law and policy from University of Washington School of Law, 2010; J.D. from Northeastern University School of Law, 2007; B.A. from Carleton College, 2003.

Executive Assistant Mackenzie Walker

(July 2012) B.A. in sociology from University of Washington, 2011.

Overview

From about Jan. 2012 on, work within the Tech department was organized by **workflows** (for example: API/Narwhal, GOTV, voter protection...). Each workflow had its own product manager and engineering lead(s). The team approach was a hallmark of the department. Many people had a hand in the various products big and small. A lead engineer headed development, working with numbers of other engineers depending on the complexity of the project; there were engineers who focused on the user experience; a security engineer checked to make sure the product would not be compromised; devops engineers took projects that were in semi-final form, caught revisions made by the developers and ensured their availability and stability in the live environment. Finally the products went to the relevant department(s).

Narwhal

One of the most challenging projects was Narwhal, which allowed data from different sources and in different formats to be consolidated and put to use. Narwhal has been described as a "coordination system/data platform for linking and sharing information on voters and volunteers." The Narwhal API (application programming interface) was built in-house and operated through redundant cloud-based servers at Amazon Web Services. Work on this started with an API team and there was also a Narwhal integration team which linked in with the vendors (Blue State Digital and NGP/VAN). As data was updated, the integration team made sure that the changes flowed in and were synchronized. For example, consider what happened a voter used the mobile app to RSVP for an event. The mobile app talked to the Narwhal API to retrieve event data; when the person RSVP'd through the API, integration passed the RSVP back. Web applications interacted with Narwhal instead of having their own databases. Refinements were made; for example the Calltool app allowed call details to be saved in Narwhal. A major challenge was scaling; how would Narwhal operate under a high usage situation such as the days leading up to Election Day or Election Day itself. As described by Alexis Madrigal in *The Atlantic*, the campaign put Narwhal through a full "live action role play" LARP exercise on Oct. 21. (Much has been written about the Romney campaign's Project Orca and how, in the absence of such rigorous testing it performed poorly on Election Day).

Many people worked on the Narwhal API including...API team; Anders Conbere, Carol Davidsen, Josh Thayer, Justin Vincent, Zane Shelby, Kevin Der, Jim Meehan, Abi Noda and Clint Ecker; developing features/changes: Will St. Clair, Derek Brooks; Narwhal Integration Team included Ryan Kolak, Nick Leeper, Ian Dees, Sam McVeety, Michael Barrientos.

Targeted sharing

Another success was targeted sharing. This was a Facebook app that allowed the campaign to see a supporter's friend list, and determine, for example, who an individual interacts with most. With fast access to the voter file, the campaign could match those names against the voter file to figure out who each person was. Then it could ask the supporter to make specific requests of particular friends, for example, watch a video or contribute.

Data

Director of Data Ethan Roeder

Data and tech. director at the New Organizing Institute. Roeder worked on Obama's 2008 campaign starting as voter file manager on the Nevada caucus campaign and concluding as Midwest data director/lead.

Data Manager Ben Fuller

(August 2011) Previously assistant director, FIS at SEIU, 2007-11. Field director on Charlie Wilson for Congress, 2006. Distribution coordinator on the 2004 Ohio Coordinated Campaign. B.S. in political science from The Ohio State University. Akron native.

• REPORTING

Reporting Manager Daniel Scarvalone

(Dec. 2012) Analyst at Catalyst. Colorado data/new media director for Organizing for American/DNC, 2010. State legislative account executive/research assistant at NGP Software, 2009-10. B.A. in political science from Tufts University, 2008.

Deputy Reporting Manager Warren Linam-Church

J.D. from Chicago-Kent College of Law, Illinois Institute of Technology, 2010; B.S. in computer engineering from Texas A&M University, 2007.

Deputy Reporting Manager Stefan Fox

Software developer at the New Organizing Institute. Data wrangler for the National Committee for an Effective Congress. Graduate of University of Illinois, 2007; studied economics and geography. Originally from Chicago.

II. Data Analytics & Experiments:

Analytics

Chief Analytics Officer Dan Wagner

(beginning of June 2011) Targeting director for Organizing for America at the DNC. Oversaw Great Lakes and Ohio Valley targeting for the Obama campaign in Fall 2008.

Deputy Chief Analytics Officer Andrew Claster

(July 2011) Previously deputy targeting director at the DNC, 2009-11. Field organizer on the Pennsylvania Campaign for Change, July-Nov. 2008. Vice president at Penn, Schoen & Berland, 2005-08. Consultant at the World Bank, 2004-05. Analyst at Penn, Schoen & Berland, 1998-2001. MSc in economics from the London School of Economics and Political Science, 2003. B.A. in political science from Yale University, 1997.

Director of Analytics Operations Tim Trautman

Targeting operations manager at the DNC in the 2010 cycle. Worked on Obama's 2008 campaign starting as a field organizer in the primaries and as a database administrator in Chicago in the general election. B.S. in economics from American University.

Chief Scientist Rayid Ghani

(July 2011) Analytics research lead, senior researcher/research scientist at Accenture Technology Labs, 2001-July 2011. M.S. in machine learning from Carnegie University, 2001. B.S. in computer science, mathematics from Sewanee-The University of the South, 1999.

• BATTLEGROUND STATES

Battleground States Analytics Director Elan Kriegel

(June 2011) Senior modeling analyst at the DNC, 2010-11. Previously a radio and television producer. M.A. in quantitative methods in the social sciences from Columbia University; B.S. in mathematics and anthropology from the University of Wisconsin.

Deputy Battleground States Analytics Director Matt Dover

(June 2011) Middle school social studies teacher and Teach for America Corps member in New York City, June 2007-June 2009. M.P.P. from Harvard University, 2011; B.A. in political science from The University of Alabama, 2007.

Battleground States Operation Vote Analytics Lead Emily Norman

Elections analyst for Western and Southwestern States in the Targeting Department at the Democratic National Committee, 2010-11. Previously an analyst at McKinsey & Company. A.B. in mathematics from Bryn Mawr College.

Battleground States Analytics Project Manager Sadia Iqbal

(Jan. 2012) Project assistant at Kirkland & Ellis, July 2010-Dec. 2011. Interned at the U.S. Department of Homeland Security, first part of 2010. Working towards a master's in public policy from the University of Chicago; B.A. in political science and international studies from Loyola University of Chicago, 2010.

Battleground States Polling Analyst Seth Samuels

(July 2012) Analyst at Analysis Group, Inc 2006-09. M.A. in political science from University of California, Berkeley; B.A. in psychology from Wesleyan University.

Battleground States Election Analyst Harrison Kreisberg

(June 2011) Elections analyst in the Targeting Department at the Democratic National Committee, 2010-11. A.B. in international relations and economics from Brown University.

Battleground States Election Analyst Kassia DeVorse

(2011) DNC data manager, 2010-11. B.S. in physics from MIT.

Battleground States Election Analyst David Shor

(Jan. 2012) Statistician and limited partner at Allodynic Therapeutics from July 2010. Founder of Stochastic Democracy from Aug. 2008. B.S. in mathematics from Florida International University, 2010; visiting student research collaborator, molecular biology at Princeton University, Feb. 2010-April 2011.

Battleground States Election Analyst Matthew Saniie

(Jan. 2012) Regional data manager for Organizing for America/DNC. Regional field director in Southwest Florida for Obama's Campaign for Change in Fall 2008.

Battleground States Election Analyst Amos Budde

(May 2012) Research assistant at The Urban Institute, Feb. 2011-May 2012. B.S. in mathematics from Brown University, 2010; working towards an M.S. in applied economics from The Johns Hopkins University.

• COMMUNICATIONS

Lead Communications Analyst Andrew Magaña

(Jan. 2012) Acquisition and development associate at the Magellen Group, latter part of 2011. Summer associate at Goldman Sachs, Summer 2010. U.S. Office of the Secretary of Defense, Acquisition, Technology, and Logistics (AT&L), 2006-09. Active duty U.S. Navy Officer, 2003-06. M.B.A. from Stanford University Graduate School of Business, 2011; B.S. in political science from the U.S. Naval Academy, 2003.

• DIGITAL

Digital Analyst Joe Arasin

(Oct. 2011) Senior Consultant at Booz Allen Hamilton, 2008-10. M.S. in public policy and management (2008) and B.S. in computer science (2007) from Carnegie Mellon University.

Digital Analyst Matthew Rattigan

(Dec. 2011) Graduate research assistant at UMass Amherst. Senior reporting analyst at Upromise, 2000-01. Senior data analyst at Ask.com, 1999-2000. Decision support consultant at Monitor Group, 1997-99. Ph.D. in computer science from UMass Amherst, 2011.

Digital Analyst Aziz Shallwani

(Jan. 2012) Principal data analyst at Capital One, 2004-11. M.Eng from McGill University, 2003; B.S. in electrical engineering from University of Waterloo, 2000.

• EXPERIMENTS

Director of Experiments David Nickerson

Associate professor of political science at the University of Notre Dame; started at Notre Dame as a visiting research fellow in 2004. Ph.D. in political science from Yale University, 2005. B.A. in mathematics and philosophy from Williams College, 1997.

Deputy Director of Experimental Research Peter Backof

(Oct. 2011) Special projects analyst at the Analyst Institute, Jan. 2010-Oct. 2011. M.A. in political science from University of Chicago, 2009; B.A. in political science from Dickinson College, 2007.

Experimental Research Analyst Meredith Sadin

(June 2012) Ph.D. candidate at Princeton University. Investigator at the Habeas Corpus Resource Center, 2005-08. Head graphics reporter at Newsweek, 2003-04. B.A. in political science from Brown University, 2003.

III. Media Analytics

• MEDIA

Director of Media Analytics Carol Davidsen

(April 2012; previously senior product manager, technology team from Nov. 2011) Product and program manager for Microsoft Advertising TV Group (initially Navic Networks acq. in 2008), 2006-11, left to join the campaign. Integrations lead and project manager in the professional services group at Converse Systems (Kenan Systems, Lucent Technologies, CSG Systems), 2000-05. Consultant in the professional services group at Bearingpoint, 1998-2000. B.S. in economics from Rensselaer Polytechnic Institute.

Deputy Director of Media Analytics Peter Bouchard

Associate director of media analytics at Omnicom Media Group for Hewlett-Packard, 2011-12. Media and market research associate director at Fox Network Group/National Geographic Networks. M.B.A. from University of Maryland's Smith School of Business, 2011; B.S. in marketing from American University's Kogod School of Business, 2005.

Senior Media Planning Analyst Nathan Sterken

(June 2011) Previously analyst at the Consumer Financial Protection Bureau, starting Nov. 2010. Analyst at Changing Targets Media, April-Nov. 2010. Online production and analytics manager at the White House, May-Nov. 2009. M.P.P. (2007) and B.A. in political science (2006) from University of Michigan.

Media and Visualization Analyst Jesse Stinebring

(June 2011) B.A. student in political science at Hamilton College.

Media Analyst Edwin Lim

B.A. student in mathematical methods in the social sciences, economics and creative writing at Northwestern University. Research assistant at Science of Network in Communities Labs, 2010-12.

IV. Modeling

Director of Statistical Modeling Daniel Porter

Senior modeling analyst at the DNC, 2010-11. M.A. in quantitative methods in the social sciences from Columbia University; B.A. from the College of Social Studies at Wesleyan University.

Deputy Statistical Modeling Director Matthew Holleque

(March 2012; statistical modeling analyst from Oct. 2011-Feb. 2012) Microtargeting analyst at MSHC Partners, June-Oct. 2010. Deputy director of the University of Wisconsin Advertising Project, Jan.-Dec. 2008. Ph.D. in political science from University of Wisconsin-Madison, 2012; B.A. in political science from University of Minnesota-Twin Cities, 2005.

Modeling Analyst Greg Dyer

(Sept. 2011) B.A. in statistics from Harvard College, 2009.

Modeling Analyst Ana Rocca

(Oct. 2011) Pursuing a Ph.D. in economics from U.C. Berkeley. Associate economist at the Federal Reserve Bank of Chicago from 2006-08. B.S. in economics from the University of Chicago, 2006.

Modeling Analyst Tiffany Washburn

(Jan. 2012) M.A., 2010, M.Phil. 2011, and is pursuing a Ph.D. in political science from Columbia University; teaching assistant at Columbia, from Sept. 2009. Studied architecture at Harvard University, 2005-06. B.A. in political science from North Carolina State University, 2004.

Modeling Analyst Peter Tanner

(March 2012) Data analyst manager (from Aug. 2010), principal data analyst (March 2008-July 2010), senior data analyst (March 2007-Feb. 2008) and data analyst (Aug. 2005-Feb. 2007) at Capital One. Bachelor of mathematics degree from University of Waterloo, 2005.

Modeling Data Manager Chris George

(May 2012; started as statistical modeling intern in Jan. 2012) B.S. in mathematics and statistics from Miami University, 2011.

EXHIBIT J

Roche's business history in Shanghai

Robert Roche's work with the American Chamber of Commerce (AmCham Shanghai) are detailed in Exhibit OO. The following information on how Mr. Roche became established in Shanghai is easily available:

A bio for Mr. Roche is on file with AmCham Shanghai here, during the year he presided: http://www.amcham-shanghai.org/ftpuploadfiles/event/sustainability_conference/2010/bios/Roche.pdf. [printout attached]

That document states "He moved to Shanghai with his family in 2004."

Robert Roche is an entrepreneur, attorney and investor who has lived in Japan and China for more than 25 years. He moved with his family to Shanghai in 2004. He founded and is director of Acorn International, China's largest infomercial company with over 2,000 employees, which listed on the NYSE (ATV) in 2007. He also founded and is chairman of Oak Lawn Marketing, the largest infomercial company in Japan with over 750 employees, of which a 51% stake was sold to NTT Docomo, Japan's largest mobile phone operator. After arriving in Shanghai, Robert pointed his entrepreneurship towards the green sector and co-founded URBN Hotel, the first carbon neutral hotel in China.

Mr. Roche is also the Chairman of the American Chamber of Commerce in Shanghai Board of Governors and a member of the board of the US Pavilion at the 2010 Shanghai World Expo. He was a member of the Shanghai American School Board of Trustees for two years and a board member of the Nagoya International School.

Additionally, Robert was one of three non-US based members of President Obama's National Finance Committee and is a Member of the Board of the Harvard Public Diplomacy Collaborative Initiative. He is fluent in Japanese and has intermediate-level competency in Mandarin Chinese.

Roche's move to Shanghai was apparently in concert with the growth of Acorn International (c.f. Exhibit JJ). According to the cover story on and interview with Mr. Roche in *Electronic Retailer Magazine* (ER) from August, 2009 the enterprise began this way [cover story attached]:

"ER: You've walked us through the development of Oak Lawn through the 1990s—when did you launch your Chinese business, Acorn International?

Roche: In 1997 and 1998, there was a rush of the TV shopping companies into China and the word was that they were doing well.

I partnered with a gentleman named Don Yang who I knew from other business dealings and for whom I had a high level of trust."¹

¹ "An Entrepreneur's Tale," *Electronic Retailer Magazine* August, 2009 p. 47 (see attached article)

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An Entrepreneur's Tale

Oak Lawn
Marketing's
Robert Roche
Recounts His
Journey to DR
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An Entrepreneur

Even in an industry replete with success stories, Robert Roche's stands alone.

BY TOM DELLNER

The direct response world has no shortage of compelling stories of visionary entrepreneurs who strike it big. They're everywhere: inventors, marketers, pitchmen and service providers who had the vision to spot a business opportunity and the courage, drive and good fortune to transform their idea into reality.

But even in this industry of business mavericks, Robert Roche's story stands apart. The Chicago native left the U.S. for Japan in 1989 with no particular career goals in mind. In the intervening 20 years, Roche has seen one company he founded go public on the New York Stock Exchange and has sold a 51-percent share of a second company to Japanese mobile phone giant NTT DoCoMo for \$310 million.

Electronic Retailer sat down with the unassuming and straight-talking Roche for a first-person—and fascinating—account of how it all came together.

***Electronic Retailer:* Tell us about the inspiration behind Oak Lawn Marketing. What was the business opportunity you spotted?**

Robert Roche: There really was no particular epiphany I can point to. At the time, I was teaching some English, doing some importing of goods, some translating and a little consulting. In my import/export business, I was bringing in goods from the States and selling it

to a wholesaler. As a part of this business—I can't even remember exactly how it came about—I was introduced to a leading TV shopping company in Japan. We wanted to sell them some product, but they said, "If you want to sell me this product, you've got to be on TV." So, next thing I know, I was on TV, my partner (Tadashi Nakamura, who is still an important part of our business today) was on TV.

And these were one-hour shows, where maybe 15 products were sold. It was live—although taped and aired later in other areas—and believe me, it was stressful. But we began selling more and more product.

Then, in Spring of 1994 I believe, I had the good fortune of being introduced to Rob Woodroffe of Interwood Direct.

He had time on CNN International and was basically looking for somebody to answer the calls in Japan. I agreed. Of course, I didn't have a call center. I didn't have anything. But I thought I would answer the phones myself if I had to. Rob was selling six or eight products at the time, so we imported a couple hundred of each and the phone started to ring.

So these two serendipitous events really marked our entry into the business.

***ER:* I have to ask about your experience in front of the camera—what was that like?**

Roche: It was pretty intense. I fancy myself an accomplished Japanese speaker and I'm a pretty confident guy, but when they start rolling that camera, it's a whole different ballgame. You lose who you are. I don't care how cool you think you are. Once that camera's on, everything changes. From that experience, I really gained a ton of respect for those who do well in front of a camera.

***ER:* So the business really came together in something of an ad hoc way?**

Roche: Yes. It was all very organic. Basically, we were quite lucky—very much in the right place at the right time. The TV shopping company had been struggling a bit. They were having a hard time getting quality products. And Rob's company was the major player internationally at the time, so, through our relationship with him, we had the pick of the litter, product wise. Also, as Rob ran the stuff on CNN, we saw which products sold best. We then took those to the TV shopping company. So I was on TV selling DD7, the Pet Mitt, Double Burner—whatever was selling on CNN.

***ER:* Can you describe your relationship with Rob?**

Roche: I was so lucky to have Rob as

eur's Tale

a mentor. He knew the business like no one else, and I have always been motivated to learn. He was the one who explained per inquiry marketing to me, which didn't exist in Japan at the time. I eventually bought a lot of media that way. And Rob was motivated to teach me: the more I learned the business and the better I got, the more of his product I sold.

ER: If I can back up, what brought you to Japan in the first place?

Roche: I spent a year of college in Japan (I majored in Japanese studies and economics), another year during law school and then returned in 1985 after graduating from law school. My wife, who I met the first time I traveled to the country, was Japanese. I had personal reasons to go to Japan; I didn't go there to start a business. I went there to be there and I basically had to "fill in" my career.

ER: You mentioned the word "serendipitous"; it's a very apt description for the way things just fall into place. But there must have been some challenges early on.

Roche: People talk about how difficult it is to do business in Japan, how it can be very challenging to go over there and do what it is they want to do. And they're right.



sold them in Japan. They wouldn't always work (there are lots of examples of products that kicked ass in America and did nothing in Japan), but certainly our chances of success were higher.

Our standard was whether the marketer had spent a million dollars in media on the product in America. I suppose this was not too sophisticated—we're certainly far more data-centric now—but if a company spent a million dollars on the product, you could pretty much rest assured that most of the manufacturing kinks had been worked out, they had already dealt with customer complaints, etc.

ER: You've walked us through the development of Oak Lawn through the 1990s—when did you launch your Chinese business, Acorn International?

Roche: In 1997 and 1998, there was a rush of the TV shopping companies into China and the word was that they were doing well.

I partnered with a gentleman named Don Yang who I knew from other business dealings and for whom I had a high level of trust. But our initial dealings in China were very frustrating for me. Working with a translator was extremely uncomfortable.

CCTV was not in the business of TV shopping or selling media to foreign companies. They eventually offered us 10 or 20 minutes per day, and we decided to buy it. We only had about two months then to get everything together—the show, the call center, everything. It was painful. We limped along for awhile, then we brought in another partner, James Mu, who also had lots of TV shopping experience. At this point, I stepped back a bit from the day-to-day business. I would have them come over to Japan to learn what we were doing at Oak Lawn, but they really incubated the business themselves.

ER: What was the eventual breakthrough point for Acorn?

Roche: We found a company that marketed an electronic pocket translator called *Haojixin*, which translates to "good memory." We tested the product on TV and it sold very well. We ended up buying a majority stake in the company—we now own 10 percent. The product sold like crazy, did extremely well at retail and

became a huge brand in China. That brand alone—there are a number of different versions and line extensions now—does more than \$100 million per year. Acorn has also done extremely well selling cell phones.

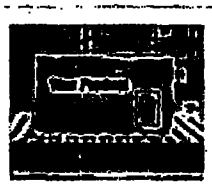
Jumping ahead to 2004, we brought in investors, raised money and eventually went public on the New York Stock

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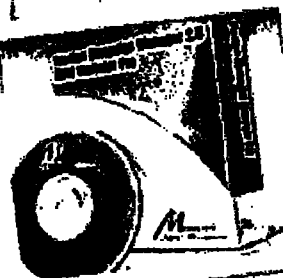
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them leverage and optimize their customer base—which numbers more than 50 million—to which they currently market nothing but phones.

And as they began to look more closely at us, they became impressed with the fact that, like them, we were a data-centric company. We know why we do everything we do. And maybe everything we do doesn't always work, but if it doesn't, we know why. They also liked that our company was vertically integrated and that all levels of employees understood the importance of data centrality.

ER: What does this mean for Oak Lawn—and you personally—moving forward?

Roche: This will allow us to leapfrog other companies to an entirely new strata of business without suffering the pain. To be a truly major company, it requires a whole new mentality in management. And the management discipline and expertise that exists at DoCoMo is absolutely world class. They are thoroughbreds.

I feel completely re-engaged. The deal opens up new horizons. We have the elite of the Japanese business community to learn from now. You just can't get access to this. We're on a different playing field. We will now be able to apply our principles and strategies in a much bigger playground.

ER: Tell us a little bit about the life of an expat businessman living in Asia. What do you like about it? What are some of the challenges?

Roche: Well, in Japan, we really didn't live an expat lifestyle. With my wife being Japanese and me knowing the culture and speaking the language, we were well-immersed in Japanese society. China is similar to Japan in some ways, but very different in others. It's not predictable, with well-established rules of business.

There are many bad things about

China—the pollution comes to mind. The language is extremely difficult and it's more difficult to immerse oneself in the culture. But I like to focus on the good qualities. I love being an ex-pat. I love being in Shanghai; it's a huge, vibrant city. And for a businessman, it feels as though we're at the epicenter of commerce, of wealth creation. It must be like what New York City felt like in the late 19th century. There are all these Chinese entrepreneurs in the city building Rockefeller-like dynasties. And they're all here. Walking around in the city. Their kids go to your kids' schools. You know some, you don't know some, but the sense is palpable, historic and very exciting.

ER: Have you always been a risk taker and had the entrepreneurial bug?

Roche: Oh, yeah. I always had some business venture going, starting with a paper route at age 10. And my dad was an entrepreneur. He was a salesman who sold enough that he was able to buy his company. Then he moved on to something else and something else after that. His was a very colorful entrepreneurial career, to say the least.

ER: If you could sum up a few of the nuances of the Asian direct response market that would be surprising or of interest to Western DM marketers, how would you do it?

Roche: I think the similarities would come as a big surprise. The fundamentals of the business are pretty much the same. You're buying media, putting something on TV and answering the phones.

Now how you buy the media, the lack of service companies—these are big differences. The use of credit cards is very low, too. But people are people. It doesn't matter where you're from—everyone wants abs of steel. ☞



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EXHIBIT K

Documenting Robert Roche's work as a major fundraiser and coordinator for Obama for America in 2008 and 2012. This same documentation shows Peter Emerson's participation as a bundler as well.

100448078

Robert Roche has been a top fundraiser for President Obama's 2008 and 2012 campaigns. According to this New York Times article and accompanying table, published September 12, 2012, <http://www.nytimes.com/2012/09/13/us/politics/obama-grows-more-reliant-on-big-money-contributors.html? r=0>. Roche, since 2007, had bundled \$846,050.00 in contributions by May 2012.¹ The New York Times obtained its numbers from a source within the campaign.

¹ The New York Times obtained a list that included all such bundlers and the money they raised over the time period between mid-2007 and May 2012. The article did not especially single out Roche.

The New York TimesCHIWETEL EJIQFOR
MICHAEL FASSBENDER
BENEDICT CUMBERBATCH

September 12, 2012

Obama Grows More Reliant on Big-Money Contributors

By NICHOLAS CONFESSORE

Kirk Wagar, a Florida lawyer who has raised more than \$1 million for President Obama's re-election bid, had his choice of rooms for the Democratic convention at Charlotte's Ritz-Carlton or Westin hotels and nightly access to hospitality suites off the convention floor.

Jay Snyder, a New York financier who has raised at least \$560,000 for Mr. Obama, was entitled to get his picture taken on the podium at the Time Warner Cable Arena.

And Azita Raji, a retired investment banker who has raised over \$3 million for Mr. Obama — more than almost anyone else during the last two years — could get pretty much anything that she wanted last week in Charlotte: briefings with senior Obama officials, invitations to post-speech parties, along with “priority booking” at the city's finest hotels.

In the race for cash, Mr. Obama often praises his millions of grass-roots donors, those die-hards whose \$3 or \$10 or \$75 contributions are as much a symbol of the president's political identity as they are a source of ready cash. But his campaign's big-dollar fund-raising has become more dependent than it was four years ago on a smaller number of large-dollar donors and fund-raisers.

All told, Mr. Obama's top “bundlers” — people who gather checks from friends and business associates — raised or gave at least \$200 million for Mr. Obama's re-election bid and the Democratic National Committee through the end of May, close to half of the total up to that point, according to internal campaign documents obtained by The New York Times.

The documents provide a detailed look into the intricate world of presidential fund-raising, which Mr. Obama and his team have mastered, and donor-stroking, which some supporters complain they have not. The campaign closely monitors its top bundlers, rating them by how much each individual or couple has raised and donated each year going back to 2007.

Officials used that amount, in turn, to offer donor packages of access and entertainment for the convention last week, themed to the location in North Carolina: "OBX" (bumper-sticker shorthand for the Outer Banks) for those raising at least \$1 million, down to "Carolina on My Mind" for those who have donated merely \$75,800 to Mr. Obama and the Democratic National Committee, the maximum allowed under federal law.

"It confirms everything we've always believed about the role of big money in politics," said Ellen Miller, executive director of the Sunlight Foundation, a watchdog group that tracks political fund-raising. "The more you give, the more you gather, the more you get."

Each individual or couple is also assigned a lifetime Obama total. Topping the list is Jeffrey Katzenberg, the Hollywood producer, who, along with his fund-raising partner, Andy Spahn, has brought in at least \$6.6 million combined for the 2008 and 2012 campaigns, according to the documents.

The top fund-raiser for 2011 and 2012 is Andrew Tobias, a Miami-based author who is treasurer of the Democratic National Committee and a major bundler for Mr. Obama among gay donors. Terry McAuliffe, a former party chairman and Bill Clinton loyalist, shot into Mr. Obama's top bundler ranks this year after he and Mr. Clinton agreed to hold a Virginia fund-raiser for Mr. Obama. He has raised about \$2.2 million for Mr. Obama, according to the documents, more than all but a few supporters.

Because not all of Mr. Obama's bundlers are represented through the end of May, the documents may understate the total that top supporters have raised for Mr. Obama. But even so, they reveal how dependent even Mr. Obama — whose grass-roots fund-raising machine is unrivaled in political history — is on a relative handful of wealthy individuals raising millions of dollars on his behalf, often while having significant business or legal interests before the Obama administration.

Among the top 10 fund-raisers on the list for 2012, for example, are Steve Spinner, a former Department of Energy official who pushed the White House to approve a \$535 million loan guarantee for Solyndra, the failed solar power company.

DreamWorks Animation, the studio Mr. Katzenberg leads, is among several in Hollywood that earlier this year were notified of an investigation into whether entertainment companies had made illegal payments to officials in China in connection with their dealings there.

Mitt Romney has fielded an equally formidable high-dollar fund-raising machine this year

and could raise as much or more than Mr. Obama during the election cycle. Like the Democrats, Republicans offered big donors an array of perks at their convention, held in Tampa, Fla., last month, including choice hotel access, boat trips and access to Mr. Romney himself.

Mr. Obama already makes public the names of his bundlers, along with ranges for how much they have raised, a practice not required by law. Mr. Romney has declined to release such information, though monthly disclosures filed by his campaign suggest that he is even more dependent than Mr. Obama on big bundlers and donors who have given the legal maximum.

"Our major volunteer fund-raisers, as well as the ranges of contributions they raised, were previously made public because unlike Governor Romney, we disclose them on our Web site," said Ben LaBolt, a spokesman for Mr. Obama.

Mr. Obama's publicly disclosed categories stop at the \$500,000-and-up level, however. The internal documents show that at least 60 individuals and couples reside in an even more elite club, having raised more than \$1 million for Mr. Obama and the party.

They include Frank White Jr., a technology entrepreneur who has raised \$2.3 million for Mr. Obama's re-election campaign; Anna Wintour, the editor of Vogue, who has raised \$2.7 million; Robert Wolf, a former executive at UBS Americas, the banking company, who has raised about \$1.3 million; and Reshma Saujani, a lawyer who is running for New York City public advocate next year and is active among young larger donors, who has raised about \$1 million.

About 260 of the bundlers did not raise any money for Mr. Obama during his 2008 campaign, according to the document. That reflects the extraordinary effort Mr. Obama made to recruit new fund-raisers for his re-election effort, as former supporters lost enthusiasm or moved on to other pursuits.

But it also reflects the number of former fund-raisers whom Mr. Obama appointed to ambassadorial and other posts, leaving them barred from political activities.

Jo Craven McGinty, Derek Willis, and Kitty Bennett contributed reporting.

The Times published an accompanying table here:

http://www.nytimes.com/interactive/2012/09/13/us/politics/obamas-top-fund-raisers.html?_r=0. Roche, since 2007, had bundled \$846,050.00 in contributions by May 2012. The New York Times obtained its numbers from a source within the campaign. The same chart shows Emerson and Roche's name next to each other, and indicates Emerson has raised \$1.25 million since 2007.

Joseph Falk	\$1,073,600	\$1,073,600	Miami	Consultant	Akerman Senterfitt
Craig Hanson	\$1,056,815	\$1,180,415	Menlo Park, Calif.	Venture capital	Next World Capital
Mark Nichols	\$1,042,653	\$1,042,653	Washington	Principal	Wesley K. Clark & Associates
Sam and Stacey Heins	\$1,042,157	\$1,042,157	Wayzata, Minn.	Lawyer	Heins Mills & Olson
Reshma Saujani	\$1,040,872	\$1,040,872	New York	Self-employed	Self
Daniel Halpern	\$1,035,000	\$2,250,700	Atlanta	Chief executive	Jackmont Hospitality
Dana Perlman and Barry Karas	\$1,030,070	\$1,030,070	Los Angeles	Lawyer	Perlman & Associates
Christine Forester	\$1,027,900	\$2,370,538	La Jolla, Calif.	Marketing consultant	Christine Forester Catalyst
John Rogers Jr. and Melody Hobson	\$1,027,400	\$2,905,300	Chicago	Chief executive	Ariel Investments
Vicki and Bruce Heyman	\$1,012,800	\$1,713,600	Chicago	Homemaker	Homemaker
Pam Hamamoto	\$1,011,654	\$1,885,054	Tiburon, Calif.	Mother	Self
Andi and Tom Bernstein	\$1,006,000	\$1,506,680	New York	President	Chelsea Piers
Michael Sacks	\$1,004,800	\$1,004,800	Winnetka, Ill.	Chief executive	Grosvenor Capital Management
John Frank	\$1,003,794	\$1,003,794	Bellevue, Wash.	Lawyer	Microsoft
Bob Clark	\$999,000	\$999,000	St. Louis	President and chief executive	Clayco
Tom Carnahan	\$995,100	\$1,030,600	St. Louis	Entrepreneur	Self
Bonnie Porta Monks	\$969,897	\$1,659,221	Portland, Me.	Retired	Retired
Karen Harris	\$969,897	\$1,000,297	Cape Elizabeth, Me.	Lawyer	Drummond Woodsum
Blair Efron	\$910,900	\$1,319,102	New York	Managing partner	Centerview Partners
Mai Lassiter	\$882,600	\$1,047,600	Los Angeles	Homemaker	Self
Justin Buell	\$868,550	\$1,036,400	San Francisco	Principal	Buell Newsom Group
Carolyn Dwyer	\$867,086	\$1,231,900	Montpelier, Vt.	Consultant	Self
Lena Kennedy	\$861,155	\$1,696,275	Pasadena, Calif.	President	Kennedy & Associates
Sarah Kovner	\$859,975	\$1,237,000	New York	Consultant to non-profits	Self
Peter Emerson	\$846,050	\$1,202,400	New York	Consultant	Self
Robert Roche	\$846,050	\$846,050	China	Entrepreneur	Self
Andrew Weinstein	\$810,318	\$810,318	Coral Springs, Fla.	Lawyer	Weinstein Law Firm
Wade and Lorna	\$794,300	\$1,686,240	San Francisco	Co-founder	NextFuels, Inc.

Roche was also a member of the National Finance Committee in:
2008: <http://www.gwu.edu/~action/2008/obama/obamafinancecomm.html>.

Obama for America National Finance CommitteeAs reported by the *Chicago Sun-Times* on March 24, 2008

Naomi Aberly	Barry Goodman	Bruce Murray
Gerald Acker	Mark Goodman	James Murray
Charles Adams	Mark Gorenberg	Bob Nelsen
David Adelman	John Gorman	Marty Nesbitt
David Agnew	David Grain	Dan Nova
Mark Alderman	Earl Graves	Bruce Oreck
Jeremy Alters	Howard Gutman	Bill Orrick
Eddy Arriola	Joe Gutman	Lynn Overmann
Ricky Arriola	Ed Haddock	Spencer Overton
Nicole Avant	Daniel Halpern	Jason Paez
Stewart Bainum	Wahid Hamid	Sebastiano
Freddy Balsera	Todd Hamilton	Paiewonsky-
Rob Barber	Hill Harper	Cassinelli
Don Barden	Scott Harris	Steve Pajcic
Matthew Barzun	Bill Harvey	Deven Parekh
Doni Belau	David Heller	Michael Parham
Lawrence Bender	Victor Herlinsky	Cookie Parker
Michael Bennet	Bruce Heyman	Jonathan Perdue
Mitchell Berger	Doug Hickey	Tom Perrelli
Matthew Bergman	Donald Hinkle	John Phillips
Andi Bernstein	David Hinson	Will Prather
Tom Bernstein	Gary Hirshberg	Quintin Primo
Don Beyer	Melody Hobson	Penny Pritzker
Megan Beyer	Max Holtzman	Wade Randlett
Jeff Bleich	Rick Horowitz	Deborah Rappaport
Neil Bluhm	Jim Hudson	Doug Rediker
Charles	Dan Hynes	Tom Reed
Robert Bone	Mark Iola	Art Reimers
Harry Bookey	Ian Isaacs	Jim Reynolds
Demetrios Boutris	Rita Isaacs	John Rhea
Tim Broas	David Jacobson	Zeb Rice
Frank Brosens	Valerie Jarrett	Ellen Richman
Peter Buttenweiser	Jeh Johnson	Rebecca Riley
Peter Bynoe	Jim Johnson	Bob Rivkin
Owen Byrd	Orlan Johnson	Charlie Rivkin
Joe Calabrese	Sheila Johnson	<u>Marjorie Roberts</u>
Michael Caplin	David Jones	<u>Robert Roche</u>
David Carden	Sam and	Desiree Rogers
Tom Carnahan	Sylvia Kaplan	John Rogers
Brad Carson	David Kasparian	John Roos
Eileen	Michael Kasparian	Lee "Rosy" Rosenberg

In 2012 Roche was a co-chair for "Tech4Obama" was an initiative of the Presidents 2012 campaign: "Technology for Obama (T4O) works to rally the broad technology community to support the President's re-election through donations of time, talent and money. Our membership includes luminaries from a parts of the technology and venture capital worlds, including these National and Regional Co-Chairs and Partners (list always in formation):

Firefox File Edit View History Bookmarks Tools Window Help

Technology for Obama | Rallying the technology community for Obama's re-election.

Technology for Obama | Rallying... www.tech4obama.com Google

Election Day is Here!

T4
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Technology for Obama (T4O) works to rally the broad technology community to support the President's re-election through donations of time, talent and money. Our membership includes luminaries from a parts of the technology and venture capital worlds, including these National and Regional Co-Chairs and Partners (list always in formation):

Rusty Rueff • Reid Hoffman • Deepak Kamra • Adam Riggs • Judy Estrin • Fred Khosravi • Stephen Pagliuca • Max Schireson • Shervin Pishevar • Tamar Newberger • Jeremy Goldberg • Craig Hanson • Yolanda Parker • Catherine Park • Shelly Kapoor • Collins • Sean Parker • Rick Marin • Tom Kails • Joe Greenstein • Steve Bochner • Marc Benloff • Charles Moore • Craig Newmark • Doug Hickey • Steve Spinner • Deven Parekh • Evan Goldberg • Shelby Bonnie • John Donahoe • Neil Young • Scott Harris • Jeremy Stoppelman • Craig Mundie • Zachary Bogue • Steve Westly • Wade Randlett • Mark Barrenechea • Susan Ness • Suzi LeVine • Joshua Boger • Eric LeVine • Jeff Ubben • Robert Roche • Peter Emerson • Erik Christoffersen • Paul Sagan • Imaad Zuberi • Matthew Barzun • Aneesh Chopra • Donna Dubinsky • Troy Carter • Ted Dintersmith • Dan Nye • Dave Macstri • Paul Jacobs • Sergio Fernandez • Alan Chung • Asad Jamal • Chris Kelly • Jon Bischke • Evan Marwell • Robert Craddock • John Vechey • Roger Clark • David Berger • Rafi Ortiz • Joy Covey • Steve Harrick • John Maloney • Ryan Allis • Sandy Robertson • Aaron Battalion • Shaalu Mehra • Burke Norton • Kevin Lynch • Immanuel Thangaraj • Andrew Byrnes • Diane Greene • Mike Danaher • Tom Unterman • Motasim Sirhan • Brad Handler • Ken Hadler • Geoff Ralston • Jeff Conklin • Sid Banerjee • David Beitel • Hadi Partovi • Paige Craig • Robert Fram • Tony Conrad • Jeff Jordan • Alan Levy • Phyllis Gardner

Find Roche Next Previous Highlight all Match case Reached end of page, continued from top

Direct Connection 193.104.110.178:8080

A June 23, 2012 story on Politico also discusses Roche's role as a bundler and Tech for Obama co-chair

<http://www.politico.com/news/stories/0612/77744.html>.

POLITICO

Obama taps overseas donor pool

By: Anna Palmer and Darren Samuelsohn
June 23, 2012 07:00 AM EDT

The all-consuming hunt for donors has led President Barack Obama's campaign to England. And France. And China.

Obama is tapping the network of American citizens living outside the 50 states more than any other presidential campaign has before, with more than a dozen bundlers who have pledged to raise as much as \$4.5 million.

The president's overseas power centers include London, where high-powered execs like Warner Bros. UK chief Josh Berger and Anthony Gardner of Palamon Capital Partners have promised to deliver as much as \$500,000 each to the campaign, and Shanghai, where businessman and Technology for Obama co-chairman Robert Roche has committed to bringing in more than \$500,000.

It's all legal — the donors are American citizens who pay U.S. taxes — and the net income to the campaigns is paltry compared to the hundreds of millions of dollars raised stateside. Presidential campaigns have long taken in campaign donations from expats and people living in U.S. territories, but Obama's campaign is focusing on those donations more than ever.

(Also on POLITICO: Obama urges action on student loans, transportation)

In 2008, Obama reported having seven bundlers outside the 50 states committed to raising as much as \$2.3 million, with the dough rolling in at events like a George Clooney-headlined fundraiser in Geneva, Switzerland. Meanwhile, Sen. John McCain (R-Ariz.) took in \$610,000. And in 2004, presidential campaigns took in just under \$910,000 total from Americans living abroad.

"You've got to do it because it's money you need, but it's the same as a fundraiser in a small town in America," said Jack Oliver, who helped create President George W. Bush's strategy in 2000 and 2004 of holding fundraisers abroad. "It's not a game changer in resources, but it is money you don't want [to] leave on the table."

As of early June, Obama had received more than \$455,000 in political contributions outside the 50 states this cycle, according to Federal Election Commission records, and a campaign official told POLITICO that there could be even more U.S. bundlers from abroad before the November election.

Mitt Romney, meanwhile, had received almost \$144,000 in campaign contributions outside

the 50 states, according to FEC records. Several supporters said he's expected to attend a fundraiser in London when he travels there for the Olympics this summer.

The Romney campaign doesn't publicly list its bundlers and did not respond to questions regarding his fundraising efforts abroad.

Last July, the former Massachusetts governor attended a \$2,500-per-person fundraiser in London hosted by high-powered donors like hedge fund manager Louis Bacon and New York Jets owner Woody Johnson. Dwight Poler, an executive with Bain Capital, the firm Romney previously worked for, and Raj Bhattacharyya, managing director at Deutsche Bank, also co-hosted the event.

Obama hasn't attended the foreign fundraisers personally, but campaign and senior White House officials will continue to build up their frequent flier miles before Election Day.

"He has a world perspective that I think is important in today's interconnected age to ensure the U.S. stays in the lead," said Vicki Hansen, the Luxembourg-based international vice chairwoman of Democrats Abroad, an arm of the Democratic Party. "We can't work in isolation or with blinkers on."

Drinks and canapés were on the menu for an Obama campaign event June 11 in Zurich's Old Town with former White House deputy chief of staff Mona Sutphen — suggested donation \$500 per person, or a "special rate" of \$150 for young professionals 30 and younger.

"Mona is an extraordinarily accomplished and engaging woman, who will speak about her experience as one of the President's closest and most trusted advisers, and share her insights into the current state of the re-election campaign," according to a DNC invite posted on the Democrats Abroad site.

Michael Strautmanis, a senior aide to presidential adviser Valerie Jarrett, is scheduled to attend a July Fourth aris fundraiser in Paris, according to a Paris Professionals for Obama Facebook page. Strautmanis is touted on the site as a "close personal friend of the President and First Lady, and currently Deputy Assistant and Counselor for Strategic Engagement to the Senior Advisor!"

"If you're an American professional in Paris and you'd love to help Obama win in 2012, this might be your chance," the Facebook post said.

Obama campaign manager Jim Messina was the main guest at fundraisers last October in Geneva and at the London home of American actress Gwyneth Paltrow and her husband Chris Martin, the lead singer of Coldplay. Obama opinion research director David Simas visited the famous House of Glass on Paris's Left Bank for a cocktail reception in late March with suggested contributions of \$500-\$1,500. And Obama campaign attorney and former White House Counsel Bob Bauer attended a Geneva fundraiser with \$100-\$250 suggested donations and a \$35,800 maximum contribution limit.

Democrats Abroad is also working to get Obama reelected with a voter registration drive that highlights the narrow victory margins — well within the number of overseas voters — for Democratic Sens. Al Franken, Mark Begich and Jon Tester. The group is on a 27-city, 13-country bus tour through mid-July to register voters, with stops in Rome, Barcelona

and Berlin.

Americans living in Paris also hosted a Gershwin tribute concert earlier this month, and London-based expats organized a "Baroque Obama" musical fundraiser in April.

Of course there are limits: Democrats Abroad considered holding a fundraiser last month in conjunction with the Cannes Film Festival but decided against it because of the negative optics.

Americans who can't even vote in the general election also are filling Obama's coffers.

Puerto Rico lawyer Andres Lopez has signed on to deliver more than \$500,000 in campaign cash, for example.

Obama also is doing well in the U.S. Virgin Islands, where attorney Marjorie Roberts is a national finance committee member and bundler who has committed to raise \$200,000-\$500,000.

"I'd like to see President Obama succeed," said Douglas Capdeville, an attorney and New Jersey native who has been living in the Virgin Islands since the 1950s. "We follow him. We are very proud of him. We truly believe he means very well. It's just the acrimony in the Congress. He can't get his programs and proposals passed."

Capdeville wrote Obama a \$2,500 check last September; he gave \$2,300 in 2008.

Virgin Islands Democrats aren't expecting Obama to make a trip this cycle; he did visit in 2007 during the Democratic primaries and again for vacation in 2008. But local organizers are hoping to get a surrogate visit timed with any stops in Puerto Rico. Locals who want an up-close look at Obama are also encouraged to make the two-hour flight to attend fundraisers when the president and his team are in South Florida or in East Coast cities.

Republicans Abroad Executive Director Cynthia Dillon said GOPers abroad are attuned to what's happening in the states and they will be active, especially at the polls, this fall. The group, which doesn't raise money, is focused on registering voters abroad.

"I think Americans living overseas, everybody, is very concerned about where we are heading," Dillon said. "It has a ripple effect. People are worried, even if they are there for a long time. They still have relatives here or they still send their kids to school [in the U.S.]."

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Exhibit L

Documentation from the Daily Beast article, "the Illegal Donor Loophole," indicating Robert Roche owned obama.com during the 2012 election cycle.

<http://www.thedailybeast.com/articles/2012/10/08/the-illegal-donor-loop-hole.html>.

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The Illegal-Donor Loophole

The giant gap in our campaign-finance system that makes foreign and fraudulent donations possible. Peter Schweizer and Peter J. Boyer report.

by [Peter Schweizer \(/contributors/peter-schweizer.html\)](/contributors/peter-schweizer.html), [Peter J. Boyer \(/contributors/peter-j-boyer.html\)](/contributors/peter-j-boyer.html) | October 8, 2012 3:39 PM EDT

There has been no shortage of media attention paid to the role of money in the current presidential contest. Super PACs, bundlers, 527s, and mega-donors have attracted abundant notice. But there has been surprisingly little focus on perhaps the most secretive and influential financial force in politics today: the wide-open coffers of the Internet.

With millions of online campaign donations ricocheting through cyberspace, one might think the Federal Election Commission would have erected serious walls to guard federal elections from foreign or fraudulent Internet contributions. But that's far from true. In fact, campaigns are largely expected to police these matters themselves.

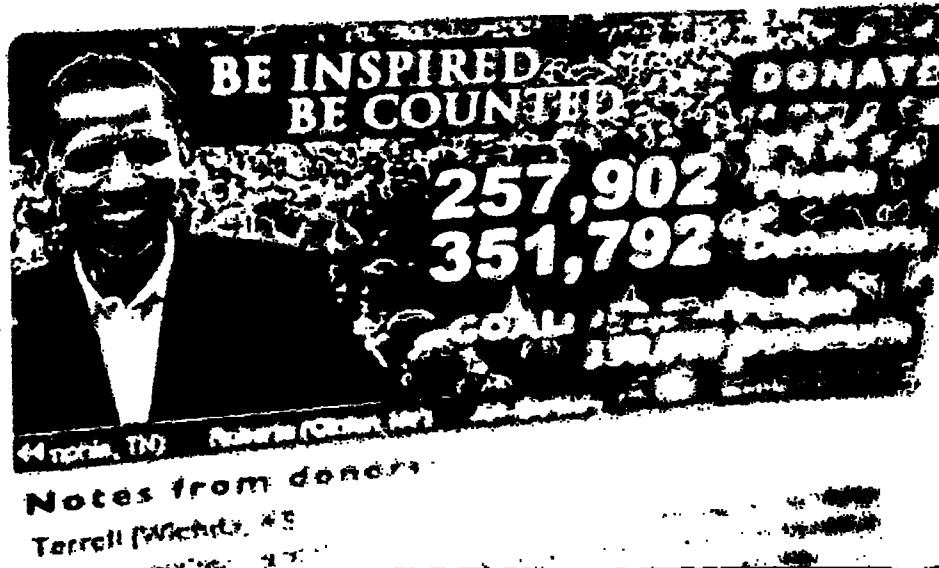
There's certainly ample historical reason to worry about foreign donations: in the 1990s, for instance, there were allegations that Chinese officials had funneled money into U.S. campaigns.

The solicitation of campaign donations from foreign nationals is prohibited by the Federal Election Campaign Act. But that law, passed in the 1970s, did not anticipate the Internet, or the creative uses that can be made of such social media as Facebook.

Campaigns that aggressively raise money online are soliciting donations from people around the world—whether they intend to or not. People repost campaign solicitations on blogs that send them sprawling around the globe like digital kudzu. For example, an Obama campaign official posting ended up on Arabic Facebook, complete with a hyperlink to a donation page. In another instance, someone posted videos on Latin American websites featuring Sen. Marco Rubio, and included embedded advertisements asking for campaign donations.

In addition, people around the world are being asked for donations by the campaigns themselves, simply because they signed up for information on campaign websites. The problem: candidate webpages don't ask visitors from foreign IP addresses to enter a military ID or passport number. Instead, the websites use auto-responder email systems that simply gather up email addresses and automatically spit out solicitations.

Campaigns should be required to ask people signing up for campaign information whether they are able to legally donate.



The homepage of Barack Obama shows a donation counter in this screenshot taken on July 5, 2007, in New York. (Andrew Harrer / Bloomberg via Getty Images)

The FEC, meanwhile, has taken the position that this sort of passive internet solicitation is not illegal, because the campaigns, presumably, are not intentionally targeting foreign nationals with their online money pleas.

Further complicating the issue are websites like Obama.com—which is owned not by the Obama campaign but by Robert Roche, an American businessman and Obama fundraiser who lives in Shanghai. Roche's China-based media company, Acorn International, runs infomercials on Chinese state television. Obama.com redirects to a specific donation page on BarackObama.com, the official campaign website. Unlike BarackObama.com, Obama.com's traffic is 68 percent foreign, according to markosweb.com, a traffic-analysis website. According to France-based web analytics site Mustat.com, Obama.com receives over 2,000 visitors every day.

The name Robert W. Roche appears 11 times in the White House visitors log during the Obama administration. Roche also sits on the Obama administration's Advisory Committee for Trade Policy and Negotiations, and is a co-chair of Technology for Obama, a fundraising effort. (In an email exchange, Roche declined to discuss his website, or his support for the Obama reelection effort,

referring the inquiries to the Obama campaign team. The Obama campaign, in turn, says it has no control over Roche's website; it also says only 2 percent of the donations associated with Obama.com come from overseas.)

But it isn't just foreign donations that are a concern. So are fraudulent donations. In the age of digital contributions, fraudsters can deploy so-called robo-donations, computer programs that use false names to spew hundreds of donations a day in small increments, in order to evade reporting requirements. According to an October 2008 *Washington Post* article (<http://voices.washingtonpost.com/44/2008/10/obamas-175000-donor.html>), Mary Biskup of Missouri appeared to give more than \$170,000 in small donations to the 2008 Obama campaign. Yet Biskup said she never gave any money to the campaign. Some other contributor gave the donations using her name, without her knowledge. (The Obama campaign explained to the *Post* that it caught the donations and returned them.)

This makes it all the more surprising that the Obama campaign does not use a standard security tool, the card verification value (CVV) system—the three- or four-digit number often imprinted on the back of a credit card, whose purpose is to verify that the person executing the purchase (or, in this case, donation) physically possesses the card. The Romney campaign, by contrast, does use the CVV—as has almost every other candidate who has run for president in recent years, from Hillary Clinton in 2008 to Ron Paul this year. (The Obama campaign says it doesn't use the CVV because it can be an inhibiting factor for some small donors.) Interestingly, the Obama campaign's online store requires the CVV to purchase items like hats or hoodies (the campaign points out that its merchandise vendor requires the tool).

We also focused on the Obama campaign because it is far more successful than Romney when it comes to small donors—which the Internet greatly helps to facilitate. In September the Obama campaign brought in its biggest fundraising haul—\$181 million. Nearly all of that amount (98 percent) came from small donations, through 1.8 million transactions.

The Obama campaign says that it is rigorous in its self-regulation effort. “We take great care to make sure that every one of our more than three million donors are eligible to donate and that our fundraising efforts fully comply with all U.S. laws and regulations,” says campaign spokesman Adam Fetcher. Campaign officials say they use multiple security tools to screen all online credit-card contributions, and then review, by hand, those donations that are flagged by their automated system. Potentially improper donations, such as those originating from foreign Internet addresses, are returned to any donors who cannot provide a copy of their current U.S. passport photo pages, the campaign says.

But the weakness of the current system isn't particular to any campaign. It's a broad reliance on self-policing combined with a lack of transparency. Foreign or fraudulent donations might be less of a concern if it were possible for outsiders—the press, the public, good government watchdog groups, or the Federal Election Commission—to independently determine whether they were taking place. But it isn't. Candidates need only publicly report campaign contributions over \$200. For donations between \$50 and \$200 (the average donation in Obama's huge September haul was \$53), candidates are simply required to make an effort to obtain accurate identifying information—information they aren't required to report. And for donations under \$50, regulations don't even require campaigns to keep a record of identifying information.

The FEC, to be sure, does occasionally conduct investigations into foreign or fraudulent donations. But the majority of these investigations only result in civil fines or closure without action. There is much more that could be done to remedy this situation. First, campaigns should be required to disclose identifying information on all their donors, not just those who give over \$200. Second, campaigns should be required to ask for the CVV number when accepting donations. Finally, campaigns should be required to ask people signing up for campaign information whether they are able to legally donate. There is simply no reason non-Americans should be solicited for donations via email.

Until such measures are enacted, however, the integrity of our campaign-donation system will remain mostly in the hands of political consultants and campaign managers. Is that wise?

For more on the subject, see [this \(http://campaignfundingrisks.com/full-report/\)](http://campaignfundingrisks.com/full-report/) new report from Peter Schweizer's Government Accountability Institute.

Tags:

- [Mitt Romney. \(/topics/mitt-romney.html\)](/topics/mitt-romney.html)
- [U.S. Politics. \(/politics.html\)](/politics.html)
- [Barack Obama \(/topics/barack-obama.html\)](/topics/barack-obama.html)

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EXHIBIT M

Using available, free online tools we document valuations of the obama.com domain to call attention to its value as an in-kind campaign contribution.

Valuate is the beta version of a service called Estibot. This is a record of a screenshot taken in July of this year. The domain value is estimated at \$1,060,000.00.

The screenshot shows the Valuate website interface. At the top, there's a navigation bar with links like Domains, Valuations, Pre-Buyer Preferences, Domains of Reference, and Glossary. The main content area displays a domain appraisal for 'obama.com'. The estimated value is \$1,060,000.00. Other metrics shown include 100,000,000 views, 2,755,200 searches, 1,575,465 traffic, and a high CPC of \$1.3. The status is 'All Taken'. There are buttons for 'MORE INFO', 'COMPARE', and 'EXPORT'. A disclaimer states: 'We DON'T appraise businesses, we DON'T value sites. We ONLY value DOMAINS! Traffic is only given as a courtesy and doesn't enter into the appraisal calculation.' At the bottom, there's a 'Domaining' button and a status '1 of 45 selected, 707.65 GB available'.

Estibot itself currently reaches the same value:

The screenshot shows the Estibot website interface. The domain appraisal for 'obama.com' is displayed with an estimated value of \$1,060,000 USD. The interface includes buttons for 'Appraise Another', 'Check Live Availability', 'Check Whois', and 'Generate Appraisal Certificate'. The domain details section shows: Domain: obama.com, SLD: obama, Keywords: obama, Language: English, Category: Government - Politics. The appraisal overview section shows the estimated value and links to 'help me BUY this domain' and 'help me SELL this domain'. A link to the appraisal is provided: 'http://www.estibot.com/appraise.php?n=appraisal'. At the bottom, there's a status bar showing 'Direct Connection' and the IP address '93.104.110.129:8080'.

1-800-444-0000

Another service, Domain Index, estimates the value at \$750,000.00

299

Of additional interest is the Domain Index service's estimation of the value of other sites related to the President's name such as obama.net. Note that their estimated value is considerably less obama.com's estimated value:

Firefox File Edit View History Bookmarks Tools Window Help

obama.com | DomainIndex.com

domainindex.com/domain/obama.com

Marshall Index term page

Marshall Index.com

Marshall for "obama"

obama.com trademarks

trademark ask 75%
ucps no udps found

obama.com effected trademarks

Trademark	Company	Source	Active
OBAMA	AZZOUNI SALIM	FR	Yes
OBAMA	Vari Zintan Cynsngs B.V.	BK	Yes

List of deals for obama.com

Domain	Price	Currency	Date	Source
obama.org	2,500	USD	2011-08-01	NameJet
obama.net	15,500	USD	2009-01-01	VHodadFire
obama.gov	1,700	USD	2013-01-23	godaddy
logobama.com	3,000	USD	2013-03-27	godaddy
obamasentenced.com	1,514	USD	2013-02-12	godaddy
obama4liblog.net	465	USD	2012-12-11	godaddy
ecwztdobama.com	500	USD	2010-09-11	Ego
obamaforpresident012.com	119	USD	2009-02-23	SnapNames
obama4n1.com	100	USD	2008-06-02	Alanic
obama4n1.com	291	USD	2008-06-15	Sedo

Other extensions for obama.com

com	taken - whole	net	taken - whole	org	taken - whole
asa	taken - whole	biz	taken - whole	info	taken - whole
mod	taken - whole	us	taken - whole	xxx	taken - whole
name	taken - whole	tel	taken - whole	pro	taken - whole

Buy this domain?

ask a broker to handle a purchase upmarketDNS

Sell this domain

ask a broker to handle a purchase upmarketDNS

Reset Domain 193.104.110.129:408

Documentation from National Journal of the official beginning of Barack Obama's
Presidential re-election campaign:

<http://www.nationaljournal.com/whitehouse/obama-announces-reelection-bid-20110404>.

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Monday, September 2, 2013

National Journal

POLITICS

Obama Announces Reelection Bid

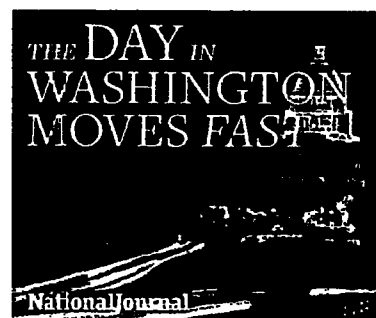
by Marc Ambinder

Updated: April 4, 2011 10:29 a.m.

April 4, 2011 6:17 a.m.



(Kevork Djansezian/Getty Images)



UPDATE: A previous version of this story misstated Obama's 2008 electoral lead. He beat McCain by 192 electoral votes.

President Obama opens his reelection campaign on Monday with a familiar cast of consultants; an economy that's improving, sluggishly; wars that he is struggling to extract himself from; and an implacable partisan fight in Congress that might shut down the government by week's end.

The Obama campaign made the announcement in an e-mail to supporters, accompanied by a video. Obama will hold a conference call on Monday with donors and supporters and will begin to raise money for his campaign late next week.

"We're doing this now because the politics we believe in does not start with expensive TV ads or extravaganzas, but with you -- with people organizing block-by-block, talking to neighbors, co-workers, and friends. And that kind of campaign takes time to build," Obama wrote in the e-mail.

"So even though I'm focused on the job you elected me to do, and the race may not reach full speed for a year or more, the work of laying the foundation for our campaign must start today. We've always known that lasting change wouldn't come quickly or easily.

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phone 202-739-8400 • fax 202-833-8069 • NationalJournal.com is an Atlantic Media publication.

(VIDEO: No Time to Rest for Obama)

The Republican National Committee responded quickly, blasting Obama's leadership in an e-mail entitled "Back Seat Presidency."

The trappings of the campaign, and even the soothing earth-blue colors of the website, are reminiscent of 2008. The slogans are modified but have the ring of an old song—"Change That Matters," "Progress," "Moving America Forward." But the challenges he faces could not be more different. For one thing, his signature domestic accomplishment, the largest expansion of health insurance ever, remains a flash point, and its future is uncertain. His party is losing ground to Republicans on spending cuts, and his refusal to stand and fight disappoints his own tribe.

(COLUMN: How Obama Could Lose in 2012)

The trajectory of Barack Obama's presidency was supposed to be vertical. He would reform the way Washington worked, restore a sense of pride in government, and bolster the liberal nostrum that government can be effective, efficient, and helpful. He would reform health care and use his Democratic majorities to put a price on carbon. People would feel better.

But he was confronted immediately by the imminent collapse of the economy, had to briefly nationalize the American auto industry, was forced to bail out the engine of capital flows (the big banks), which became particularly unpopular. Correspondingly, the White House never quite understood how much Americans distrusted government to fix the problem that they created.

More than ever, voters think America is declining as an economic force. They feel untethered from their government and mistrust concentrated power. They are not confident that their children will do better than they are doing—the first generation to think this way since professional polling began. Neither party has figured out how capture the attention of these voters.

"People are worried about the future and do not believe things are getting better," said Steve Duprey, a Republican strategist who worked for John McCain in 2012. "The person who can convey that Reaganesque sense of optimism and confidence wins."

(PICTURES: Meet the GOP's Potential 2012 Candidates)

Obama seems boxed in by his Defense Department on Afghanistan, having inherited a general officer corps that almost disdainfully constrains his options. Then there are wars that aren't really wars, like Libya, and crises that suggest the young president operates above his actual weight class.

For all of these problems, though, Obama has enduring strengths. Americans like him, and they like the idea of him. They believe he

15044388004

has their best interests at heart. They seem to understand that he surrounds himself with people who genuinely want to search for solutions, even if they get them wrong. And he has significant accomplishments to his name: the New START arms control treaty with Russia, the advancement of civil rights for gays, an education policy that is promising, a financial reform bill that shows signs of being tougher than expected.

(THE COOK REPORT: Obama's Advantage)

Assuming that roughly 80 percent of the electorate will vote for their party, Obama's reelection targets can be broken down by demography, propensity to vote and ideology. He can win if he replicates the coalition of young voters, blacks, Latinos, single women, and suburbanites that accepted his nebulous but optimistic message of change. He will have to peel back into the Democratic fold older voters who deserted the Democrats in 2010, and though the growth of minorities in key states can cushion the blow of defecting working class white voters, he needs to construct a floor underneath that constituency. A blowback over Republican efforts to deinstitutionalize labor might help him here.

Where Democrats have plans that address the structural difficulties that middle-class Americans face, Republicans tend to focus on what these voters don't like.

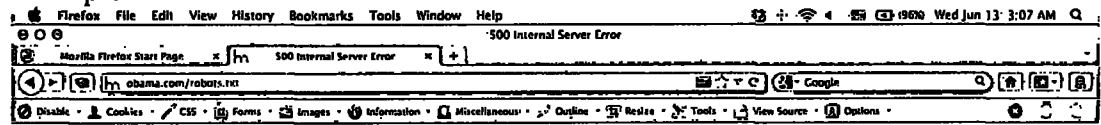
Obama won by 192 electoral votes in 2008. But in 2012 terms, his margin is lower, thanks to the census. The country is growing in the South and the West—and not the coastal West. The flip side: Obama can afford to lose Ohio, or Florida, North Carolina—or all three—and still win the election fairly comfortably. Early, early polls show Obama is doing well enough in Colorado, Florida, Pennsylvania, Ohio, Nevada, and North Carolina. He's underperforming significantly in Virginia and Indiana.

CLARIFICATION: A source clarified that there will be only one conference call.

EXHIBIT P

Documenting the hidden administrative e-mail for obama.com assigned to Wicked Global, Inc. This e-mail was not listed on the official domain record, but could be seen by users who compelled a "forced error" on the site itself.

Example



Internal Server Error

The server encountered an internal error or misconfiguration and was unable to complete your request.

Please contact the server administrator, webmaster@obama.wickedglobal.com and inform them of the time the error occurred, and anything you might have done that may have caused the error.

More information about this error may be available in the server error log.

Additionally, a 500 Internal Server Error error was encountered while trying to use an ErrorDocument to handle the request.

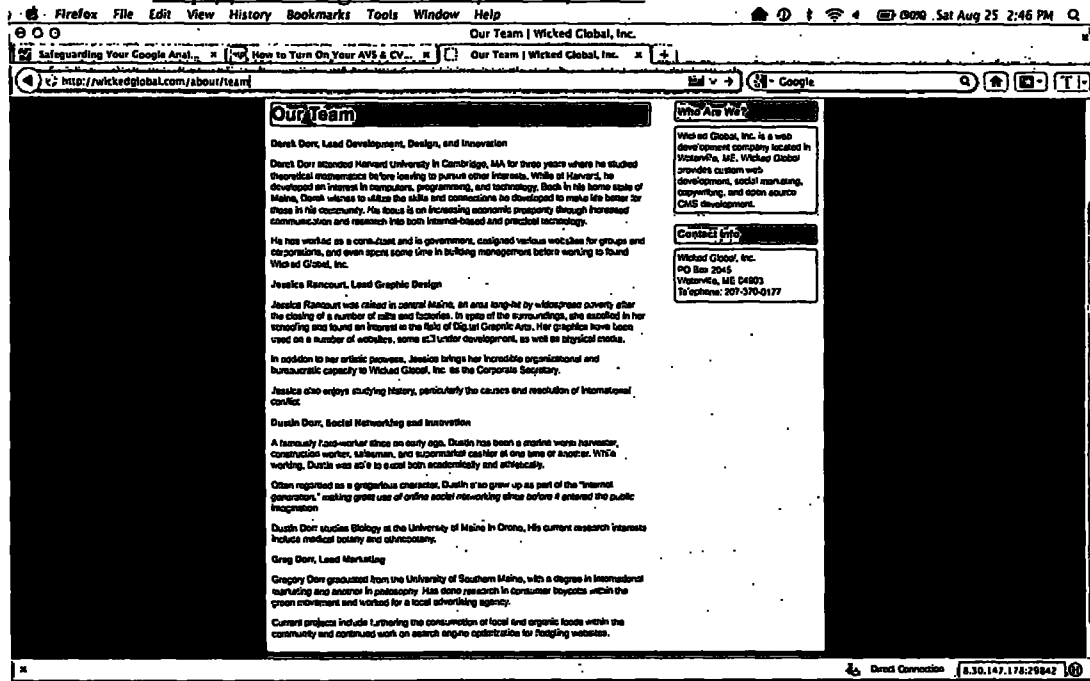
Apache Server at obama.com Port 80



EXHIBIT R

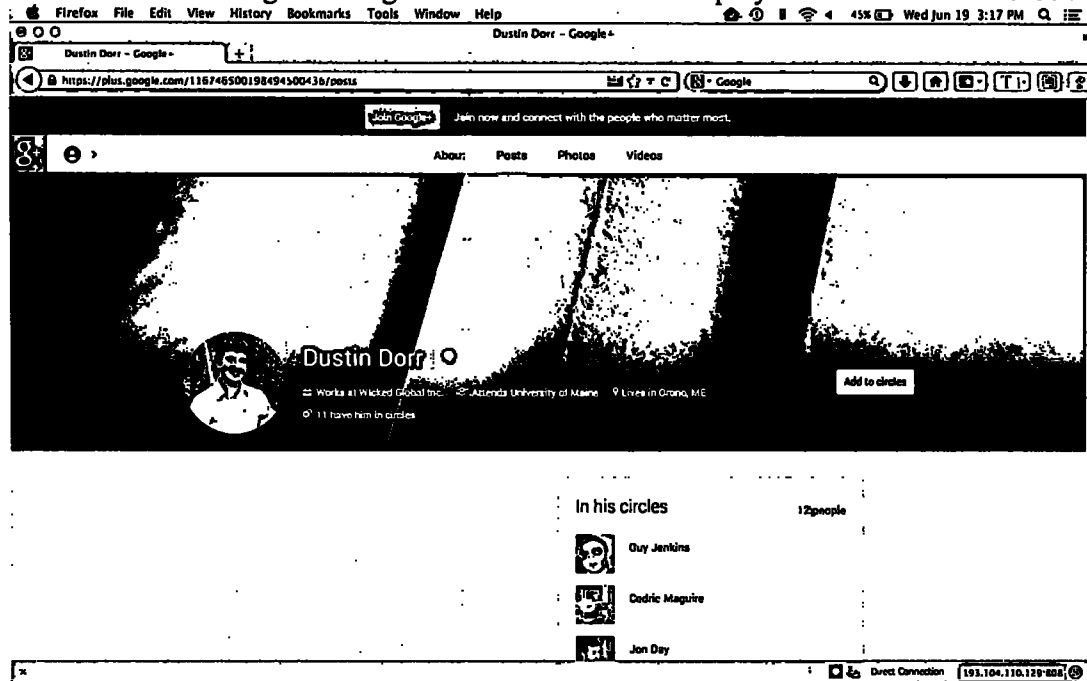
Documentation of Wicked Global Management Team:
Derek Dorr, Jessica Rancourt Dorr, Dustin Dorr, and Gregory Dorr. Documentation
of Wicked Global's mailing address for the company website whois record and its
match with the corporate filing with the State of Maine that also shows Derek Dorr
as the company's registered agent.

- I. When Wicked Global was registered in November 2010 three names were listed in addition to Derek Dorr: Jessica Rancourt, Dustin Dorr, and Greg Dorr. All four names are clearly listed in this screen shot taken August 25, 2012 from <http://wickedglobal.com/about/team>

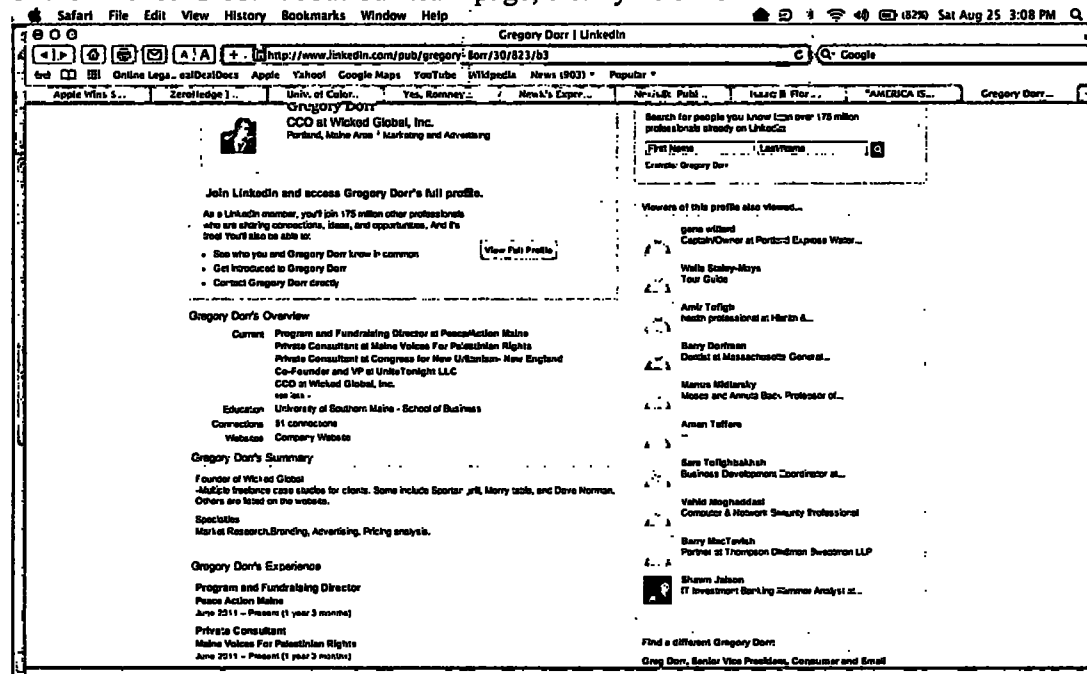


There is no other record of Jess Rancourt's professional connection to Wicked Global available

For Dustin Dorr using the Google Plus service lists his employment as at Wicked Global



This screenshot of a Greg Dorr's LinkedIn page, from the same day as the screen capture of the Wicked Global about-our-team page, clearly lists work for Wicked Global:



Wicked Global's website has the following whois record, showing a mailing address:
P.O. Box 2045 Waterville, ME 04903-2045

Firefox File Edit View History Bookmarks Tools Window Help Thu Feb 21 2:08 PM

Wickedglobal.com - Whois History - DomainTools

www.domaintools.com/research/whois-history/?page=details&domain=wickedglobal.com&date=2011-01-03

wickedglobal.com

Domain: wickedglobal.com - Whois History
Cache Date: 2013-01-03
Registrar: GODADDY.COM, LLC
Server: 67626.godaddy.com
Created: 2010-11-03
Updated: 2012-11-04
Expires: 2013-11-03

Reverse Whois: Click on an email address we found in IP's whois record to see which other domains the registrant is associated with:
dorr@wickedglobal.com

Registered through: Godaddy.com, LLC (http://www.godaddy.com)
Domain Name: WICKEDGLOBAL.COM
Created on: 03-Nov-10
Expires on: 03-Nov-13
Last Updated on: 04-Nov-12

Registrant:
Wicked Global, Inc.
PO BOX 2045
Waterville, Maine 04903
United States

Administrative Contact:
Dorr, Derek dorr@wickedglobal.com
Wicked Global, Inc.
PO BOX 2045
Waterville, Maine 04903
United States
+12073302177

Technical Contact:
Dorr, Derek dorr@wickedglobal.com
Wicked Global, Inc.
PO BOX 2045
Waterville, Maine 04903
United States

530.147.219.29842

This information matches up with the Wicked Global incorporation on file with the State of Maine placed on file in November 2010 and reproduced in a separate document below. These documents list Derek Dorr as the registered agent.

1 OF 1 RECORD(S)
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Subject Summary

Name Address Phone County/FIPS
WICKED GLOBAL INC 19 TICONIC ST
WATERVILLE, ME 04901-5571
None Listed
Name Variations/DBAs

Name Variations

1. WICKED GLOBAL, INC.
Addresses - 2 records found

Address Dates County MSA

1. 19 TICONIC ST 2
WATERVILLE, ME 04901

11/10/2010 -

11/10/2010

KENNEBEC -

2. 19 TICONIC ST

WATERVILLE, ME 04901

11/10/2010 -

4/27/2011

KENNEBEC -

Profile Information - 10 records found

1: WICKED GLOBAL, INC.

Company Name: WICKED GLOBAL, INC.

Date Of Incorporation: 11/10/2010

State Of Incorporation: ME

Charter Number: 20110462 D

Status Of Incorporation: GOOD STANDING

Corporation Structure: BUSINESS CORPORATION

2: WICKED GLOBAL, INC.

Company Name: WICKED GLOBAL, INC.

Date Of Incorporation: 11/10/2010

State Of Incorporation: ME

Charter Number: 20110462 D

Status Of Incorporation: GOOD STANDING

Corporation Structure: BUSINESS CORPORATION

3: WICKED GLOBAL, INC.

Company Name: WICKED GLOBAL, INC.

Date Of Incorporation: 11/10/2010

State Of Incorporation: ME

Charter Number: 20110462 D

Status Of Incorporation: GOOD STANDING

Corporation Structure: BUSINESS CORPORATION

4: WICKED GLOBAL, INC.

Company Name: WICKED GLOBAL, INC.

Date Of Incorporation: 11/10/2010

State Of Incorporation: ME

Charter Number: 20110462 D

Status Of Incorporation: GOOD STANDING

Corporation Structure: BUSINESS CORPORATION

Page 1

5: WICKED GLOBAL, INC.

Company Name: WICKED GLOBAL, INC.

Date Of Incorporation: 11/10/2010

15044380813

State Of Incorporation: ME
Charter Number: 20110462 D
Status Of Incorporation: GOOD STANDING
Corporation Structure: BUSINESS CORPORATION
6: WICKED GLOBAL, INC.
Company Name: WICKED GLOBAL, INC.
Date Of Incorporation: 11/10/2010
State Of Incorporation: ME
Charter Number: 20110462 D
Status Of Incorporation: GOOD STANDING
Corporation Structure: BUSINESS CORPORATION
7: WICKED GLOBAL, INC.
Company Name: WICKED GLOBAL, INC.
Date Of Incorporation: 11/10/2010
State Of Incorporation: ME
Charter Number: 20110462 D
Status Of Incorporation: GOOD STANDING
Corporation Structure: BUSINESS CORPORATION
8: WICKED GLOBAL, INC.
Company Name: WICKED GLOBAL, INC.
Date Of Incorporation: 11/10/2010
State Of Incorporation: ME
Charter Number: 20110462 D
Status Of Incorporation: GOOD STANDING
Corporation Structure: BUSINESS CORPORATION
9: WICKED GLOBAL, INC.
Company Name: WICKED GLOBAL, INC.
Date Of Incorporation: 11/10/2010
State Of Incorporation: ME
Charter Number: 20110462 D
Status Of Incorporation: GOOD STANDING
Corporation Structure: BUSINESS CORPORATION
10: WICKED GLOBAL, INC.
Company Name: WICKED GLOBAL, INC.
Date Of Incorporation: 11/10/2010
State Of Incorporation: ME
Charter Number: 20110462 D
Status Of Incorporation: GOOD STANDING
Corporation Structure: BUSINESS CORPORATION
Registered Agents - 1 records found
Name Address
1. DEREK DORR 19 TICONIC ST APT 2 WATERVILLE,
ME 04901-5571
Company ID Numbers - 1 records found

Page 2

Company ID Numbers
Sec. of State Charter No(s): ME, 20110462 D
Person Associates - 4 records found
Name Address
1. DORR, DEREK PO BOX 2045
WATERVILLE, ME 04903-2045
2. DORR, DUSTIN 19 TICONIC ST
WATERVILLE, ME 04901-5571
3. DORR, GREG 19 TICONIC ST
WATERVILLE, ME 04901-5571
4. RANCOURT, JESSICA 19 TICONIC ST
WATERVILLE, ME 04901-5571
Sources - 10 records found
All Sources 10 Source Document(s)
Business Contacts 6 Source Document(s)
Business Finder 3 Source Document(s)

Corporate Filings 1 Source Document(s)

Important: The Public Records and commercially available data sources used on reports have errors. Data is sometimes entered

poorly, processed incorrectly and is generally not free from defect. This system should not be relied upon as definitively accurate.

Before relying on any data this system supplies, it should be independently verified. For Secretary of State documents, the following

data is for information purposes only and is not an official record. Certified copies may be obtained from that individual state's

Department of State.

Your DPPA Permissible Use is: I have no permissible use

Your GLBA Permissible Use is: I have no permissible use

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EXHIBIT S

Documentation that the Google Analytics account associated with obama.com was also associated with sites registered with Wicked Global Inc.

—1507.4.17.000000—150



A more extensive record may be found using the free analytics service, reverseinternet.com. It also finds the Google Analytics account, 19450959, associated with obama.com, but also with several other domains controlled by Wicked Global, Inc. (c.f. exhibit Q)

Firefox - File Edit View History Bookmarks Tools Window Help

obama.com

reverseinternet.com/domain/obama.com?init&close_button

Google

Google AdSense ID: Not found

Google Analytics: UA-19450959-10

Nameservers: ns2.reverseinternet.com (764,727)
ns1.reverseinternet.com (764,835)

Web hosting: Hosted by theinternet.com

Russian transcoding: usps4p.com

Reverse Database Statistics as of July 15, 2011

Unique Domains:	73,108,762
Unique IP Addresses:	4,100,872
Unique Analytics IDs:	2,581,190

Google Analytics (tracking) has found on obama.com: 1860222 (12)

See top 5 websites with these affiliate IDs below or click on specific affiliate ID above to see full list for that ID

Domain	Alexa Rank	IP	Google IDs	Affiliate/Product IDs	Nameserver(s)
reverseinternet.com	N/A	73.772.115.62 (2,731)	Google Analytics (tracking) ID: UA-19450959-10		ns2.reverseinternet.com (764,727) ns1.reverseinternet.com (764,835)
reverseinternet.com	N/A	73.772.115.62 (2,731)	Google Analytics (tracking) ID: UA-19450959-10		ns2.reverseinternet.com (764,727) ns1.reverseinternet.com (764,835)
reverseinternet.com	N/A	73.772.115.62 (2,731)	Google Analytics (tracking) ID: UA-19450959-10		ns2.reverseinternet.com (764,727) ns1.reverseinternet.com (764,835)
reverseinternet.com	N/A	73.772.115.62 (2,731)	Google Analytics (tracking) ID: UA-19450959-10		ns2.reverseinternet.com (764,727) ns1.reverseinternet.com (764,835)
reverseinternet.com	N/A	73.772.115.62 (2,731)	Google Analytics (tracking) ID: UA-19450959-10		ns2.reverseinternet.com (764,727) ns1.reverseinternet.com (764,835)

Related Results

1. Premium Website Services
5+ Years of Experience
www.reverseinternet.com
2. Incremental Ad Revenue
Get access to Yahoo! Search Network, Diversify Your Revenue Sources Now!
www.reverseinternet.com
3. Arrest Records Now Online
1) Enter Name and State, 2) Access Anyone's Public Records Instantly.
www.reverseinternet.com

Reverse Internet Results

1. Internet Marketing
Comprehensive internet marketing tool. 30 day trial, 450+ Templates
www.reverseinternet.com/obama.com
2. Earn up to 100/months
When you have, Earn 100% commission, 90% automated system
www.reverseinternet.com/obama.com
3. Recursion Proof Yourself!
Get all your tracking done. You have to 6 in 6 or 6 in 6 Online account
TheSPN.com

Find: Search Next Previous Highlight all Match case

Direct Connection 193.104.110.179.808

Examining a screenshot of the code loaded on obama.com on October 3, 2012 the Google Analytics account 19450959-9 is clearly seen. Note that the "-9" is likely the separate "record" or "chapter" for the Wicked Global Google Analytics account assigned specifically to obama.com.

```
<html>
<head>
<script language="JavaScript">
var time = null
function move() {
window.location = 'http://my.bareckobama.com/page/contributor/e2012-ovfobamadotcom?custom=634930'
}
</script>
<script type="text/javascript">
var _gaq = _gaq || [];
_gaq.push(['_setAccount', 'UA-19450959-9']);
_gaq.push(['_trackPageview']);

(function() {
var ga = document.createElement('script'); ga.type = 'text/javascript'; ga.async = true;
ga.src = ('https:' == document.location.protocol ? 'https://ssl' : 'http://www') + '.google-analytics.com/ga.js';
var s = document.getElementsByTagName('script')[0]; s.parentNode.insertBefore(ga, s);
})();
</script>
</head>
<body onload="setTimeout('move()',100)">
</body>
</html>
```

Source of: <http://obama.com/>

Wicked Global Google Analytics Account

EXHIBIT T

Documenting the factual context of Derek Dorr's relationship to obama.com: in particular his relationship to Peter Emerson who is the one known individual Robert Roche and Mr. Dorr have in common. Also documented is Emerson's connection to the company, RVUE Holdings: a company for which both Roche and him hold directorships. Emerson joined the board of RVUE in March 2013, approximately one year after Roche.(c.f. Exhibit K and Exhibit U for Roche and Emerson's common fundraising activities on behalf of President Obama's campaign).

From at least 2003 to 2010 Peter Emerson was scholar-in-residence at Harvard University's Kirkland House residence for students. Emerson's active involvement at Kirkland and his engagement with the students there is detailed in this Harvard Crimson article: <http://www.thecrimson.com/article/2010/5/7/emerson-harvard-students-emersons/>

SEARCH

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Bringing All the Stars to the Yard

A glimpse into the life of "Conversations with Kirkland" founder Peter V. Emerson

By CLEMMIE S. FAUST, CRIMSON STAFF WRITER

May 7, 2010

0 COMMENTS

EMAIL

PRINT

Kirkland's Resident Scholar, Peter V. Emerson, the mastermind behind "Conversations with Kirkland," is perhaps the only individual on Harvard's campus lucky enough to meet Rosanne Cash at the Albuquerque



TOM FITZGERALD

airport, bump into Lewis Black on a train to Washington, chat up Sam Waterston at an event in New York, and convince the President of Zambia to take a Boston Duck Tour. For the past seven years, Emerson has combined similarly serendipitous celebrity encounters with his natural charm and brought a wide array of interesting and diverse speakers to the Harvard community.

The intimate and informal setting that Emerson's "Conversations with Kirkland" seeks to maintain distinguishes

MOST READ

1. Logan Leslie: "Our Candidate"?
2. Why Prince Harry Should Marry a Harvard Girl
3. Felipe's To Move to Brattle Street, Expand Menu
4. True Life: Job Search
5. UpStairs on the Square To Close After 31 Years

Media

the events from many similar Harvard happenings. "Students get more engaged. They feel like they have some kind of impact on the event, rather than just listening to someone talking to them," explains Loren Amor '10, a former Crimson sports chair who became involved with the series during his sophomore year. "They are able to steer the discussion in a way that is interesting to them and the students get to hear about issues they care about."

AN IDEA ENTREPRENEUR

Emerson, initially a college dropout, received his bachelor's degree from New York University in 1995 after attending night classes. He came to Harvard in 1999, working as a teaching fellow for world-renowned child psychologist Robert Coles before entering the Kennedy School of Government. During his time at the Kennedy School, Emerson's passion for developing policy ideas precipitated a realization.

"I'm not an entrepreneur of business. I'm not an entrepreneur of anything, except I think up ideas," Emerson says. "Nine out of ten are crazy, but the one has some merit."

One of his first projects to strike gold was the creation of a college environment in which seeking help for addiction problems was transformed into a positive and incentivized experience. Emerson took his idea to Howard J. Shaffer, the director of the Division on Addictions at the Harvard Medical School, who chose him as the division's associate for public policy. With this new job in hand, Emerson decided to stay in Cambridge. Yet beyond Cambridge itself, Emerson had fallen in love with the Harvard atmosphere. So, instead of moving into an apartment or house off-campus, he spoke with the House Masters of Kirkland and convinced them that his connections could be useful. The House Masters, in return, appointed him to the position of Resident Scholar, giving Emerson a place to live within the Harvard niche.

At that point, Emerson recalls, he took time to reflect on how he could give back to the Harvard community.

"I was trying to think, 'What could I do based on my experience



Da'Quan's 'Higher Learning' at Harvard

7 days ago



What Does the Dean Do?

8 days ago



How Do You Like Them Apples?

October 03, 2013

and who I know to give to the student community?" Emerson says. "I came up with this idea—'Conversations with Kirkland'—which would bring in distinguished and accomplished people from politics, arts, the media, and business for students to have truly an informal conversation."

CHALLENGING THE CELEBS

More than simply draw luminaries to campus, Emerson teaches students how to engage with the guests.

"By his example, Peter showed us how to do so naturally and graciously—a lesson we carry with us for the rest of our lives," says Bolek Z. Kabala '03.

According to Emerson, the first speaker—former Senator Gary W. Hart—was a hit. What was most amazing, Emerson asserts, may not have been the effect that Hart had on the students, but the effect that the students had on the Senator. "In the course of his conversation, he suggested something that he had decided and a student challenged him—said, 'Senator, I don't think that is right.'" Emerson recalls. "He paused and said, 'Let me think about it,' and I rode with him over to the Kennedy Library and in the car he said, 'You know, that student is right. I need to change my mind.'"

"I knew this was a great thing because I thought if a student here can change Senator Hart's mind, we've got something."

Hardball's Chris J. Matthews, a close friend of Emerson's, agrees that the value in speaking with Harvard students is especially apparent within the context of Emerson's "Conversations with Kirkland."

"The great thing about talking to students is that they are still focused on the biggest possible questions and the widest perspectives because they haven't taken themselves professionally to a niche yet," Matthews says. "They are wide open as to what they are interested in. If you get into a business crowd, you might find yourself with business questions, but I don't find that at Harvard."

Before making an appearance, each speaker in the

"Conversations with Kirkland" series is asked about his or her interests; Emerson arranges a meeting with a Harvard faculty member in that field as a partial compensation for the speaker's time. Rosanne Cash, Johnny Cash's daughter, spoke fondly of the experience of meeting her favorite all-star professor. "I had a private meeting with Dr. Lisa Randall and asked her all the questions about theoretical physics I have been storing up for years," she says.

Which guests remain on Emerson's wish list? Lady Gaga, Elvis Costello, Sting, and Triumph the Insult Comic Dog. Before disappointment at Gaga's absence takes hold, however, the following are possibilities for next year's series of discussions: Lorne Michaels of "Saturday Night Live" and "30 Rock," Craig Ferguson of "The Late Late Show," and Gene Simmons of KISS have each been invited.

Reflecting on his successes as an event planner, Emerson emphasizes his theory that sending an invitation is almost always the first step. Sometimes the speaker will refuse, but Emerson explains the powerful incentives. "People have a desire to come here—partly because of the brand, partly because of the reputation, and partly because of the students."

TAGS IN THE MEANTIME

Like The Crimson? We deliver, straight to your inbox.

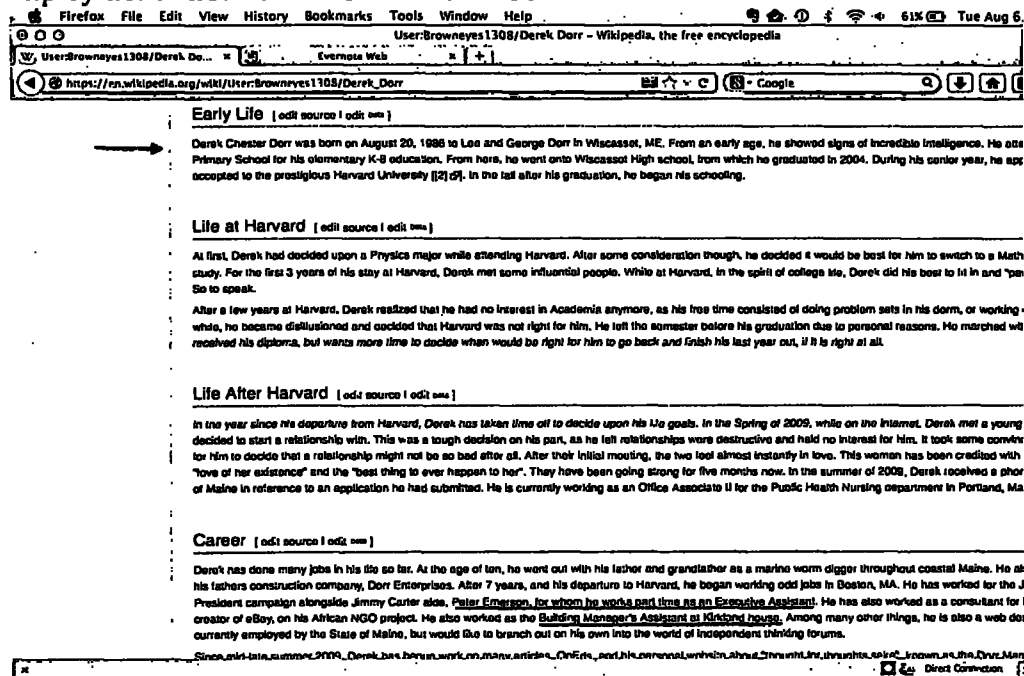
Derek Dorr has a clear relationship to the management to obama.com shown in Exhibits S, T, V, and W.

Peter V. Emerson – the known common relationship between Dorr and Roche is Peter Emerson (see Exhibits K & U as well as the discussion of RVUE Holdings in this Exhibit as regards Emerson's connection to Roche).

Dorr and Emerson's relationship is evidenced on the following pages:

A Derek Dorr created a Wikipedia user page with the handle "brown eyes 1308". It can be viewed here:

https://en.wikipedia.org/wiki/User:Browneyes1308/Derek_Dorr. Below is a screen shot of that page, and its autobiographical discussion of Dorr's connection to Harvard University, Kirkland House, and Peter Emerson. Following the screenshot is an excerpt of a public records search on Derek Dorr showing his residence both historical addresses in Wiscasset, Maine and at Kirkland House in Cambridge, Massachusetts and employment information for Wicked Global



Subject Summary

Name Variations

1: DORR, DEREK

DOBs

Reported DOBs:

8/1986

Address Summary - 2 records found

No. Address

1: 451 KIRKLAND MAIL CTR
CAMBRIDGE, MA 02138-7556
MIDDLESEX COUNTY

2: 107 DORR RD
WISCASSET, ME 04578-4239
LINCOLN COUNTY

Voter Registrations - 2 records found

1: Massachusetts Voter Registration

Registrant Information

Name: DORR, DEREK CHESTER

**Residential Address: KIRKLAND HOUSE B
CAMBRIDGE, MA 02138**

MIDDLESEX COUNTY

SSN: 006-86-XXXX

Date of Birth: 8/1986

Gender: Male

Occupation: STUDENT

Voter Information

2: Massachusetts Voter Registration

Registrant Information

Name: DORR, DEREK CHESTER

**Residential Address: KIRKLAND HOUSE INTERSTATE
CAMBRIDGE, MA 02138**

MIDDLESEX COUNTY

SSN: 006-86-XXXX

Date of Birth: 8/1986

Gender: Male

Occupation: STUDENT

Employment - 4 records found

1:

Company Name: WICKED GLOBAL, INC.

Name: DORR, DEREK

**Address: 19 TICONIC ST
WATERVILLE, ME 04901-5571**

SSN: 006-86-XXXX

Confidence: High

2:

Company Name: WICKED GLOBAL INC

Name: DORR, DEREK

**Address: 19 TICONIC ST
WATERVILLE, ME 04901-5571**

SSN: 006-86-XXXX

Confidence: High

3:

Company Name: WICKED GLOBAL INC

Name: DORR, DEREK

Title: AGENT

**Address: 19 TICONIC ST APT 2
WATERVILLE, ME 04901-5571**

SSN: 006-86-XXXX

Confidence: High

A business relationship between Roche and Emerson exists as both held directorships on the board of a company called RVUE Holdings as evidenced on the pages following.

Roche joined RVUE's board in March of 2012:

<http://www.reuters.com/article/2012/03/12/idUS217435+12-Mar-2012+GNW20120312>

rVue Holdings, Inc. Appoints Robert W. Roche to Board of Directors

* Reuters is not responsible for the content in this press release.

Mon Mar 12, 2012 5:01pm EDT

FT. LAUDERDALE, Fla., March 12, 2012 (GLOBE NEWSWIRE) -- rVue Holdings, Inc. (OTCBB:RVUE) announced today that Robert W. Roche has been appointed to the Board of Directors, effective March 9, 2012.

Robert W. Roche is a co-founder and Chairman of the Board of Directors of Acorn International, Inc. (NYSE:ATV), a multi-platform media and branding company and one of the first companies in China ^[1] to use TV direct sales programs, often referred to as TV infomercials, in combination with non-TV direct sales platforms and a nationwide distribution network to market and sell consumer products. He is an entrepreneur, attorney and private equity investor and conducts numerous business ^[2] operations throughout Asia and the United States. Mr. Roche is also the co-founder and Chairman of Oak Lawn Marketing ^[3], the largest infomercial company in Japan ^[4] and has lived in Japan and China for more than 27 years. President Obama ^[5] named Mr. Roche to the United States Trade Representative's Advisory Committee for Trade Policy and Negotiations and he is on the President's 100,000 Strong Federal Advisory Committee. Mr. Roche's other civic contributions include serving as prior Chairman of the Board of Governors of the American Chamber of Commerce in Shanghai, member of the American Chamber of Commerce Japan Board of Governors, and a Board Member at the USA Pavilion, Expo 2010 Shanghai. In addition to funding his own foundation, the Roche Family Foundation, which financially supports international, educational and other community initiatives, Mr. Roche has endowed a chair at Nanzan University in Nagoya, Japan, and has established a Masters of Laws (LLM) in International Business Transactions

program at the University of Denver, Sturm College of Law. Mr. Roche received his bachelor's degree in Economics and Japanese Studies from Illinois State University in 1985 and a J.D. degree from the University of Denver in 1988.

"Robert Roche is a respected leader with a successful track record in marketing [6], media, consumer engagement and international distribution," comments Michael Mullarkey, Chairman of the Board. "As rVue continues to expand and deepen its reach, we welcome the addition of his experience and global perspective."

About rVue:

rVue Holdings, Inc, through its wholly owned subsidiary, rVue, Inc. [7], is an advertising [8] technology and strategic media services company which has developed and operates an integrated advertising exchange and digital distribution platform for the Digital Out-of-Home (DOOH) industry. Through the rVue platform, advertisers have the ability to reach more than 235 million daily impressions in digital out of home media. rVue's technology is designed to empower its network and advertising partners with intelligent and scalable solutions that provide ROI and accelerate the adoption of rich digital media. For more information, please visit www.rvue.com [9].

CONTACT: Business and Press Inquiries:

Dawn Rahicki
Chief Marketing Officer
rVue, Inc.
connect@rVue.com
954.356.5442

Investor Inquiries:

Brett Maas
Hayden IR
brett@haydenir.com
646.536.7331

David Fore

Hayden IR

dave@haydenir.com

206.395.2711

Comments (0)

This discussion is now closed. We welcome comments on our articles for a limited period after their publication.

1. http://www.reuters.com/places/china?lc=int_mb_1001
2. http://www.reuters.com/finance?lc=int_mb_1001
3. http://www.reuters.com/sectors/industries/overview?industryCode=93&lc=int_mb_1001
4. http://www.reuters.com/places/japan?lc=int_mb_1001
5. http://www.reuters.com/people/barack-obama?lc=int_mb_1001
6. http://www.reuters.com/sectors/industries/overview?industryCode=93&lc=int_mb_1001
7. <http://www.globenewswire.com/newsroom/ctr?d=249001&l=5&a=rVue%2C%20Inc.&u=http%3A%2F%2Fwww.rvue.com%2F>
8. http://www.reuters.com/sectors/industries/overview?industryCode=93&lc=int_mb_1001
9. <http://www.rvue.com/>

Emerson joined the board in March 2013:

<http://www.marketwatch.com/story/rvue-holdings-inc-appoints-peter-emerson-to-the-board-of-directors-2013-03-07>

[View All](#)

September 5, 2013 4:48 PM EDT

New York	London	Tokyo
▲▲▲	Closed	Closed

4:47p Groupon, OpenTable in Morgan Stanley's sights
 4:44p U.S. stocks extend gains into third day
 4:38p Energy stocks rise, with Peabody in the lead
 4:28p Groupon climbs to 14-month high close on upgrade

DOW	NASDAQ
14,937.48	3,658.79
S&P 500	
1,655.08	



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Commentary: Intrigue abounds in software maker's chief executive search after Nokia deal.
 • Broadcom ready for wearable tech to take off

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rVue Holdings, Inc. Appoints Peter Emerson to the Board of Directors

Former Advisor to Two Presidents and Harvard Teaching Fellow to Lend Advertising, Marketing and Public Relations Expertise



CHICAGO, Mar 07, 2013 (GLOBE NEWSWIRE via COMTEX) -- via PRWEB - rVue Holdings, Inc. ~~RVUE~~ ^{+3.64%} the premier advertising technology platform for digital outdoor media announced today the addition of Peter Emerson to the Board of Directors, effective March 6, 2013.

"Peter's experience in marketing, public relations, public policy, and international markets will propel rVue's growth in 2013 and beyond. He is a respected leader with a successful track record in new media, consumer engagement and international distribution," comments Michael Mullarkey, Executive Chairman of the Board. "As rVue continues to execute its strategy, expand its reach, and invest in our future growth, we welcome Peter's experience and global perspective."

Peter Emerson is an entrepreneur in business, social investment and public policy. He is the founding partner of Emerson Associates International and KAPE International, LLC, firms that provide creative and successful strategies across multiple platforms for a wide range of clients and industries.

Peter serves as a director and the chairman of the Government Relations and Ethics Committee for the Southern African Enterprise Development Fund, a \$100 million fund operating in ten African countries. President Clinton appointed him and he is the Co-Chair of the International Advisory Board of Business Forward, an organization that advises and facilitates input from investors, small business owners and senior executives to policymakers on a wide range of critical national and international issues.

Peter graduated from New York University with a BA, magna cum laude, and from Harvard Kennedy School of Government with a MPA.

Peter is involved with several initiatives at Harvard University where he has been a teaching fellow and a guest lecturer (Peter was awarded a Certificate of Distinction in Teaching two years in a row.) Among his current activities, he is an Associate for Public Policy at the Division on Addictions, a Cambridge teaching affiliate of the Harvard Medical School and Chairman of the task force on college gambling policies. Mr. Emerson is also a visiting fellow at King's College London. He is the co-founder and co-host of three quadrennial conferences on the Internet and politics.

Peter has contributed to the op-ed pages of The New York Times, Los Angeles Times, The Wall Street Journal, The Boston Globe, The San Diego Union Tribune, The Washington Times and The Huffington Post. He is the author of "Utilizing the Mass Media", Chapter 8 in Beyond the Beltway: Focusing on Hometown Security, Recommendations for State and Local Domestic Preparedness Planning, a Year after 9-11. This was a report of the executive session on domestic preparedness, John F. Kennedy School of Government, Harvard University.

Peter has served in various positions in the U.S. Senate and in the White House including as Senior Advisor on Media Relations for Inflation to Dr. Alfred Kahn, Advisor to President Carter on Inflation and Director of Media Relations for the White House Conference on Small Business during the Carter Administration. He has been an executive in advertising, marketing and public relations firms as well as an International Marketing and Public Relations Consultant to the Deputy Commissioner of the Department of Economic Development, International Division, and to the Business Alliance for a New New York.

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President Carter appointed Peter to the National Advisory Committee on Oceans and Atmosphere. Peter's avocation is ocean exploration and policy. He has worked with Captain Jacques Yves-Cousteau and Dr. Sylvia Earle and was elected to The Explorers Club and the American Academy of Underwater Sciences. He has been certified by the National Oceanic and Atmospheric Agency (NOAA) as an aquanaut and saturated in the Aquarius, the world's only underwater scientific habitat.

About rVue

rVue Holdings, Inc. is an advertising technology company providing the digital distribution platform for the Digital Outdoor Advertising industry. We connect 740,000 digital screens across 180 networks delivering access to 250 million daily impressions in one simple platform. Backed by the industry's most intuitive and intelligent platform, rVue has the technology, data and expertise to connect brands and targeted consumers where and when it matters most. For more information, please visit <http://www.rvue.com>.

Forward Looking Statements:

This press release contains "forward-looking statements" within the meaning of the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. The statements contained in this press release that are not purely historical are forward-looking statements. Forward-looking statements give the Company's current expectations or forecasts of future events. Such statements are subject to risks and uncertainties that are often difficult to predict and beyond the Company's control, and could cause the Company's results to differ materially from those described. The Company is providing this information as of the date of this press release and does not undertake any obligation to update any forward looking statements contained in this press release as a result of new information, future events or otherwise. We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends affecting the financial condition of our business. Forward-looking statements should not be read as a guarantee of future performance or results, and will not necessarily be accurate indications of the times at, or by, which such performance or results will be achieved. Important factors that could cause such differences include, but are not limited to, the Risk Factors and other information set forth in the Company's Annual Report on Form 10-K filed on March 30, 2012 and in our other filings with the Securities and Exchange Commission.

This article was originally distributed on PRWeb. For the original version including any supplementary images or video, visit <http://www.prweb.com/releases/2013/3/prweb10502554.htm>

CONTACT: rVue Holdings, Inc.
Dean Peterson
dean.peterson@rvue.com
312.219.8633

According to Business Week, Roche is chair of the board's compensation committee and Emerson chair of its nominating and governance committee:
<http://investing.businessweek.com/research/stocks/private/committees.asp?privcapId=104960>

Internet Software and Services
Company Overview of rVue Holdings, Inc.

September 05, 2013 4:46 PM ET

Snapshot

People

Overview Board Members Committees

Audit Committee Of RVue Holdings, Inc.

Name (Connections)	Board Relationships	Title	Key Developments
Mark Pacchini	3 Relationships	Chief Executive Officer, President, Chief Financial Officer, Principal Accounting Officer, Director, Member of Audit Committee and Member of Nominating & Governance Committee	rVue Holdings, Inc. announced delayed 10-Q filing 08/16/10
Patrick O'Donnell	3 Relationships	Director, Chairman of Audit Committee and Member of Compensation Committee	rVue Holdings, Inc. announced delayed annual 10-K filing 04/1/13

Compensation Committee*

Name (Connections)	Board Relationships	Title	Key Position	Industry Range
Patrick O'Donnell	3 Relationships	Director, Chairman of Audit Committee and Member of Compensation Committee		No Compensation vs Industry data is available for undefined.
Robert Roche	10 Relationships	Director and Chairman of Compensation Committee		rVue Holdings, Inc. Industry Average

Nominating Committee*

Name (Connections)	Board Relationships	Title	Key Developments
Mark Pacchini	3 Relationships	Chief Executive Officer, President, Chief Financial Officer, Principal Accounting Officer, Director, Member of Audit Committee and Member of Nominating & Governance Committee	
Peter Emerson	8 Relationships	Director and Chairman of Nominating & Governance Committee	rVue Holdings, Inc. Announces Resignation of Michael F. Mullarkey as Member of the Board of Directors

Corporate Governance Committee*

Name (Connections)	Board Relationships	Title	and Competitor Insiders vs. External Board
Peter Emerson	8 Relationships	Director, Chairman of Audit Committee and Member of Compensation Committee	
Mark Pacchini	3 Relationships	Director and Chairman of Compensation Committee	rVue Holdings, Inc. 25% 75%

There is no Key Competitor Insiders data available
 *Data is at least as current as the most recent Definitive Proxy.

Report Data Issue**From Around the Web**

by Taboola

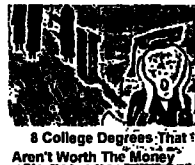


Exhibit U

Robert Roche's access to the White House (visits, etc) and China State State Dinner. Also documents Peter V. Emerson's White House visits with particular attention to the meetings he and Roche attended together.

Below we provide a timeline of Roche's high-level White House visits. The individual dates and details for Roche's White House meetings were taken from <http://www.whitehouse.gov/briefing-room/disclosures/visitor-records>

- 12/21/2009: Private visit with President Obama in the Oval Office.
- 7/1/2009: Meeting with Catherine M Whitney, Executive Assistant to the Council of the President, in the West Wing.
- 7/27/2010: Meeting with Kristen J Sheehey, Deputy Chief of Staff, in the West Wing
- 9/27/2010: Meeting with John Holdren, Assistant to the President for Science, in the New Executive Office Building.
- 2/17/2011, 6/24/2011: Meetings with then White House Chief of Staff William Daley, in the West Wing.
- 8/18/2011 – Roche's name appears on a South Lawn visitors list just ahead of Vice President Biden's trip to China during which Roche participated in high-level meetings (see Exhibit OO)
- 9/20/2011: Meeting with Pete Rouse, Assistant to the President, in the West Wing. Accompanied by Peter V. Emerson (see below)
- 5/16/2012 – Meeting with Jon Carson, Director of the Office of Public Engagement and National Field Director of the President's 2008 campaign. Accompanied by Peter Emerson
- 11/13/2012 – Meeting with Tina Tchen, Special Assistant to the President and Chief of Staff for the First Lady. Accompanied by Peter V. Emerson.

Last	First	Mid	Arrived	Departed	Date Appt Made	Appt. Start	Appt. End
Roché	Edward	J			7/7/11 0:00	8/18/11 16:30	8/18/11 23:59
ROCHE	EDWARD	J	12/21/09 16:30	12/21/09 17:15	12/21/09 11:21	12/21/09 16:30	12/21/09 23:59
ROCHE	RITSUK		12/21/09 16:29	12/21/09 17:15	12/21/09 11:21	12/21/09 16:30	12/21/09 23:59
ROCHE	RITSUKO	H			12/17/09 16:34	12/20/09 15:00	12/20/09 23:59
Roché	Robert	W	11/13/12 10:25		11/13/12 0:00	11/13/12 10:30	11/13/12 23:59
Roché	Robert	W	6/22/11 8:45	6/22/11 12:26	6/10/11 0:00	6/22/11 9:30	6/22/11 23:59
Roché	Robert	W	6/24/11 10:10	6/24/11 11:54	6/24/11 0:00	6/24/11 10:30	6/24/11 23:59
Roché	Robert	W			7/7/11 0:00	8/18/11 16:30	8/18/11 23:59
Roché	Robert	W			9/19/11 0:00	9/19/11 9:30	9/19/11 23:59
Roché	Robert	W	9/20/11 10:17	9/20/11 11:06	9/19/11 0:00	9/20/11 10:30	9/20/11 23:59
ROCHE	ROBERT	W	2/17/11 8:42	2/17/11 10:21	2/15/11 11:18	2/17/11 9:00	2/17/11 23:59
ROCHE	ROBERT		2/16/11 9:56	2/16/11 14:12	2/9/11 13:34	2/16/11 9:30	2/16/11 23:59
ROCHE	ROBERT				1/7/11 18:49	1/19/11 18:00	1/19/11 23:59
ROCHE	ROBERT				9/13/10 18:09	9/30/10 12:00	9/30/10 23:59
ROCHE	ROBERT		9/27/10 15:19	9/27/10 16:19	9/24/10 18:48	9/27/10 15:30	9/27/10 23:59
ROCHE	ROBERT		9/27/10 13:50	9/27/10 14:47	9/23/10 17:32	9/27/10 14:00	9/27/10 23:59
ROCHE	ROBERT	W	7/27/10 13:46	7/27/10 15:38	7/27/10 10:39	7/27/10 14:00	7/27/10 23:59
ROCHE	ROBERT	W			7/27/10 13:30	7/27/10 15:00	7/27/10 23:59
ROCHE	ROBERT		7/1/09 10:09	7/1/09 13:44	6/30/09 17:29	7/1/09 10:15	7/1/09 23:59
Roché	Robert	W	5/16/12 15:14	5/16/12 17:32	5/15/12 0:00	5/16/12 16:00	5/16/12 23:59
Roché	Robert		5/17/12 9:51	5/17/12 15:25	5/2/12 0:00	5/17/12 9:30	5/17/12 23:59
ROCHE	ROBERT	W	4/20/09 14:58	4/20/09 15:30	4/3/09 9:20	4/20/09 15:00	4/20/09 23:59
ROCHE	ROBERT	W			4/1/09 11:42	4/20/09 10:00	4/20/09 23:59
ROCHE	ROBERT	A	9/22/09 13:21	9/22/09 14:56	9/22/09 13:01	9/22/09 13:30	9/22/09 23:59
ROCHE	ROBERT				12/17/09 14:01	12/20/09 15:00	12/20/09 23:59
ROCHE	ROBERT		12/21/09 16:29	12/21/09 18:42	12/21/09 11:21	12/21/09 16:30	12/21/09 23:59
ROCHE	ROBERT	W	12/21/09 16:30		12/21/09 11:21	12/21/09 16:30	12/21/09 23:59
Roché	Robert	W	11/30/12 15:28	11/30/12 16:05	11/27/12 0:00	11/30/12 15:30	11/30/12 23:59
ROCHE	ROBERT	W			11/21/12 0:00	11/30/12 18:30	11/30/12 23:59
Roché	Theresa	M	3/20/11 17:21		3/18/11 0:00	3/20/11 17:30	3/20/11 23:59

# of	LastEntryDate	Visitee Last	Visitee First	Location	Meeting Room	Caller's Last Name	Caller's First Name
154	7/7/11 12:45	OFFICE	VISITORS	WH	SOUTH LAWN	OFFICE	VISITORS
5	12/21/09 11:21	POTUS		WH	OVAL OFFIC	BROWN	AMANDA
5	12/21/09 11:21	POTUS		WH	OVAL OFFIC	BROWN	AMANDA
714	12/17/09 16:34	POTUS		WH	STATE FLOO	GALLAGHER	CLARE
2	11/13/12 8:48	tchen	Tina	WH	EW 2FL	BROOKS	JORDAN
34	6/10/11 9:16	Ward	Myesha	OEOB	430/C	STITH	LOIS
1	6/24/11 7:17	Daley	William	WH	WW	SIEGEL	JULIA
154	7/7/11 12:45	OFFICE	VISITORS	WH	SOUTH LAWN	OFFICE	VISITORS
174	9/19/11 7:26	McCullough	Victoria	WH	Rose Garde	MCCULLOUGH	VICTORIA
2	9/19/11 18:44	Rouse	Pete	WH	WW	BLAKEMORE	JESSICA
1	2/15/11 11:18	DALEY	WILLIAM	WH	WW	JOHNSON	ALFRED
49	2/9/11 13:34	WARD	MYESHA	OEOB	430	STITH	LOIS
239	1/7/11 18:49	POTUS		WH	EW	GALLAGHER	CLARE
1	9/13/10 18:08	CAMUNEZ	MICHAEL	OEOB	130	POPE	JAMAL
16	9/24/10 18:48	TCHEN	TINA	WH	WW	BREWER	ANNE
16	9/23/10 17:32	HOLDREN	JOHN	NEOB	5230	PITZER	KARRIE
1	7/27/10 10:39	SHEEHY	KRISTIN	WH	WW	SHEEHY	KRISTIN
1	7/27/10 13:30	SMOOT	JULIANNA	WH	212	KOO	STACY
1	6/30/09 17:34	WHITNEY	CATHERINE	WH	WEST WING	WHITNEY	CATHERII
2	5/15/12 15:32	CARSON	JON	WH	WW 2ND F	MCCULLOUGH	VICTORIA
45	5/2/12 7:53	Turner	Christine	OEOB	430	STITH	LOIS
1	4/3/09 9:22	JACOBSON	DAVID	OEOB	192	DELUCIA	LAURA
1	4/1/09 11:44	JACOBSON	DAVID	OEOB	192	DELUCIA	LAURA
10	9/22/09 13:09	TUCK	DONALD	NEOB	9026	TUCK	DONALD
714	12/17/09 14:01	POTUS		WH	STATE FLOO	GALLAGHER	CLARE
5	12/21/09 11:21	POTUS		WH	OVAL OFFIC	BROWN	AMANDA
5	12/21/09 11:21	POTUS		WH	OVAL OFFIC	BROWN	AMANDA
1	11/27/12 12:16	McBride	Jonathan	OEOB	130	ROBERTSON	DOMINIQ
212	11/21/12 10:07		POTUS/FLOT US	WH	State Floo	MCMAMARALAWDER	CLAUDIA
5	3/18/11 18:30	Conrad	Shasti	WH	WEST WING	CONRAD	SHASTI

Description							
GENERAL HOLIDAY RECEPTION 3/							
Meeting of the Advisory Committee for Trade Policy and Negotiations with Ambassador Ronald Kirk							
ACTPN ADVISORY COMMITTEE MEMBERS MEETING WITH AMB. RON KIRK							
CHINA STATE DINNER/							
ACTPN Members Meeting...Time changed per requestor							
GENERAL HOLIDAY RECEPTION 3/							
WEST WING TOUR							

Roche WH Dinner see <http://voices.washingtonpost.com/reliable-source/2011/01/rs-seating.html> and <http://www.washingtonpost.com/wp-dyn/content/article/2011/01/19/AR2011011906290.html>

PRES. CLINTON	
WANG QI SHAN	LING JIHUA
HILLARY CLINTON	MAYOR DALEY
ROBERT ROCHE	ROBERTA WONG
ANDREA IMMELT	SEN. KERRY
POTUS	JEFF IMMELT
PRES. HU JINTAO	ROSLYN CARTER
FLORUS	B.D. WONG
MUHTAR KENT	TERESA HEINZ KERRY
MAGGIE DALEY	WANG HUNING
PRES. CARTER	

Reprinted on the following pages is a list of Peter V. Emerson's White House meetings during the first Obama administration. Of particular interest are Emerson's high-level meetings accompanied by Robert Roche that were conducted two-on-one (see above). They are outlined below. The individual dates and details for Roche's White House meetings were taken from <http://www.whitehouse.gov/briefing-room/disclosures/visitor-records>.

9/20/2011 – Emerson accompanies Roche in a private meeting with Pete Rouse, Assistant to the President, former interim White House Chief of Staff and Chief of Staff to President Obama in the Senate. <http://www.whitehouse.gov/administration/staff/pete-rouse>

5/16/2012 – Emerson accompanies Roche to a private meeting with Jon Carson, then Director of the White House Office of Public Engagement and National Field Director of the President's 2008 campaign. Carson is now director of Organizing for Action, formerly Obama for America.

http://www.washingtonpost.com/politics/jon-carson/glQAeYtdKP_topic.html.

http://www.huffingtonpost.com/2013/01/18/organizing-for-action-obama_n_2503668.html?utm_hp_ref=mostpopular

11/13/2012 – Emerson accompanies Roche to a private meeting with Tina Tchen, Assistant to the President and Chief of Staff to the First Lady.

<http://www.whitehouse.gov/blog/author/Tina%20Tchen>

Following the list of Emerson's Whitehouse meetings are the articles with work bios for Carson, Rouse, and Tchen; and an announcement of Carson's directorship at OFA.

White House Visitor Records Requests

Based on White House Visitor Records Requests

NAMELAST	NAMEFIRST	NAMEMID	UIN	BDGNB R	Type of Access	TOA
EMERSON	PETER	V	U87396	72761	VA	3/16/10 15:47
EMERSON	PETER	V	U78080	82297	VA	1/28/2011 10:45
EMERSON	PETER		U83555		VA	
Emerson	Peter		U43216	84811	VA	9/20/2011 10:16
Emerson	Peter	V	U63806		VA	
Emerson	Peter	V	U63968	89457	VA	12/5/2011 14:44
EMERSON	PETER		U01035	92093	VA	4/24/2012 9:14
Emerson	Peter		U07437	87161	VA	5/16/2012 15:14
Emerson	Peter	V	U20498	82600	VA	7/23/12 14:55
Emerson	Peter	V	U47236	94437	VA	10/23/12 13:20
Emerson	Peter	V	U52547	89981	VA	11/13/12 10:25
EMERSON	PETER	V	U55162		VA	

White House Visitor Records Requests

Based on White House Visitor Records Requests

POA	TOD	POD	APPT_MADE_DATE	APPT_START_DATE
D1S01	3/16/10 17:16	D1S	3/13/10 15:54	3/16/10 15:30
D1S01	1/28/2011 11:39	D1S	1/26/2011 11:48	1/28/2011 11:00
			2/15/11 13:02	2/17/11 9:30
A0401	9/20/2011 13:08	D3	9/19/2011 0:00	9/20/2011 10:30
			12/4/2011 0:00	12/5/2011 16:30
D1S01			12/5/2011 0:00	12/5/2011 15:00
A0401	4/24/2012 11:31	A0401	4/23/2012 0:00	4/24/2012 9:30
A0401	5/16/2012 17:32	A4	5/15/2012 0:00	5/16/2012 16:00
A0401	7/23/12 16:10	A4	7/2/12 0:00	7/23/12 15:00
D1S01	10/23/12 17:21	D1S	10/17/12 0:00	10/23/12 14:00
A0101	11/13/12 10:26	A1	11/13/12 0:00	11/13/12 10:30
			11/21/12 0:00	11/30/12 18:30

White House Visitor Records Requests

Based on White House Visitor Records Requests

APPT_END_DATE	APPT_CAN CEL_DATE	Total_People	LAST_UPD ATEDBY	POST	LastEntryDate
3/16/10 23:59		37	KS	WIN	3/13/2010 15:54
1/28/2011 23:59		1	LC	WIN	1/26/2011 11:48
2/17/11 23:59		1	A5	WIN	2/15/11 13:02
9/20/2011 23:59		2	JB	WIN	9/19/2011 18:44
12/5/2011 23:59		52	VM	WIN	12/4/2011 8:41
12/5/2011 23:59		1	JP	WIN	12/5/2011 11:08
4/24/2012 23:59		1	VM	WIN	4/23/2012 18:50
5/16/2012 23:59		2	VM	WIN	5/15/2012 15:32
7/23/12 23:59		1	RA	WIN	7/2/12 8:51
10/23/12 23:59		1	SK	WIN	10/17/12 11:46
11/13/12 23:59		2	JB	WIN	11/13/12 8:48
11/30/12 23:59		212	CM	WIN	11/21/12 10:07

White House Visitor Records Requests

Based on White House Visitor Records Requests

TERMINAL_SUFFIX	visitee_namelast	visitee_namefirst	MEETING_LOC
KS	MCDONOUGH	DENIS	EOEB
LC	HITCHOCK	ADAM	EOEB
A5	GOOLSBEE	AUSTAN	EOEB
JB	Rouse	Pete	WH
VM	CARSON	JON	EOEB
JP	Gerst	Jennifer	EOEB
VM	CARSON	JON	WH
VM	CARSON	JON	WH
RA	Carson	Jon	WH
SK	Koo	Stacy	EOEB
JB	tchen	Tina	WH
CM		POTUS/FLOTUS	WH

White House Visitor Records Requests

Based on White House Visitor Records Requests

MEETING_ROOM	CALLER_NAME_LAST	CALLER_NAME_FIRST	CALLER_ROOM
430	ALHASSANI	MEHDI	
488	HOLT	MERYL	
486	HOLT	MERYL	
WW	BLAKEMORE	JESSICA	
EEOB 115	MCCULLOUGH	VICTORIA	
130	POPE	JAMAL	
WW 2ND FLO	MCCULLOUGH	VICTORIA	
WW 2ND FLO	MCCULLOUGH	VICTORIA	
WW 2nd flo	AHMED	RUMANA	
130	KOO	STACY	
EW 2FL	BROOKS	JORDAN	
State Floo	MCNAMARALAWDER	CLAUDIA	

White House Visitor Records Requests

Based on White House Visitor Records Requests

Description	RELEASE_DATE
MEETING	TE
	06/25/2010
	04/29/2011
	05/27/2011
	12/30/2011
	03/30/2012
	03/30/2012
	07/27/2012
	08/31/2012
	10/26/2012
	01/25/2013
	02/23/2013
	02/23/2013

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Jon Carson

Deputy Assistant to the President and Director of the Office of Public Engagement

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(Vimeo)

Why He Matters

The national field director for Obama's 2008 presidential campaign, Carson joined the White House in 2009 as chief of staff for the Council on Environmental Quality under Nancy Sutley. In January 2011, Carson was promoted to director of the Office of Public Engagement (OPE) by new Chief of Staff Bill Daley.

Carson, who as field director was "often credited with having a masterful command of the operations across the country," according to The Washington Post, is in charge of the office that reaches out to average Americans through meetings and conversations, and, of course, through the Internet.

Carson replaced former OPE director Christina M. Tchen, who left to become Michelle Obama's chief of staff. Carson took the top job just as the Obama administration was ramping up for the 2012 reelection campaign.

The Wisconsin native has become something of a campaign expert over the years. He has worked on campaigns for Russ Feingold, Al Gore and Tammy Duckworth.

Carson joined the Obama campaign in 2007 as Illinois state director, and worked his way up to national field director by election night 2008.

In His Own Words

"I most definitely think (Republicans) do not have the edge this time," Carson told USA Today on the eve of the 2008 elections.

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environmental engineering in 1998.

Campaign Expert

Carson got his feet wet in politics after college, working on Wisconsin Democrat Russ Feingold's successful 1998 Senate campaign. He was a field organizer for Al Gore's Iowa caucus campaign in 2000. In the 2002 cycle, he helped Democrats reach out to the African-American community in South Carolina.

[Read more](#)

As head of the Office of Public Engagement (OPE), Carson head the White House team that reaches out to the American people.

At the beginning of the Obama administration, the president changed the name of the Office of Public Liaison to the Office of Public Engagement to symbolize a shift in the office's mission to focus on outreach to the American people.

[Read more](#)

Carson was chief of staff to Nancy Sutley at the White House Council on Environmental Quality.

In the Office of Public Engagement, Carson reports to Obama senior adviser Valerie Jarrett.

[Read more](#)

1. Komblut, Anne E., The Washington Post, "Ex-journalist to face the press," January 28, 2011
2. Gerstein, Josh, Politico, "Who can hook you up with a White House job?" July 9, 2009
3. The White House, Youtube: The President Introduces the Office of Public Engagement, May 8, 2009
4. Moore, Martha T., USA Today, "Campaigns' foot soldiers hit battleground states," October 30, 2008
5. Business Forward, Vimeo: Jon Carson- Chief of Staff, Council for Environmental Quality
6. George Washington University "Key People-Sen. Barack Obama (D-IL)," July 21, 2008

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<http://info.fixyourbloodsugar.com>



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1 of 1 DOCUMENT

Targeted News Service

January 20, 2013 Sunday 11:01 PM EST

Welcome to Organizing for Action**BYLINE:** Targeted News Service**LENGTH:** 402 words**DATELINE:** WASHINGTON

Obama for America issued the following blog posted by Jon Carson:

I'm Jon Carson, the new executive director of **Organizing for Action**.

I hope you're as excited as I am for this new organization, and for what our grassroots movement can accomplish in the next four years.

Just a little bit about me. I'm a Wisconsin guy, and I grew up on a farm in the western part of the state. In 2007, I joined Barack Obama's campaign and served as the national field director. After the election, I went to work for the President in the White House, most recently in the Office of Public Engagement.

That brings me to now, when very soon, my family and I will be moving back to Chicago as I start this new role with all of you.

I first joined the President's campaign because I was inspired by his belief that ordinary people have the power to change our country if we work together to get it done--and that belief will be at the core of this new organization as it unfolds.

And the way we'll get it done can be summed up in one word: local.

That means each city or region will have its own OFA chapter, and you'll decide the issues your community cares about most, the work you want to do to make progress on them, and the kind of support you'll need to get it done.

At a neighborhood and regional level, OFA members will grow their local chapters, bringing in new leaders and helping train a new generation of volunteers and organizers to help fight for the issues at stake.

There'll be times when we pull together at the national level to get President Obama's back on passing major legislation, like reducing gun violence or immigration reform. And we'll all work to help transform Washington from the outside while strengthening our economy and creating jobs.

But for the most part, the direction our work takes will be completely in your hands--with the support of this organization behind you every step of the way.

In the next few weeks and months, I'll be asking for your input on putting together an OFA plan for 2013, we'll be holding online briefings about the issues we want to tackle, and we'll start organizing on those issues as they're debated in D.C.

But for right now, I just want to say thanks and welcome. There's a lot to be done, without a doubt--and I couldn't be more thrilled to be part of OFA with you.

Go ahead--say you're in.

I'll be in touch soon.

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LOAD-DATE: January 22, 2013

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Counselor to the President Pete Rouse

Peter M. Rouse is Counselor to President Barack H. Obama, having previously served as Interim Chief of Staff and Senior Advisor. He was a co-chair of the Obama-Biden Transition Project, a senior adviser to President Obama's campaign, and chief of staff to then-Senator Barack Obama.

Known as the "101st Senator" for his extensive knowledge of Congress, Rouse served as chief of staff to members of the United States Congress for more than thirty years. Before joining President Obama's Senate office in 2004, he was chief of staff to former Senate Democratic Leader Tom Daschle (D-SD) for 19 years. He also served as chief of staff to then-Rep. Dick Durbin of Illinois (1984-85) and Lt. Governor Terry Miller of Alaska (1979-83).

Rouse received a B.A. from Colby College, an M.A. from the London School of Economics, and an M.P.A. from Harvard University's John F. Kennedy School of Government.

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Tina Tchen

Assistant to the President and Chief of Staff to the First Lady

Tina Tchen is an Assistant to the President and Chief of Staff to the First Lady Michelle Obama. Within the Obama Administration she also serves as the Executive Director for the Council on Women and Girls and the past Director of the White House Office of Public Engagement. Tchen was previously a partner in corporate litigation at Skadden, Arps, Slate, Meagher & Flom LLP. In that capacity, Tchen represented public agencies in state and federal class actions, including the Illinois Department of Children and Family Services, the Illinois Department of Public Aid, and the Chicago Housing Authority. Tchen is the recipient of many awards, including the Leadership Award from the Women's Bar Association of Illinois (1999); "Women of Achievement" award from the Anti-Defamation League (1996); and Chicago Lawyer "Person of the Year" (1994).

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Tina Tchen's Posts

Health Care

Celebrating Forty Years of Advancing AAPI Issues

July 24, 2013 at 8:43 AM EDT

Since 1973, OCA has brought together diverse and far reaching communities for a common cause: to advance the social, political, and economic wellbeing of Asian Americans and Pacific Islanders (AAPI) in the United States.

[READ THE REST](#)

Joining Forces Welcomes Colonel Rich Morales

July 11, 2013 at 1:52 PM EDT

Joining Forces is pleased to welcome its new Executive Director, United States Army Colonel Rich Morales.

[READ THE REST](#)

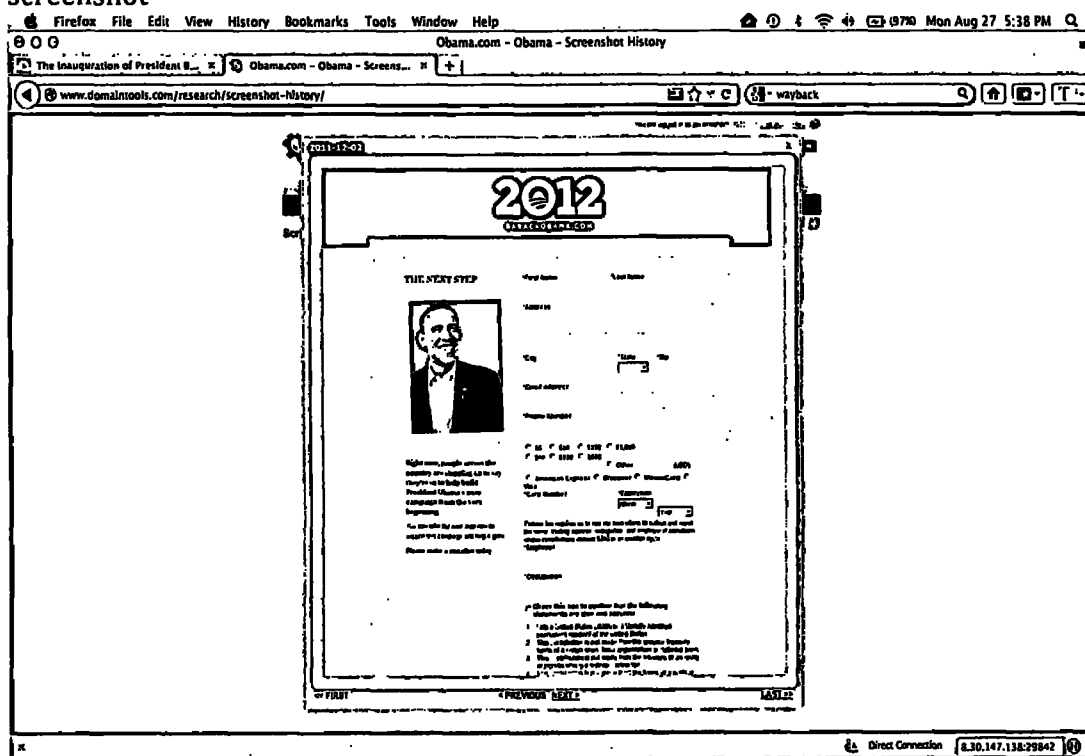
Violence Prevention

First Lady Michelle Obama Challenges Chicago Leaders to Create Opportunity for all Children

EXHIBIT V

Obama.com's Screenshot history – where the site was redirecting from the time Mr. Roche took control of the site until the present.

Beginning on or about December 2, 2011, obama.com began redirecting to a specific donation page on the donate.barackobama.com subdomain; specifically the URL was donate.barackobama.com/page/contribute/o2012-ovfobamadotcom?custom1=634930'. The javascript on obama.com itself was as follows: <http://my.barackobama.com/page/contribute/o2012-ovfobamadotcom?custom1=634930>' [see Exhibit W]. Accordingly, using the analytics service domaintools.com we can see the following (a membership is required to access). The date 2011-12-02 is visible in the top left corner of the screenshot



This page, accessed directly, looked like this when accessed in August 2012:

Firefox File Edit View History Bookmarks Tools Window Help

Donate | You Power This Movement

Obama for America (US) https://donate.barackobama.com/page/contribute/2012-ovfobarnadeccon?custom1=634930

Can take the first step now to support the campaign and help Obama win. Please make a contribution today.

Card Number: Expiration:

Employment:

Additional Information:

Who Encouraged You To Make This Contribution?

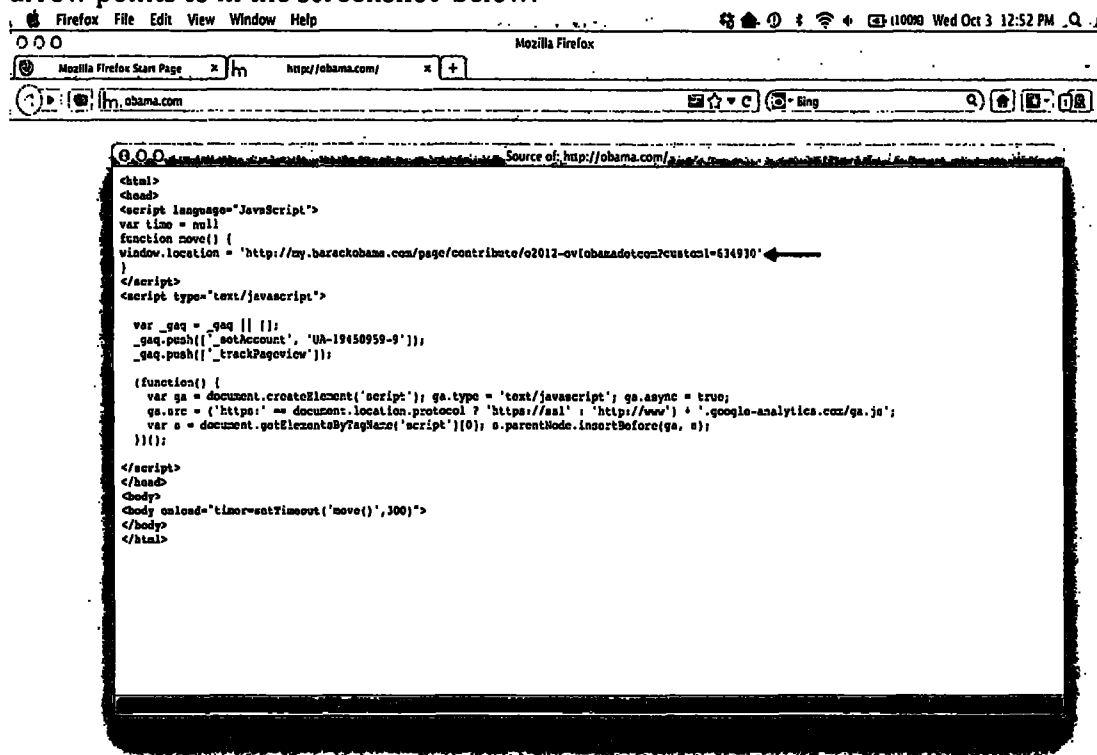
Donations or gifts to Obama Victory Fund 2012 are not tax deductible.

The tax status of a contribution under 2012 will be discussed in Obama for America's 2012 501(c)(3) document for the year.

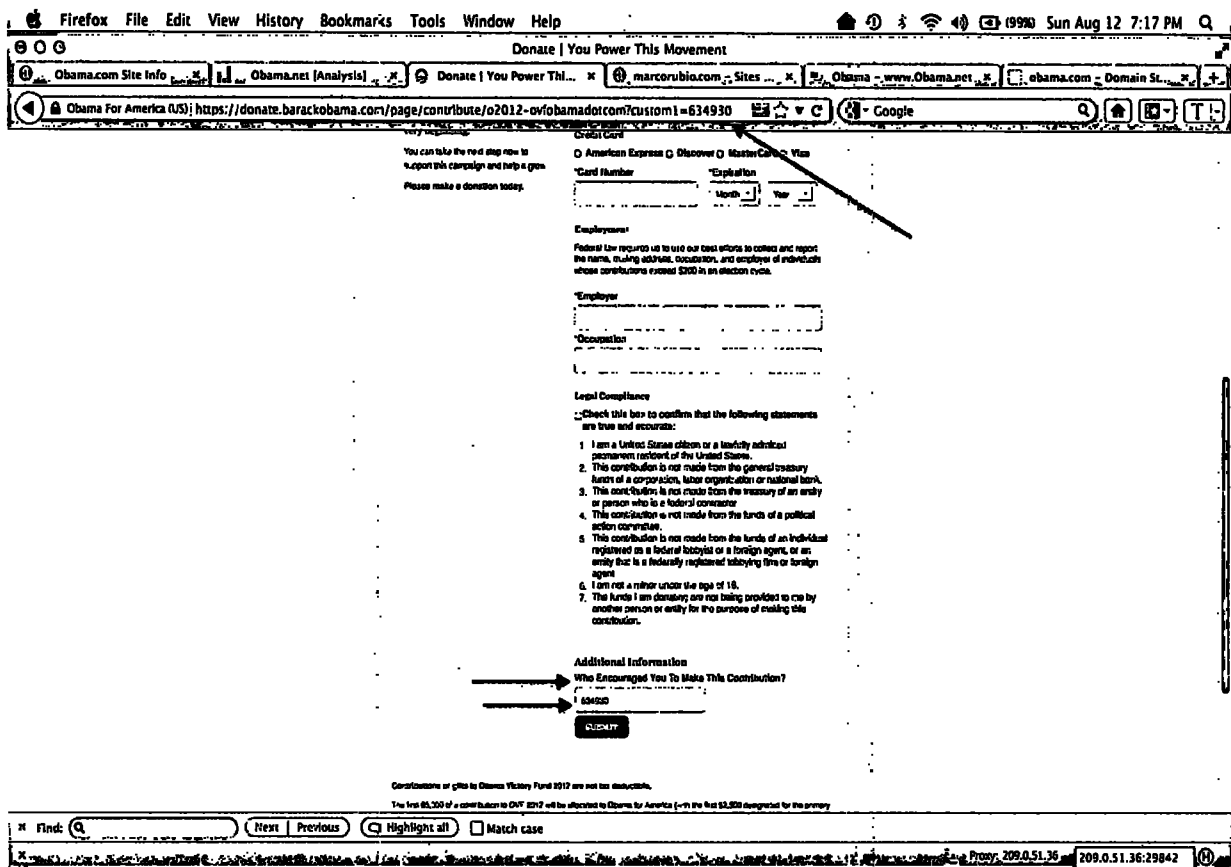
Next Previous Highlight all Match Case

709.0.51.16:25842

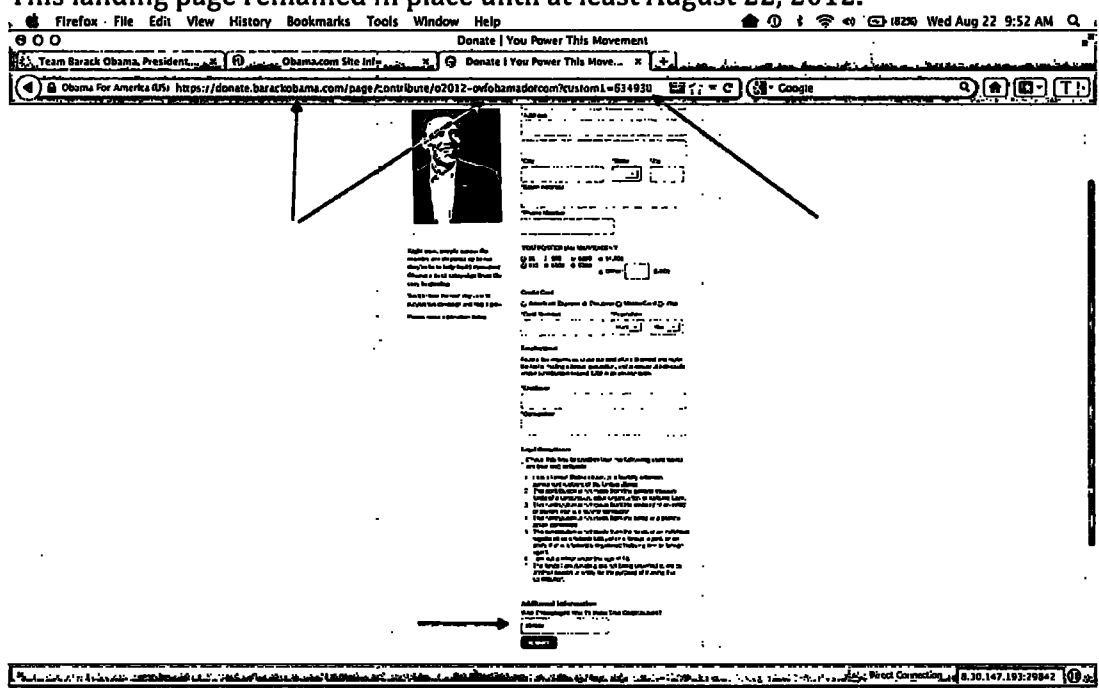
The above page was where visitors to obama.com were taken via the javascript the arrow points to in the screenshot below:



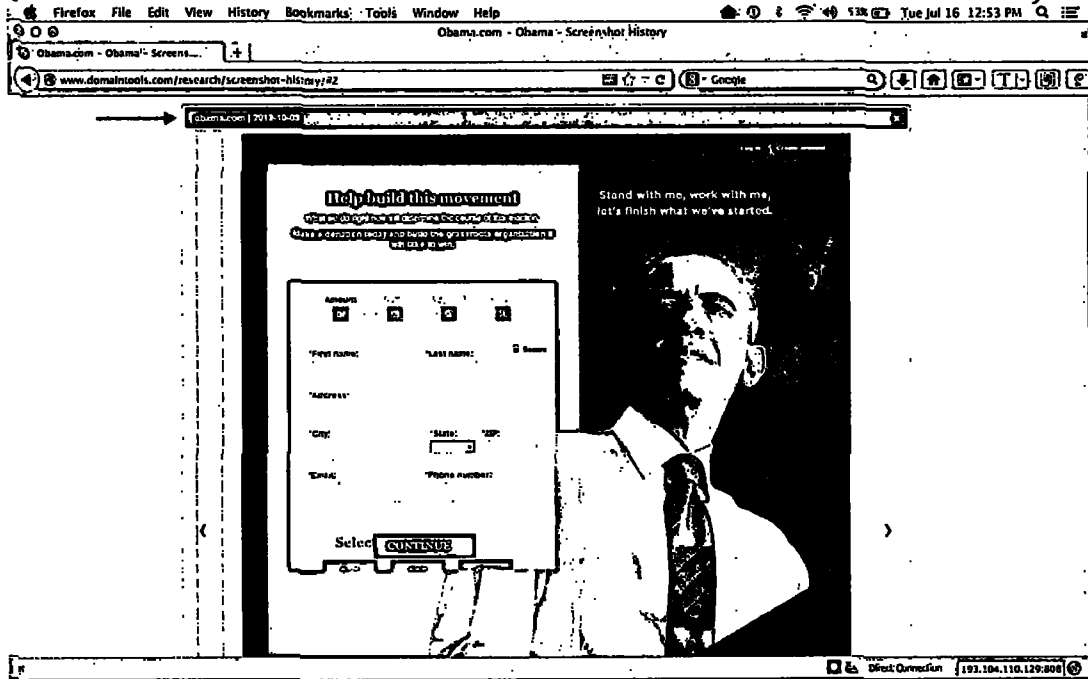
As is clear from the screen captures above, both the landing page URL at the official site, and the javascript at obama.com ended with the six-digit number, 634930. This number was loaded on the landing page in a dialogue box labeled "Who Encouraged You to Make This Contribution?"



This landing page remained in place until at least August 22, 2012:



On or about September 9, 2012 the landing page for obama.com was changed to a generic donation page on OFA 2012 contribute subdomain as seen on domain tools (as indicated in the note above the code on obama.com itself remained constant):



A wider angle screen capture taken independently the next day shows the OVF URL and legal notification:

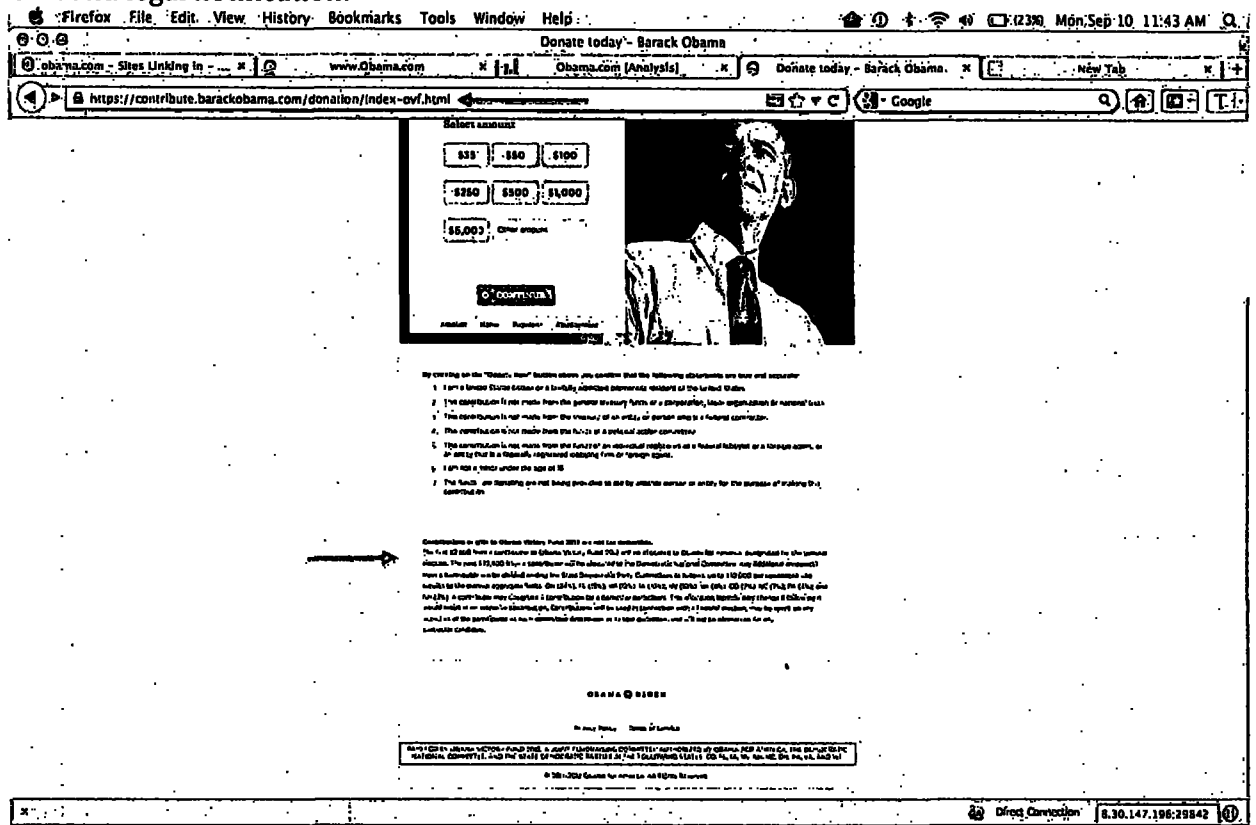


EXHIBIT W

Documenting that obama.com's source code included the apparent tracking number, 634930

150443880864

This is a screenshot of obama.com's source code. Clearly seen is a command in javascript redirecting the site's visitor's to the following page on barackobama.com: <https://my.barackobama.com/page/contribute/o2012-ovfobamadotcom?custom1=634930>

```

<html>
<head>
<script language="JavaScript">
var time = null
function move() {
window.location = 'http://my.barackobama.com/page/contribute/o2012-ovfobamadotcom?custom1=634930'
}
</script>
<script type="text/javascript">
var _gaq = _gaq || [];
_gaq.push(['_setAccount', 'UA-19450959-9']);
_gaq.push(['_trackPageview']);

(function() {
var ga = document.createElement('script'); ga.type = 'text/javascript'; ga.async = true;
ga.src = ('https:' == document.location.protocol ? 'https://ssl' : 'http://www') + '.google-analytics.com/ga.js';
var s = document.getElementsByTagName('script')[0]; s.parentNode.insertBefore(ga, s);
})();
</script>
</head>
<body>
<body onload="timer=setTimeout('move()', 300)">
</body>
</html>

```

The redirect then took the visitor to a page on the official Obama for America 2012 website: <https://donate.barackobama.com/page/contribute/o2012-ovfobamadotcom?custom1=634930>. The number, 634930, is clearly present in a dialogue box towards the bottom of the page labeled: "Who Encouraged You to Make This Contribution?"

This was not the only fundraising page connected to Robert Roche on the official OFA 2012 website. Mr. Roche co-hosted a fundraiser in Shanghai, China for president Obama on July 11, 2012. A page on the official site specifically for the event. This page clearly allowed for online contributions.

Firefox File Edit View History Bookmarks Tools Window Help

Barack Obama | Please Join Americans Abroad for Obama at a Reception in Shanghai

Barack Obama | Please Join Am...

Obama For America (US) | https://donate.barackobama.com/page/contribute/ro2012-july11ShanghaiKickoff

OBAMA BIDEN

Contributor

Country: United States

*First name: *Last name:

*Address:

*City: *State: *Zip:

*Email address: *Phone number:

Yes, I would like to attend the reception at the following levels:

☐ \$20.00

☐ \$50.00

☐ \$75.00

☐ \$100.00

☐ \$250.00

☐ \$500.00

☐ \$1,000.00

☐ \$2,500.00

☐ \$5,000.00

☐ \$10,000.00


☐ I am unable to attend, but please accept my contribution

at: \$

Credit card

VISA

Please Join Americans Abroad for Obama for a kick-off reception with supporters like you in Shanghai.



What: Obama Victory Fund 2012 - Kick-off Reception hosted by Boba Chen, Robert Roche, and Marco Shorter

Where: UNHQ 181, Boulevard Ponce Shanghai

When: Wednesday, July 11, 2012 7:00 - 9:00 PM

To attend, please RSVP using the form to the left.

To learn about other events and spread the word to your network, please Contact Us

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1-800-4-A-NO-000000

1-800-4-A-NO-000000

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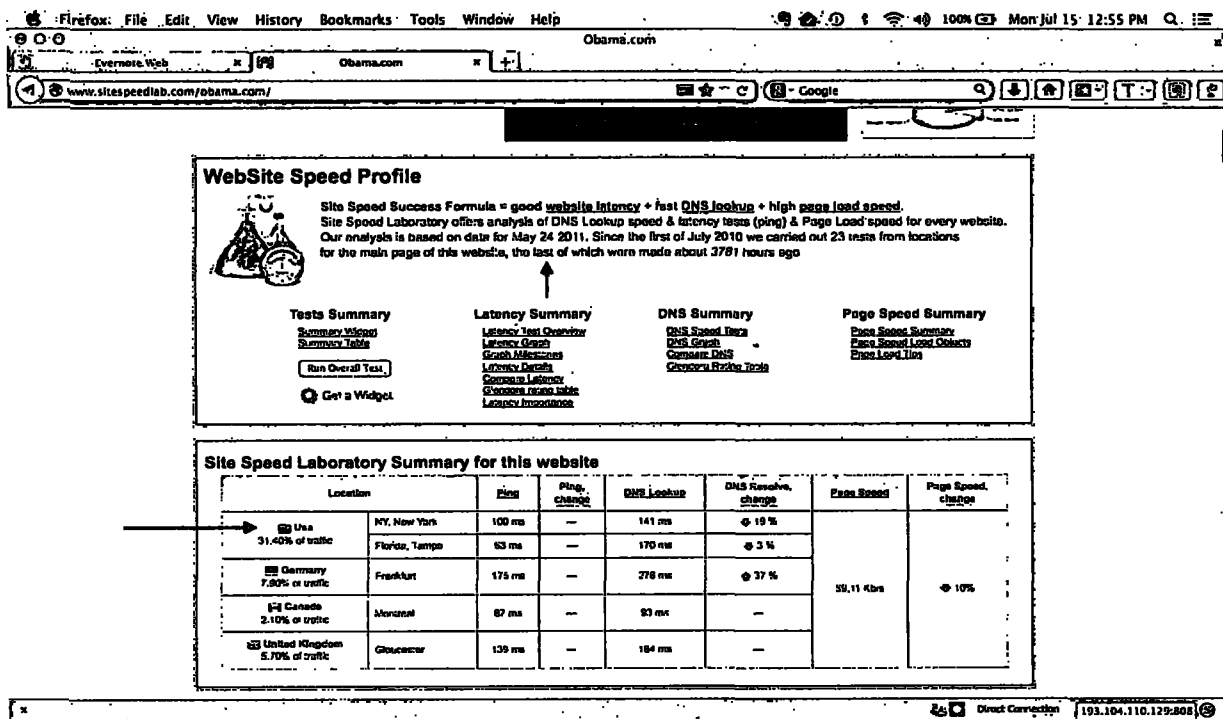
1-504-7410000000

389

EXHIBIT X

Documenting obama.com's consistently high foreign traffic during the 2012 election cycle, using Markosweb and SiteSpeedLab. Using those same sources we also document the official campaign's consistently significant foreign web traffic component.

First example is from a free analytics tool known as Site Speedlab using data taken in May 2011 showing an estimated foreign traffic percentage of 68.6 percent.



The site speedlab service tested the Obama campaign's official site 22 times in 2010 and 2011. The results showed %43.2 of the traffic was from abroad:

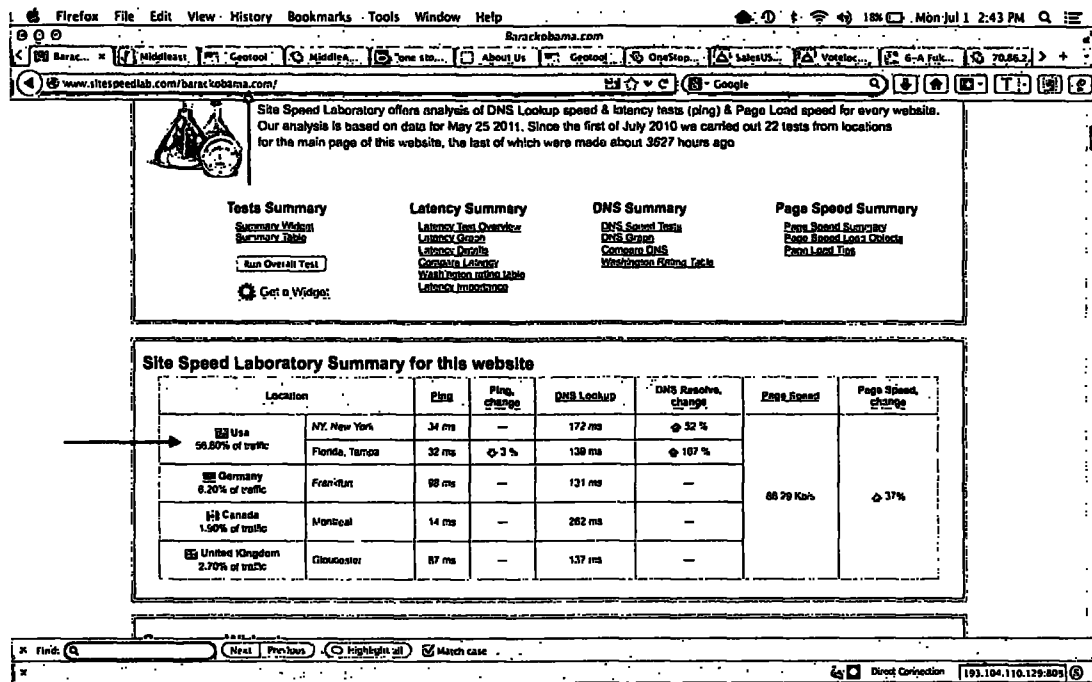


EXHIBIT Y

Documenting CVV usage as a fraud prevention tool.

Cybersource, Credit-Card Transactions and the Obama Campaign: What did the campaign's major vendor have to say about standard anti-fraud protections in credit card transactions:

Cybersource 2012 Online Fraud Report: Online Payment Fraud Trends, Merchant Practices, and Benchmarks

Visa-owned Cybersource was a major vendor for the Obama 2012 campaign as reported by both the Washington Times and Open Secrets. According to Open Secrets the Obama campaign paid Cybersource \$8.6 million for its services during the election cycle. The company thereby ranked seventh among all vendors/recipients. Below we reproduce Cybersource's 2012 Fraud prevention survey. Of particular interest are pp. 3-4 documenting just how widespread CVV usage (referred to as CVN) with 86 % of merchants processing \$25 million or more using it and another 12 % planning to implement it. Note that CVN is available at "no additional cost." Other fraud prevention techniques are available, but they are implemented in-house, and are not part of the card verification process provided by the card provider itself.

CyberSource
the power of payment

13TH
ANNUAL

2012 ONLINE FRAUD REPORT

Online Payment Fraud Trends,
Merchant Practices and Benchmarks



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Executive Summary

Managing online fraud continues to be a significant and growing cost for merchants of all sizes. To better understand the impact of payment fraud for online merchants, CyberSource sponsors annual surveys addressing the detection, prevention and management of online fraud. This report summarizes findings from our 13th annual survey. **Note: this report provides benchmarks on total fraud rates (chargebacks and credits issued directly to consumers by merchants).** As such, these metrics tend to be higher than those reported by banks and card schemes, which generally base reported rates on chargeback activity only.

Estimated \$3.4 Billion Lost to Online Fraud

In 2011, merchants reported losing an average of 1.0% of total online revenue to fraud. Although 2011 showed an uptick in revenue loss rate versus the prior year, merchants reported a 33% decrease in the percent of orders lost to fraud, 0.6%. Using 2011 industry market projections¹ on eCommerce in North America, we estimate that the total revenue loss translates to approximately \$3.4 billion, a \$700 million increase over 2010 results (see Chart #1).

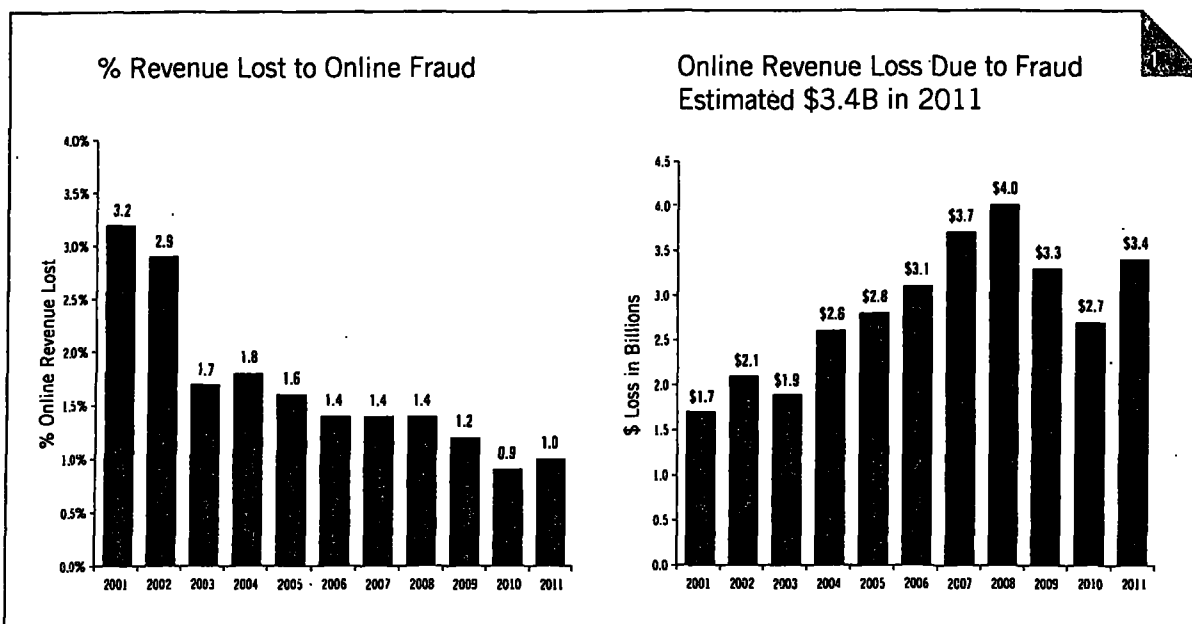
In 2011, the order rejection rate continued to increase as it has done since 2009. Merchants reported that they reject an average of 2.8% of orders due to suspicion of payment fraud.

Chargebacks Account for less than 50% of Fraud

This year's survey probed the percent of fraud losses accounted for by chargebacks. Overall, merchants continue to report that chargebacks accounted for less than half of fraud losses — 41%, on average. The majority of fraud loss is due to merchants issuing a credit to reverse a charge in response to a consumer's claim of fraudulent account use, or because of subsequent information from additional orders that indicate likelihood of fraud on the recently placed order. For digital goods with instant fulfillment, credits could be issued afterwards, once fraud has been detected.

International Order Acceptance is Riskier

Accepting international orders is riskier than domestic orders. Merchants reported an international fraud rate by order rate of 2.0%, more than three times higher than domestic. In response to the higher perceived risk, merchants rejected international orders at a rate nearly three times higher than domestic orders (7.3% vs. 2.8%, respectively).



¹ Based on eMarketer projections, with an 8% uplift to account for the merchant segments covered by the survey but not by eMarketer's market sizing.

Manual Review Rates are Slightly Up

After remaining at 72% in the last two years, the percent of merchants conducting manual review increased to 75% in 2011, with 27% of orders routed to manual review (vs. 24% in 2010). Merchants continue to rely heavily on manual review teams as a defense against fraud, with the review teams accessing an average of 4.2 systems to research and disposition the order (vs. 4.0 in 2010).

Opportunities to Streamline Fraud Management

As eCommerce sales continue to grow, scalability will become more of a pressing issue. Merchants continue to face the challenge of screening more online orders while keeping manual review staffing and fraud rates as low as possible. Yet 82% of merchants reported that their fraud budgets will stay the same or decrease, and only 18% reported that they will be increasing their order review staff.

With more volume and limited resources, emphasizing and improving automated fraud detection capabilities is a top priority for 55% of the merchants surveyed. The need for better automation is understandable when 75% of manually reviewed orders are ultimately accepted. To be successful, fraud managers will need to adopt tools and practices to reduce the number of orders being routed to review, as well as enable their review teams to operate more efficiently.

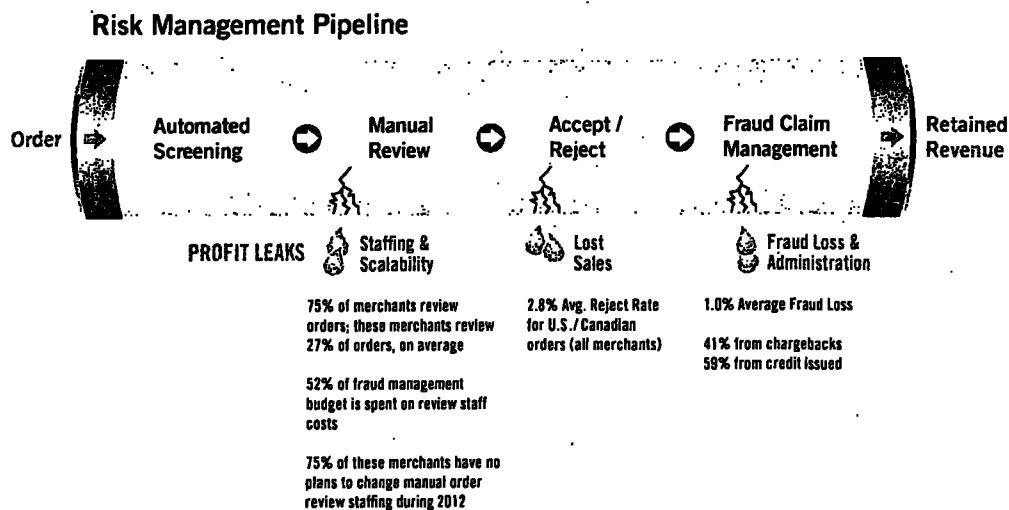
Mobile Fraud Risk is Mostly Unknown

This year, we asked about merchant perception of fraud in the mobile channel, which we defined as either commerce on a mobile-optimized website or through a mobile app. Overall, 92% of merchants do not know their mobile fraud rates, 7% perceive that mobile fraud rates are the same or lower than online fraud, while 1% perceive mobile fraud to be slightly higher.

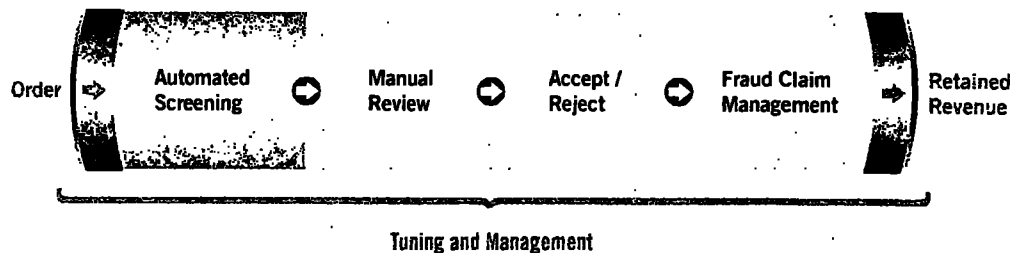
Total Risk Management Pipeline View

Businesses that concentrate solely on minimizing chargebacks may not see the complete financial picture. Online payment fraud impacts profits from online sales in multiple ways. Besides direct revenue losses, the cost of stolen goods/services and associated delivery/fulfillment costs, there are the additional customer experience "costs" of rejecting valid orders, staffing manual review, administration of fraud claims, as well as challenges with scaling fraud management operations as business grows. Merchants can realize certain efficiencies by taking a total risk management pipeline view of operations and costs. While the fraud rate is one metric to monitor (and maintain within industry and card scheme limits), an end-to-end view is required to achieve the optimal financial outcome.

In 2011, these "profit leaks" in the Risk Management Pipeline™ impact as much as 30% of orders for mid-sized merchants and as much as 13% of orders for larger merchants — driven primarily by too many orders being manually reviewed, which restricts profits, operating efficiency and scalability. This report details key metrics and practices at each point in the pipeline to provide you with benchmarks and insight. Custom views of these benchmarks and practices are available through CyberSource — see end of report for contact information.



Stage 1: Automated Screening



Fraud Detection Tools Used During Automated Screening

We define fraud detection tools as those used to assess the probability of risk associated with a transaction. They are categorized into four groups: validation services, proprietary data, purchase device tracing, and multi-merchant data. Results from these tools drive the decision to accept, reject or review the transaction, either through an automated rules-based system or manually. In 2011, 56% of merchants surveyed utilize an automated screening system.

Of these, 68% of merchants report using at least 3 tools in their automated screening solution and an average of 4.9 tools overall. Larger merchants processing higher order volumes use an average of 8 tools. Sheer order volume could necessitate automated screening or more sophistication to address fraud, as well drive fraudsters to target these merchants more often. In addition, larger merchants consistently show higher utilization of more tools, as shown in Chart #2, which highlights the most popular fraud detection tools used.

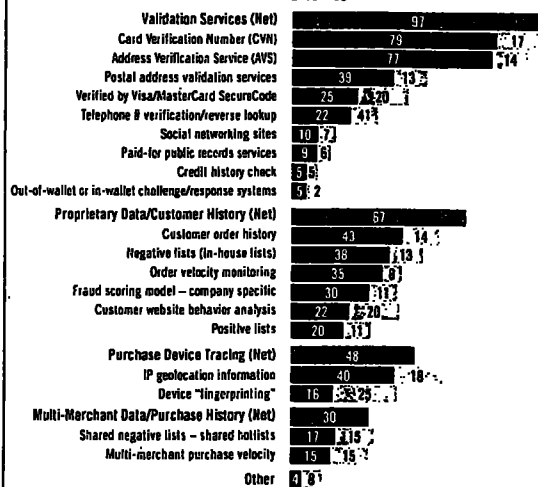
Ninety-seven percent of merchants use one or more validation tools. Some are provided by the card schemes, such as Card Verification Number (CVN), Address Verification Service (AVS), and payer authentication services (Verified by Visa, MasterCard SecureCode), and others are provided by third-party verification services.

Not surprisingly, CVN and AVS show the most widespread adoption, as they are provided at no additional cost. But in terms of effectiveness, with the larger merchants, few cited CVN and AVS in one of their top three tools in terms of effectiveness (see Chart #3). This could be explained by the relative ease of obtaining CVNs on the black market, and the limited availability of AVS data outside of North America.

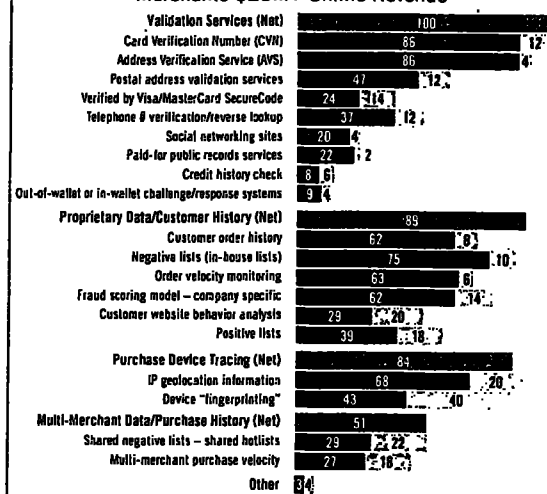
In terms of leveraging customer history, 67% of merchants currently use or are planning to use their own proprietary data. In particular, the use of company-specific fraud-scoring models and customer website behavior analysis grew in 2011.

Fraud Detection Tool Usage 2011

All Merchants

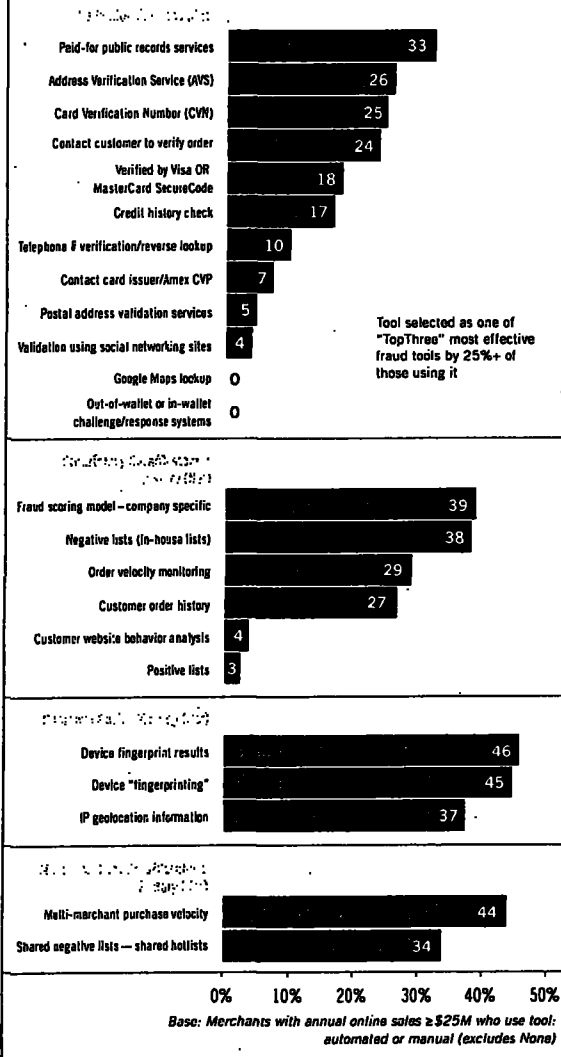


Merchants \$25M+ Online Revenue



■ % Using OR Planning to Use ■ % Currently Using □ % Planning to Implement

Most Effective Fraud Management Tools



Customer website behavior analysis is one of the newer fraud tools available. It attempts to assess whether or not the customer's visit and website activity is consistent with that of a typical user. For instance, the time spent on checkout or the number of pages viewed varies greatly between a typical user and a fraudster using a bot. Although adoption is currently relatively low, it may increase as fraudsters learn how to circumvent traditional mitigation tools.

Purchase device tracing are tools that attempt to validate the device and location of the network from which the order is being placed. They continue to show broader adoption. For the

fraudster, bypassing device fingerprinting and IP geolocation requires more sophistication than just obtaining stolen customer identity and payment data. As a result, device fingerprinting and IP geolocation were cited most often by large merchants as one of their top three effective tools.

Multi-merchant data and purchase history is less utilized in comparison to the other three categories, but can be quite useful to merchants. Statistically, the average top ten Internet merchant sees only 1/100th of the actual annual online transaction activity, at best. Multi-merchant data gives a wider view of activity to detect subtle fraud patterns, by providing a broader pool of transactions for merchants to analyze for linkages and potential fraud.

Multi-merchant data can be difficult to obtain without the use of a third-party provider, due to legal and privacy regulations. Similarly, shared negative lists are subject to legal regulations and are only as good as the information provided by others—and in some cases the data can be outdated or inaccurate. Shared data is only effective if there is a sufficiently large volume of current, accurate data to correlate and analyze. The use of shared negative lists fell by 3% among large merchants, yet use of multi-merchant purchase velocity increased by 16% (vs. 2010). For merchants of all sizes, shared negative lists grew by 2%, and multi-merchant purchase velocity grew by 6%.

Planned Automated Screening Tool Usage 2012

Device Fingerprinting Highest on "Plan to Buy" Lists

Fifty-seven percent of surveyed merchants plan to add one or more new fraud detection tools in the next twelve months. Device fingerprinting and customer website behavior analytics are the two tools that most merchants expect to evaluate for adoption in the next year.

As in past years, card scheme payer authentication services figure prominently in merchants' future plans. The 2011 survey results show that 25% of merchants currently use one or more of the available payer authentication services, and 20% say they are interested in deploying within the next twelve months.

Despite significant interest in implementing payer authentication systems over the past few years, we have seen relatively slow adoption of payer authentication since we started tracking this tool in 2003. But with recent bank and regulatory mandates on using payer authentication, particularly abroad, merchant adoption is expected to increase, at least for those merchants that have localized websites.

Automated Decision/Rules Systems

Automated Order Screening

Fifty-six percent of merchants utilize an automated decisioning system. These systems apply a merchant's business rules to

Three articles are below. The first is the New York Times Dealbook article documenting Visa's 2010 purchase of Cybersource. The second is Open Secret's report that Cybersource ranked seventh in disbursements from the Obama campaign during the 2012 election among vendors/recipients; taking in some \$8.6 million in fees. The third is the Washington Times July 2012 report on the Obama campaign's considerable credit card processing fees.

- See [http://dealbook.nytimes.com/2010/04/21/visa-buying-cybersource-for-2-billion/? r=0](http://dealbook.nytimes.com/2010/04/21/visa-buying-cybersource-for-2-billion/?r=0)
- See <https://www.opensecrets.org/pres12/expend.php?cycle=2012&id=N00009638>
- See <http://www.washingtontimes.com/news/2012/jul/23/obama-campaign-racking-big-credit-card-fees/>

The New York Times

DealBook

Edited by Andrew Ross Sorkin

APRIL 21, 2010, 8:44 AM

Visa to Buy CyberSource for \$2 Billion

By DEALBOOK

Visa, the giant credit card company, said Wednesday that it would buy **CyberSource**, an online payment processor, for about \$2 billion.

Visa, which is paying \$26 a share in cash for a company that processes about a quarter of all online payments made in the United States, said it expected the deal to close in the fourth quarter of this year.

CyberSource serves almost 300,000 merchants, Visa said, and the deal will take advantage of Visa's ties to financial institutions as well as its "global presence to more rapidly drive international expansion of CyberSource's products and services."

[Go to Visa Press Release>>](#)

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BARACK OBAMA (D) WINNER!

Expenditures Breakdown

Top Vendors/Recipients

Vendor/Recipient	Total	No. of Payments
GMMB	\$389,579,874	409
Bully Pulpit Interactive	\$72,657,600	115
AB Data	\$29,816,387	266
DNC Services Corp	\$19,704,991	99
Automatic Data Processing Inc	\$18,042,538	2494
Fuse Inc	\$11,515,500	37
Cybersource Corp	\$8,647,842	401

Vendor/Recipient	Total	No. of Payments
New Partners Consulting	\$6,162,099	25
Strategy Group	\$5,120,897	17
Democratic Party of Ohio	\$4,262,772	68
Democratic Executive Cmte of Florida	\$3,800,396	54
David Binder Research	\$3,416,740	66
Telefund Inc	\$3,378,963	318
Blue State Digital	\$3,360,793	83
DNC/Travel Offset Account	\$3,111,867	135
Perkins Coie	\$2,938,851	98
Democratic Party of Colorado	\$2,847,627	43
4900 Group	\$2,534,529	6
American Express	\$2,365,866	1234
Elite Production Services	\$2,221,713	60
Democratic Party of Virginia	\$2,055,584	48
Fortytwo Inc	\$2,020,418	43
Financial Innovations Inc	\$1,960,998	85
Democratic Party of Pennsylvania	\$1,943,172	49
North Dakota Dem-Nonpartisan League Prty	\$1,934,835	50

How does OpenSecrets.org classify campaign expenditures?

NOTE: All the numbers on this page are for the 2012 election cycle and based on Federal Election Commission data released electronically on Thursday, August 22, 2013.

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The Center for Responsive Politics

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Obama campaign racking up big credit-card fees

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By Dave Boyer - The Washington Times

Monday, July 23, 2012

President Obama portrays himself as a watchdog of credit card companies and a critic of their fees, but his re-election campaign is a gold mine for some of those same companies.

Documents filed with the Federal Election Commission show that Obama for America paid more than \$480,000 in credit card fees in June. The campaign of Republican Mitt Romney, by comparison, paid about \$37,000 in charge-card fees last month.

The Obama campaign paid those fees to American Express and Visa, through its subsidiary CyberSource Inc.

Online contributions to the president's re-election campaign fund are assessed a fee by the credit card companies.

There's evidence that the Obama campaign's early foray into a mobile phone credit card donations app, with a swipe attachment, is generating even more fees for card issuers. Campaign officials unveiled the mobile technology in January, and the fees paid by the campaign in June nearly reached the level of credit card fees for the entire fourth quarter of last year — \$612,903.

The "Square" attachment plugs into mobile devices and allows anyone to take a credit card payment from anyone else. The card companies receive a 2.75 percent transaction fee.

The Romney campaign, too, has begun to use the mobile-phone app for credit card donations. Disclosures for the individual campaigns showed that Obama for America raised \$45.9 million in June, while Romney for President raised \$33 million.

In the 2008 presidential race, critics accused Mr. Obama's campaign of encouraging fraudulent credit card donations because the campaign turned off the standard "Address Verification System" that screens credit card charges for matching names and addresses. The 2012 Obama campaign apparently is again using the same practice; a campaign spokesman didn't respond to a request for comment.

Mr. Obama has positioned himself as a consumer champion when it comes to fees charged by banks and credit card companies. Last fall, he ripped Bank of America for a \$5-a-month debit card fee, saying it wasn't entitled to those profits.

When he accepts the Democratic nomination in September, the president will deliver his acceptance speech in Bank of America Stadium in Charlotte, N.C., although Democratic officials lately have begun to refer to the arena as "Panthers Stadium," after the local NFL football franchise that plays there.

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EXHIBIT Z

Showing Visa's Recommendation Of Cybersource To Customers.

Global Visa Card-Not-Present Merchant Guide to Greater Fraud Control - Protect Your Business and Your Customers with Visa's Layers of Security Published in 2012. The CVV discussion is on page 4, and states, "In the card-not present sales environment, CVV2 is an excellent tool for verifying that the customer has a legitimate Visa card in hand at the time of the sales order... Because card-not-present merchants are at greater risk for stolen account number schemes, they need to be diligent in their fraud control efforts. CVV2 can help a merchant differentiate between good customers and fraudsters who operate anonymously. It allows merchants to make a more informed decision before completing a non-face-to-face transaction." The document specifically recommends using the CVV2 in online transactions (see p. 2) in concert with either the Cybersource product Decision Manager, or an Authorize.net product, AFDS. Authorize.net was acquired by Cybersource in 2007, previous to its acquisition by Visa (See, <http://www.abcmoney.co.uk/news/pabc.php?news=89217> attached below)

A black and white photograph of a woman with short dark hair, smiling and wearing a dark V-neck top, sitting at a desk. The image is high-contrast and grainy, with a white background.

Millions of Visa cardholders worldwide make one or more purchases every day online, over the phone, or through the mail—where the Visa card is not present.

For Visa® merchants who operate in the card-not-present environment, there are a large number of opportunities to enhance customer relationships, attract new customers, and increase sales revenue. There are, however, some additional fraud risk challenges. According to the 12th annual Online Fraud Report by CyberSource¹, U.S. merchants lost \$2.7 billion to online fraud in 2010, and over half of those surveyed indicated that fraud is getting "cleaner." In other words, it's getting harder to detect fraud, because fraudsters are becoming more sophisticated at looking like legitimate customers.

Thieves are primarily interested in two things: stealing your sensitive payment data to re-sell on the black market, and/or using that payment data to steal goods and services from you. Hackers are constantly testing your systems to identify and exploit points of weakness in your security, with increasing success. In 2010, there was a 33% increase in the number of data breaches reported by organizations, according to the Identity Theft Resource Center.²

Understanding the Risks with Card-Not-Present Transactions

In order to help thwart these breaches, the Payment Card Industry (PCI) Data Security Standard (DSS) is a framework that provides enhanced security around merchants' cardholder data. Consisting of twelve requirements, PCI DSS outlines the steps to take to protect sensitive payment information. By demonstrating that you are PCI DSS-compliant, customers can be more confident buying from you, assured that their cardholder data is secure.

However, not all merchant's security systems are foolproof. And if payment data is stolen, fraudsters or fraudster-controlled botnets (a network of compromised computers being used for malicious purposes) can attempt to steal as much as they can from you, using legitimate payment data. Often, the lag time it takes for you to detect the fraud results in customer chargebacks, loss of inventory, and ultimately, a hit to your bottom line. Regardless of the size of your business, you are a potential target if you're conducting business online, over the phone, or through the mail. That's why it's critical to take a multi-layered approach to fighting fraud and strengthening security.

Follow a Two-Step Fraud Detection System

A robust fraud detection system consists of two stages: an automated evaluation followed by a manual investigation process. The intent is to make as many systematic decisions as possible in order to lower your overhead costs and ensure the optimal customer experience. Only those highly suspicious orders should be sidelined for a deeper level of review by an investigator.

The first step, automated order screening, should leverage your own data, third-party fraud prevention tools (such as IP Geolocation, device fingerprinting, fraud-scoring models, velocity checks, and more), as well as a variety of services³ made available by Visa. These include Verified by Visa® (VbV), Card Verification Value 2 (CVV2), and Address Verification Service (AVS).

Second step, orders that do not pass the first step should then be sent to your order review team for further scrutiny. Thus, it's critical that they are armed with the verification tools necessary to validate questionable orders, as well as a case management system to keep track of the orders in queue. The verification tools and the case management system enable the reviewers to process more orders more effectively and efficiently.

Ensure that your fraud management process is optimized, develop key metrics to track and analyze over a set period of time. In particular, it is extremely helpful to feed fraud chargebacks and credits back into your fraud screening process, so that you can identify fraud patterns and adjust your processes accordingly. Reporting around your order review team can also help to identify how efficiently your order review team performs, how accurate they are in detecting fraud, and where overall operations can improve.

Select the Right Tools

Comprehensive fraud prevention comes with having a complete fraud management process in place at your business. Start by using your own data, and enhance your fraud intelligence with the right combination of fraud prevention and detection tools and controls supplied by third parties or Visa. If required, third-party fraud detection solutions (such as those offered by CyberSource Risk Management Solutions) can provide deep fraud management expertise, as well as access to other fraud prevention tools. By supplementing the services provided by Visa with additional outside support, you can strengthen your defenses against sophisticated fraudsters looking for an easy mark.

¹ CyberSource is a wholly-owned subsidiary of Visa.

² 662 in 2010 v. 498 reported in 2009; www.idtheftcenter.org

³ Service availability varies by region. To learn more about the tools and business practices covered in this document, consult with your merchant bank. The information contained in this document is intended only as a reference for merchants and is not a definitive set of instructions.

What Is A Layered Security Approach for Card-Not-Present Merchants?

Visa fraud prevention tools are designed to complement each other and work together as multiple services that can help you better combat fraud.

Address Verification Service (AVS) verifies the credit card billing address of the customer who is paying with a Visa card. The merchant includes an AVS request with the transaction authorization and receives a result code (separate from the authorization response code) that indicates whether the address given by the cardholder matches the address in the issuer's file. A partial or no-match response may indicate an elevated fraud risk.

Card Verification Value 2 (CVV2) is a three-digit code that is printed on the signature panel of all Visa cards. Telephone order and Internet merchants use CVV2 to verify that the customer has a legitimate Visa card in hand at the time of the order. The merchant asks the customer for the three-digit code and sends it to the issuer as part of the authorization request. Again, the response can be used to make a risk evaluation.

Verified by Visa (VbV) offers an extra level of security for online transaction authentication. It is an innovative service that verifies cardholder identity in real-time so customers can shop more confidently. Also, Internet merchants can accept Visa cards with peace of mind while authenticating a cardholder's identity at the time of purchase.

The Payment Card Industry (PCI) Data Security Standard (DSS) is intended to help protect Visa cardholder data—wherever it resides—ensuring that customers, merchants, and service providers maintain the highest information security standard. As mandated by Visa, all issuers, merchant banks, agents, merchants, and service providers that store, process, or transmit cardholder data are required to comply with PCI DSS. This helps to protect not only your own data, but that of your fellow merchants as well.

Card-Not-Present Fraud Detection

To supplement the effective use of your own data, Visa's fraud prevention tools, and third party data feeds/services, vendor fraud detection solution providers such as CyberSource offer a combination of leading technology and innovative tools for detection and prevention of fraud within the various card-not-present channels. These solutions are designed to help you protect your customers and brand by reducing fraud losses and making the Internet and other sales channels safer to conduct business. To obtain a list of third party fraud prevention solution providers, contact your merchant bank.

CyberSource Risk Management Solutions provide fraud detection for organizations of all sizes.



Decision Manager (DM) and Managed Risk Services by CyberSource enable mid-size to large companies detect fraud more accurately, review more efficiently, and improve control over fraud management practices.

Authorize.Net Advanced Fraud Detection Suite™ (AFDS) is a set of customizable, rules-based filters and tools that help small businesses identify, manage, and prevent suspicious and potentially costly fraudulent transactions. Authorize.Net AFDS is a value-added service of the Authorize.Net Payment Gateway.

The Right Combination of Tools at the Right Time

The chart below highlights Visa's layers of security by business type.

	LAYERED SECURITY				FRAD DETECTION SERVICES
	VbV	CVV2	AVS	PCI DSS	DM/AFDS
Internet	✓	✓	✓	✓	✓
Telephone Order		✓	✓	✓	✓
Mail Order			✓	✓	✓

Fraud Prevention for Card-Not-Present Merchants: Start-to-Finish

Mail order/telephone order and Internet merchants must verify—to the greatest extent possible—the cardholder's identity and the validity of the transaction. Basic fraud control actions include the tests listed below. Keep in mind, none of these tools should be used exclusively to determine the validity of the customer or to accept or reject an order. They should be used as indicators of risk, and in combination with other fraud detectors.

If participating in the CVV2 service, obtain this three-digit code from the cardholder. The purpose of CVV2 in a card-not-present transaction is to attempt to verify that the person placing the order has the actual card in his or her possession. Requesting the card verification number during a card-not-present purchase can add a measure of security to the transaction.

Where available, verify the cardholder's billing address via the AVS. AVS compares numeric address data with information on file from the cardholder's card issuing bank. AVS return codes are generally available for U.S. cardholders and for a limited number of cardholders in Canada.

For Internet transactions, use VbV to authenticate the cardholder's identity at the time of purchase. Do not submit an authorization request for VbV transactions that fail authentication.

If the customer's telephone number is supplied as part of the transaction, use area code or reverse lookup tables to verify the legitimacy and location of the phone number (these are widely available). Similarly, postal address validation services can be used to distinguish legitimate addresses from bogus ones.

Leverage your own customer history data effectively. If you have had a fraud event associated with a customer, the details of that transaction should be added to internal "negative lists." Any subsequent order that shares the same characteristics should be considered suspicious.

Many of these tests can be conducted automatically, depending on the flexibility of your technical infrastructure or your ability to connect with fraud prevention service providers. Instead of manually reviewing each order, it is typically more cost effective to perform automated internal screening or to use a third-party tool to screen for questionable transactions.

Of course, route transactions with higher risk characteristics for fraud review. Experienced fraud investigators can often distinguish a fraudulent order from a legitimate one.

11 Potential Warning Signs of Card-Not-Present Fraud

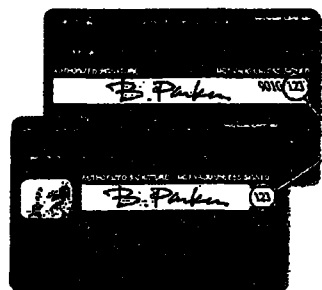
Stay alert for the following fraud indicators. Any one of these factors could indicate a higher degree of fraud risk.

- 1 First-time shopper:** Criminals are always looking for new merchants to steal from.
- 2 Larger-than-normal orders:** Because stolen cards or account numbers have a limited life span, criminals need to maximize the size of their purchase.
- 3 Orders that include several varieties of the same item:** Having multiples of the same item increases criminal's profits.
- 4 "Rush" or "overnight" shipping:** Criminals want their fraudulently obtained items as soon as possible for the quickest possible resale and aren't concerned about extra delivery charges.
- 5 Shipping outside of the merchant's country:** There are times when fraudulent transactions are shipped to fraudulent criminals outside of the home country.
- 6 Inconsistencies:** Information in the order details, such as billing and shipping address mismatch, telephone area codes falling near zip codes, email addresses that do not look legitimate, and irregular time of day when the order was placed.
- 7 Multiple transactions on one card over a very short period of time:** Could be an attempt to "run a card" until the account is closed.
- 8 Shipping to a single address, but transactions placed on multiple cards:** Could involve an account number generated using special software, or even a batch of stolen cards.
- 9 Multiple transactions on one card or a similar card with a single billing address, but multiple shipping addresses:** Could represent organized activity, rather than one individual at work.
- 10 For online transactions, multiple cards used from a single IP (Internet Protocol) address:** More than one or two cards could indicate a fraud scheme.
- 11 Orders from Internet addresses that make use of free e-mail services:** These e-mail services involve no billing relationships, and often neither an audit trail nor verification that a legitimate cardholder has opened the account.

Card Verification Value 2—The Three-Digit Code

What

CVV2 is an important three-digit security feature for merchants who accept Visa cards as payment over the telephone or online. Located on the back of all Visa cards, the CVV2 code consists of the last three digits either printed on the signature panel or on a white box to the right of the security panel.



In the card-not-present sales environment, CVV2 is an excellent tool for verifying that the customer has a legitimate Visa card in hand at the time of the sales order.⁴



How

CVV2 works as follows:

- 1 The customer contacts the merchant to place an order.
- 2 The merchant asks the customer for the CVV2 three-digit code and sends it to the card issuer as part of the authorization request.
- 3 The card issuer checks the CVV2 code to determine its validity, then sends a CVV2 result code back to the merchant along with the authorization decision.
- 4 Before completing the transaction, the merchant evaluates the CVV2 result code, taking into account the authorization decision and any other relevant or questionable data.

CVV2 Without An Authorization Request

A merchant may also verify CVV2 without an accompanying authorization request by using the Zero Amount Account Number Verification Service⁵, which is available in all regions.

Why

Merchants who use CVV2 benefit in a number of ways:

Enhanced Fraud Protection

Because card-not-present merchants are at greater risk for stolen account number schemes, they need to be diligent in their fraud control efforts. CVV2 can help a merchant differentiate between good customers and fraudsters who operate anonymously. It allows merchants to make a more informed decision before completing a non-face-to-face transaction.

Reduced Chargebacks

Using CVV2 potentially reduces fraud-related chargeback volume. Reduced fraud-related chargebacks translate into maximized profitability.

Improved Bottom Line

For card-not-present merchants, fraudulent transactions can lead to lost revenue and can also mean extra processing time and costs, which often narrow profit margins. CVV2 complements the merchant's current fraud detection tools to provide a greater opportunity to control losses and operating costs.

⁴ In certain markets, CVV2 is required to be present for all card-not-present transactions.

⁵ For more information regarding the Zero Amount Account Number Verification Service, contact your merchant bank.

Address Verification Service (U.S. and Canada)

What

AVS allows card-not-present merchants to check a Visa cardholder's billing address with the card issuer. An AVS request includes the billing address (street address and/or zip or postal code). It can be transmitted in one of two ways: (1) as part of an authorization request, or (2) by itself. AVS checks the address information and provides a result code to the merchant that indicates whether the address given by the cardholder matches the address on file with the issuer.

AVS can only be used to confirm addresses in the United States and Canada. In other countries, card issuer participation in AVS is optional.

How

AVS Processed as Part of an Authorization Request

The AVS request can be processed either on a real-time basis or in a batch mode using an electronic terminal or personal computer. Real-time requests are typically used for transaction situations where the customer must wait online for a response. The batch mode is geared more toward low-cost processing in which no immediate response is required as is usually the case with mail orders.

AVS Processed As Part of Account Verification Request

A merchant may also send a stand-alone AVS request without an accompanying authorization request by using the Zero Amount Account Number Verification Service,⁶ which is available in all regions. For example:

- The merchant wants to verify the customer's billing address before requesting an authorization, or
- The merchant sends an authorization request with AVS data and receives an authorization approval, but also receives an AVS "try again later" response.

When AVS is processed as part of an authorization request, or without it using account verification, AVS works as follows:

- 1 The customer contacts the merchant to place an order.
- 2 The merchant:
 - Confirms the usual order information.
 - Asks the customer for the billing address (street address and/or zip or postal code) for the card being used. (i.e. the address is where the customer's monthly Visa statement is sent for the card being used.)
 - Enters the billing address and the transaction information into the authorization request system and processes both requests at the same time.
- 3 The issuer makes an authorization decision separately from AVS request and compares the cardholder billing address sent with the billing address for that account. The issuer then returns both the authorization response and a single character alphabetic code result that indicates whether the address given by the cardholder matches the address on file with the card issuer.

Why

Merchants who use AVS to verify cardholder information benefit in a number of ways.

Minimized Fraud

The value of AVS as an indicator of potential fraud has been amply demonstrated in Visa studies. Since the person fraudulently using a card is not likely to know the cardholder's billing address for that card account, a "no match" AVS result can be a key predictor of potential fraud.

Reduced Chargebacks

Using AVS potentially reduces fraud-related chargeback volume. Reduced fraud-related chargebacks translate into maximized profitability.

Improved Bottom Line

For card-not-present merchants, fraudulent transactions can lead to lost revenue and can also mean extra processing time and costs, which often narrow profit margins. AVS complements the merchant's current fraud detection tools to provide a greater opportunity to control losses and operating costs.

⁶ For more information regarding the Zero Amount Account Number Verification Service, contact your merchant bank.

Verified by Visa

What

Visa's security strategy is built on the belief that the most effective way to address the multiple types of fraud is to employ multiple layers of security and fraud protection. Verified by Visa (VbV) was designed to serve as one of these "multiple layers of security" by providing cardholder authentication for online transactions. Based on the 3-D Secure protocol, the VbV service verifies the authenticity of cardholders to participating merchants. It allows cardholders to choose a password through their card issuer, and use it to authenticate themselves while making a purchase. This helps ensure that their card number cannot be fraudulently used at an Internet merchant web site.

Cardholders sign up for the VbV service through their issuing financial institution and choose their own personal password to authenticate themselves online.

Merchants offering VbV to their customers must incorporate a software module called a Merchant Plug-In (MPI), as part of their e-commerce server application. Merchants who opt to implement VbV should use PCI compliant vendors and payment solutions.

How

VbV Activation

To use VbV, consumers must first activate their existing card(s). There are a number of ways they may do this:

Card issuers typically provide an online activation site.

Visa, card issuers, and participating merchants may display "Activation Anytime"⁷ banners or buttons that enable cardholders to activate their Visa card.

Cardholders may also activate during the shopping experience, where available.

If the cardholder chooses to activate during shopping, he or she provides information to their Visa card issuer for identification purposes. The cardholder then creates a password. On future purchases at participating online stores, the cardholder's Verified by Visa password will be required during checkout, reducing fraudulent use of the card.

- 1 Cardholder uses Visa card to make purchase
- 2 Cardholder enters authentication information requested by their issuing date
- 3 Cardholder creates password
- 4 Cardholder completes purchase

⁷ Activation Anytime is only available in the U.S.



VbV Shopping

Once VbV is activated, a consumer's card is automatically recognized when used for purchases at participating online stores. The consumer is asked for their password; the password is verified; and the transaction is completed.

- 1 After activating their card, cardholder shops at participating stores
- 2 Cardholder submits password at checkout
- 3 Cardholder identity is confirmed and they're done!

Why

Internet merchants who use VbV experience several key benefits.

Reduced Chargebacks

VbV can reduce the risk of fraud and chargeback costs—with minimal impact to the current transaction process. Merchants who use VbV are protected from fraud-related chargebacks on all personal Visa cards—credit or debit, U.S., or non-U.S. country—whether or not the issuer or cardholder is participating in VbV with limited exceptions.

Lowered Transaction Fees

Depending upon processing arrangements with financial institution and payment provider, you could qualify for a lower transaction discount fee on Internet transactions that use VbV, compared to those transactions that do not. Not all merchant categories are eligible for a lower interchange rate as part of their VbV implementation.

Boosted Consumer Confidence

VbV meets consumer concerns regarding safety and protection, which are important factors in a consumer's choice of where to shop online.

Easy Implementation

Merchant Plug-In software is easily installed and can be readily integrated into existing e-commerce systems.

Verified by Visa



Merchant Chargeback Protection

- If the cardholder is successfully authenticated, the merchant is protected from fraud-related chargebacks, and can proceed with authorization using Electronic Commerce Indicator (ECI) of '5'.⁸
- If the card issuer or cardholder is not participating in Verified by Visa, the merchant is protected from fraud-related chargebacks, and can proceed with authorization using ECI of '6'.⁸
- If the card issuer is unable to authenticate, the merchant is **not** protected from fraud-related chargebacks, but can still proceed with authorization using ECI of '7'. This condition occurs if the card type is not supported within VbV or if the cardholder experiences technical problems.

Note: Liability shift rules for VbV transactions may vary by region. Please check with your merchant bank for further information.

VbV Processing Actions

If you are a VbV merchant:

Add the VbV logo on your home, security information, and checkout pages to promote reliable and secure online shopping. Use one of these two approaches:

- **Activation Anytime⁹**—This is the preferred approach that guides your customers directly to an activation page where they can activate their Visa cards without leaving your site.
- **Learn More**—This approach directs your customers to a service description page (hosted by your site) where they can read more about VbV and activate their cards. Be sure to provide clear instructions on how VbV works. Your merchant toolkit includes a "Learn More" page that details the VbV program. The merchant toolkit is available on www.visa.com.

Add a pre-authentication message on the checkout page to inform customers that they may be asked to activate their Visa card for VbV.

Complete the authentication process. Provide the authentication data in the VisaNet authorization request as appropriate.

If authentication fails, request payment by alternate means.

- Quickly display a message or page to communicate to the cardholder that the purchase will not be completed with the card that failed.
- Offer an immediate opportunity for the cardholder to enter a new payment card number and try again, or
- Present a button that, when clicked, opens a new page that allows the cardholder to reinitiate the purchase.

Do not submit an authorization request for VbV transactions that fail authentication.

⁸ A VbV merchant identified by the Merchant Fraud Performance (MFP) program may be subject to chargeback Reason Code 93: Merchant Fraud Performance Program.

⁹ Activation Anytime is only available in the U.S.

CyberSource Risk Management Solutions

Today, there are a wide variety of fraud-screening technologies and practices available to help merchants assess the risk of a transaction in real time and increase the likelihood that they are dealing with a legitimate customer. Fraud-screening tools can be developed internally or acquired from third parties like CyberSource.

CyberSource Risk Management Solutions provide fraud detection for organizations of all sizes. Decision Manager and Managed Risk Services¹⁰ are ideal for mid-to-large companies; Authorize.Net Advanced Fraud Detection Suite™ (AFDS)¹¹ is geared towards small businesses.

- Decision Manager and Managed Risk Services enable mid-size to large companies to detect fraud more accurately, review more efficiently, and improve control over fraud management practices, across all card brands and payment methods. Decision Manager utilizes the widest breadth of data in the market (from the specific merchant, from CyberSource's multi-merchant database, and all transactional data from Visa), and correlates the data to identify fraudulent activity.

CyberSource Decision Manager comes with over 200 detectors, a powerful statistical model built with Visa, a case management system, and detailed reporting. Merchants can supplement Decision Manager with Managed Risk Services, whereby CyberSource fraud analysts provide consultation and recommendations on improving fraud management processes.

Authorize.Net Advanced Fraud Detection Suite (AFDS) is a set of customizable, rules-based filters and tools that help small businesses identify, manage, and prevent suspicious and potentially costly fraudulent transactions. Multiple filters and tools work together to evaluate transactions for indicators of fraud. Their combined logic provides a powerful and highly effective defense against fraudulent transactions. Filters include transaction velocity, IP checks, address mismatches, and more. AFDS is also integrated with the Address Verification Service (AVS) and Card Verification Value 2 (CVV2). Authorize.Net AFDS is a value-added service of the Authorize.Net Payment Gateway.

Merchants that implement CyberSource Risk Management Solutions experience several important benefits.

Increased sales conversion: Generate more order approvals as a result of improved risk-assessment accuracy.

Fewer chargebacks: Lower direct and indirect costs associated with the management of fraudulent transactions.

Direct costs

- Loss of product
- Order shipping and handling costs

Indirect costs (chargeback-related)

- Bank fees
- Customer service staff time
- Cash management and discount rates

Improved customer satisfaction: Increase valid order processing due to the automated fraud screening, allowing your customers to receive goods and services in a timely manner, and reducing customer insult from incorrectly rejecting valid orders.

To learn more about the CyberSource Risk Management Solutions (for mid-size to large companies) visit www.cybersource.com or (for small business) www.authorize.net.

For a copy of the CyberSource Online Fraud Report, white papers regarding online fraud or payment security, visit www.cybersource.com.

For information on Authorize.Net Advance Fraud DetectionSuite, visit www.authorize.net.

¹⁰ CyberSource Decision Manager and Managed Risk Services are available globally.

¹¹ Authorize.Net Advanced Fraud Detection Suite is available in the United States.

Payment Card Industry Data Security Standard

What

The PCI DSS is intended to help protect Visa cardholder data—wherever it resides—ensuring that customers, merchants, and service providers maintain the highest information security standard. It offers a single approach to safeguarding sensitive data for all card brands. PCI DSS compliance is required of all entities that store, process, or transmit Visa cardholder data.

As mandated under the Visa Cardholder Information Security Program (CISP) which is U.S. based effort and the Account Information Security (AIS) program which is implemented in non-U.S. countries, all Visa clients, merchants, and service providers must adhere to the PCI DSS.

The PCI DSS consists of twelve easy-to-remember basic requirements supported by more detailed sub-requirements.

Build and Maintain a Secure Network

- 1 Install and maintain a firewall configuration to protect cardholder data
- 2 Do not use vendor-supplied defaults for system passwords and other security parameters

Protect Cardholder Data

- 3 Protect stored cardholder data
- 4 Encrypt transmission of cardholder data across open, public networks

Maintain a Vulnerability Management Program

- 5 Use and regularly update anti-virus software
- 6 Develop and maintain secure systems and applications

Implement Strong Access Control Measures

- 7 Restrict access to cardholder data by business need-to-know
- 8 Assign a unique ID to each person with computer access
- 9 Restrict physical access to cardholder data

Regularly Monitor and Test Networks

- 10 Track and monitor all access to network resources and cardholder data
- 11 Regularly test security systems and processes

Maintain an Information Security Policy

- 12 Maintain a policy that addresses information security



How

Separate and distinct from the mandate to comply is the validation of compliance. It is an ongoing process that helps ensure the safety and security of Visa cardholder data (wherever it is located), and holds all Visa members accountable for verifying that their merchants and all supporting service providers adhere to the PCI DSS requirements.

Visa has prioritized and defined levels of CISP and AIS compliance validation based on the volume of transactions, the potential risk, and exposure introduced into the Visa System by merchants and service providers. For specifics about the validation requirements, visit www.visa.com or contact your merchant bank.

Why

By complying with PCI DSS requirements, merchants not only meet their obligations to the Visa payment system, but also:

Consumer Trust in the Security of Sensitive Information

Customers seek out merchants that they feel are "safe." Confident consumers are loyal customers. They come back again and again, as well as share their experience with others.

Minimized Direct Losses and Associated Operating Expenses

Appropriate data security protects cardholders, limits risk exposure, and minimizes the losses and operational expense that stem from compromised cardholder information.

Maintained Positive Image

Information security is on everyone's mind—including the media's. Data loss or compromise not only hurts customers, it can seriously damage a business's reputation.

For more information, contact your merchant bank or visit www.pcissc.org

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Global Visa Card-Not-Present Merchant Guide to Greater Fraud Control | 9

Payment Card Industry Data Security Standard

Sensitive Data Storage and Security

All stored sensitive cardholder account information must comply with the PCI DSS and *Visa International Operating Regulations*. To protect sensitive customer information from compromise merchants that store, process, or transmit cardholder data must:

Keep all material containing account numbers—whether on paper or electronically—in a secure area accessible to only selected personnel.

Render cardholder data unreadable, both in storage and prior to discarding.

Never retain full-track, magnetic-stripe data and CVV2 data subsequent to transaction authorization. Storage of track data elements in excess of name, account number, and expiration date after transaction authorization is strictly prohibited.

Use payment applications that comply with the PCI Payment Application Data Security Standard (PA-DSS).

A list of validated payment applications is available at www.pcissc.org. For more information about CyberSource payment security solutions addressing PCI, please visit www.cybersource.com

Protect Your Cardholders and Your Business

Work with your merchant bank to understand your information security and what's required of you and your service provider(s) in regard to PCI DSS compliance.

Train your employees on compliance basics.

Know your liability for data security problems. Many merchant banks today are providing contracts that explicitly hold merchants liable for losses resulting from compromised card data if the merchant (and/or service provider) lacked adequate data security. Other liability, such as to consumers, may also arise.

If you experience a suspected or confirmed security breach, take immediate steps to contain and limit exposure.

Alert all necessary parties of a suspected or confirmed security breach immediately.

Provide any compromised Visa accounts to your merchant bank within 24 hours.



Glossary of Terms

Address Verification Service (AVS)	A risk management tool that enables a merchant to verify the billing address of a customer presenting a Visa card for payment. The merchant includes an AVS request with the transaction authorization and receives a result code indicating whether the address given by the cardholder matches the address in the issuer's file. A "Partial" or "No Match" may indicate fraud risk.
Authentication	Involves the verification of the cardholder and the card. At the time of authorization, to the greatest extent possible, the e-commerce merchant should use fraud prevention controls and tools to validate the cardholder's identity and the Visa card being used.
Authorization	The process by which an issuer approves (or declines) a Visa card purchase takes place at the same time as the transaction.
Card-not-present	An environment where a transaction is completed and both the cardholder and the card are not present. Transactions in this environment include mail/phone order transactions and Internet transactions.
Card Verification Value 2 (CVV2)	A three-digit value that is printed on the back of a Visa card, provides a cryptographic check of the information embossed on a card, and assures the merchant, merchant bank, and issuer that the card is in possession of the cardholder. Card-absent merchants should ask the customer for the CVV2 to verify the card's authenticity. For information security purposes, merchants are prohibited from storing CVV2 data.
Chargeback	A processed bankcard transaction that is later rejected and returned to the merchant bank by the issuer for a specific reason, such as a cardholder dispute or fraud. The merchant bank may then return the transaction to the merchant, which may have to accept the dollar loss unless the transaction can be successfully represented to the issuer.
Electronic Commerce Indicator (ECI)	A transaction data field used by e-commerce merchants and merchant banks to differentiate Internet merchants from other merchant types. Use of the ECI in authorization and settlement messages helps e-commerce merchants meet Visa processing requirements and enables Internet transactions to be distinguished from other transaction types. Visa requires all e-commerce merchants to use the ECI.
Expiration date	The date after which a bankcard is no longer valid, embossed on the front of all valid Visa cards. The "Good Thru" date is one of the card security features that should be checked by merchants to ensure that a card-present transaction is valid.
Fraud scoring	A category of predictive fraud detection models or technologies that may vary widely in sophistication and effectiveness. The most efficient scoring models use predictive software techniques to capture relationships and patterns of fraudulent activity, and to differentiate these patterns from legitimate purchasing activity. Scoring models typically assign a numeric value that indicates the likelihood that an individual transaction will be fraudulent.
Issuer	A financial institution that issues Visa cards to cardholders, and with which each cardholder has an agreement to repay the outstanding debt on the card. Also known as a <i>consumer bank</i> .
Merchant bank	A financial institution or merchant bank that contracts with a merchant to accept Visa cards as payment for goods and services and enables the use of Visa cards as a form of payment. Also known as a <i>merchant bank</i> .
Payment Card Industry (PCI) Data Security Standard (DSS)	A set of requirements established by the Payment Card Industry to protect cardholder data. These requirements apply to all members, merchants, and agents that store, process, or transmit cardholder data.
Verified by Visa (VbV)	A Visa Internet payment authentication system that validates a cardholder's ownership of an account in real time during an online payment transaction.



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CyberSource to buy Authorize.Net in 565 mln usd deal

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By : Agencies

URL : <http://www.abcmoney.co.uk/news/18200789217.htm>

LONDON (Thomson Financial) - Electronic payment company CyberSource Corporation said it has agreed to buy Authorize.Net in a stock and cash transaction valued at approximately 565 mln usd.

Under the agreement, Authorize.Net shareholders will receive 1.1611 shares of CyberSource stock for every share of Authorize.Net common stock.

Additionally, shareholders will receive a pro-rata share of approximately 125 mln usd in cash.

CyberSource said the transaction is expected to be accretive in the fourth quarter of 2007 on a non-GAAP basis, and is expected to close in late September or early October 2007.

tf.TFN-Europe_newsdesk@thomson.com

rw

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EXHIBIT AA

Exhibit documenting Visa considers use of CVV and AVS as best practice

Card Acceptance Guidelines for Visa Merchants – A longer 2011 Visa document. In the document's introduction (p. 1) the CVV2 is described as part of "best practices." On page 47 of the document it declares, "Studies show that merchants who include CVV2 validation in their authorization procedures for card-absent transactions can reduce their fraud-related chargebacks, and should use CVV2 as a fraud reduction tool." An extensive discussion of AVS is on pp. 49-53 and clearly explains that AVS cannot check addresses outside the US and Canada.

VISA

Card Acceptance Guidelines for Visa Merchants

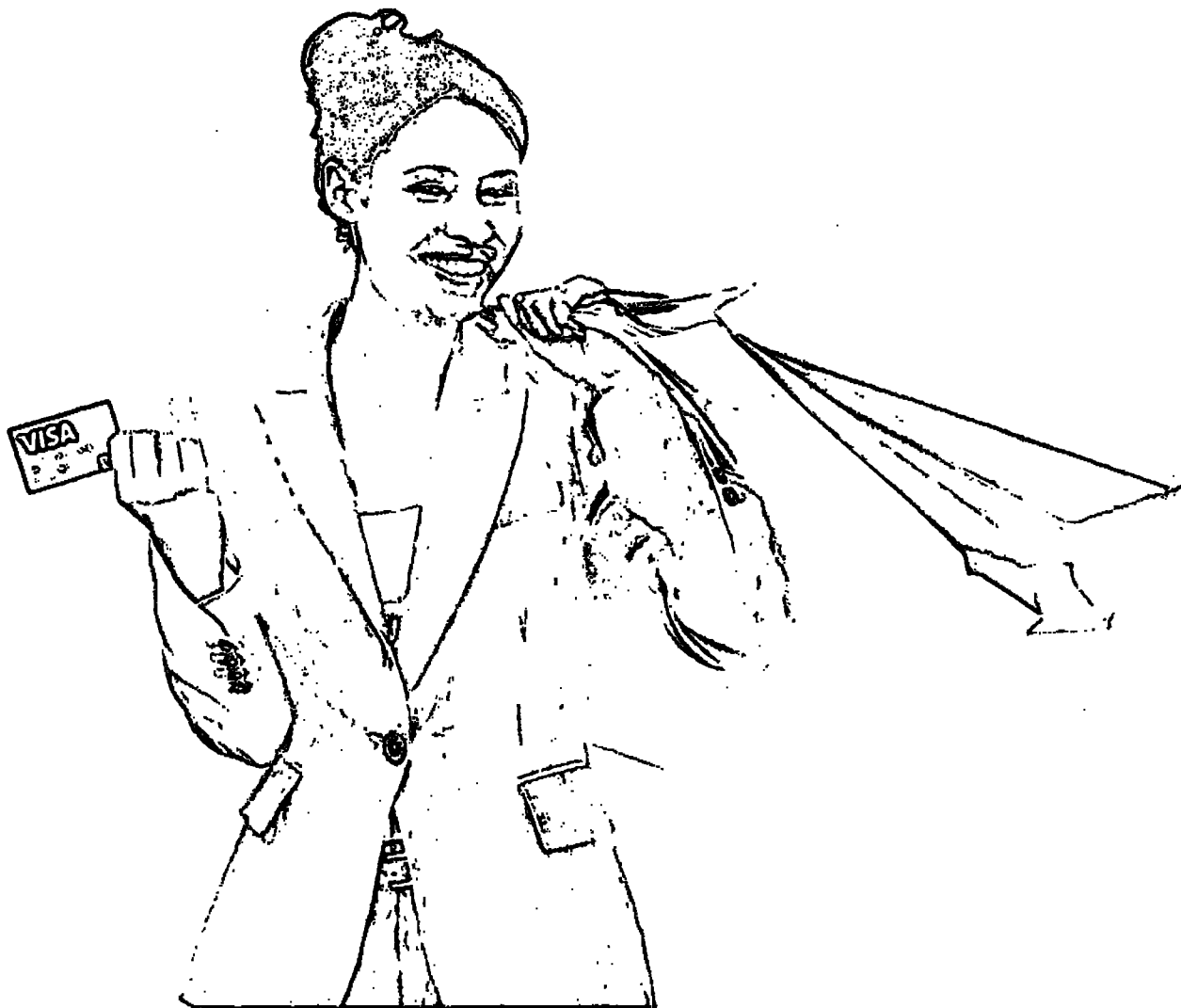


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General Card-Absent Transaction Procedures

Card-Absent Transaction Processing Actions

Mail order/telephone order (MO/TO) and Internet merchants must verify—to the greatest extent possible—the cardholder's identity and the validity of the transaction.

- Always ensure that, at a minimum, you collect the following details from your customer:
 - The card account number
 - The name as it appears on the card
 - The card expiration date as it appears on the card
 - The cardholder's statement address
- Also check whether the card has a card start date and record this detail.
- If possible, take note of a contact phone number (preferably not a cell phone number) and the name of the financial institution that issued the card.
- If you are taking an order over the telephone:
 - Record the time and date of your conversation.
 - Make a note of the details of the conversation.

In the event of a query, these details can then be verified with the cardholder.

- If you are taking an order through the mail or via a fax:
 - Obtain a signature on the order form.
 - Always retain a copy of the written order.
 - Get proof of delivery.

Your acquirer may ask that you record some additional information. You should find out what your acquirer requirements are and include them in your transaction processing policies and procedures.



- If available, use fraud prevention tools such as Card Verification Value 2 (CVV2)*, Address Verification Service (AVS)**, and Verified by Visa.
- Perform internal screening (e.g., velocity checks, negative database, etc.) or use third party tools to screen for questionable transaction data or other potential warning signs indicating "out of pattern" orders. Route transactions with higher risk characteristics for fraud review.

* In certain markets, CVV2 is required to be present for all card-absent transactions.

** AVS is only available in the U.S. and Canada.

Fraud Prevention Guidelines for Card-Absent Transactions

Visa has established a range of fraud prevention policies, guidelines, and services for card-absent merchants. Using these tools will help protect your business from fraud-related chargebacks and losses. MO/TO and Internet merchants should strongly consider developing in-house fraud control policies and providing appropriate training for their employees.

The following sections outline basic fraud prevention guidelines and best practices for card-absent merchants.

Authorize All Card-Absent Transactions	Authorization is required on all card-absent transactions. Card-absent transactions are considered as zero-floor-limit sales. Authorization should occur before any merchandise is shipped or service performed.
Ask for Card Expiration Date	<p>Whenever possible, card-absent merchants should ask customers for their card expiration, or "Good Thru," date and include it in their authorization requests.</p> <p>Including the date helps verify that the card and transaction are legitimate. A MO/TO or Internet order containing an invalid or missing expiration date may indicate counterfeit or other unauthorized use.</p>
Ask for CVV2	<p>The Card Verification Value 2 (CVV2)* is a three-digit security number printed on the back of Visa cards to help validate that a customer is in possession of the card at the time of an order. (See <i>Visa Card Features and Security Elements</i> in <i>Section 2: Card-Present Transaction</i> of this manual.)</p> <p>Studies show that merchants who include CVV2 validation in their authorization procedures for card-absent transactions can reduce their fraud-related chargebacks, and should use CVV2 as a fraud reduction tool.</p>
CVV2 Processing	<p>To ensure proper CVV2 processing for card-absent transactions, merchants should:</p> <ul style="list-style-type: none"> • Ask card-absent customers for the last three numbers in or beside the signature panel on the back of their Visa cards. • If the customer provides a CVV2, submit this information with other transaction data (i.e., card expiration date and account number) for electronic authorization.

* In certain markets, CVV2 is required to be present for all card-absent transactions.

Section 3: Card-Absent Transactions

- You should also include one of the following CVV2* presence indicators, even if you are not including a CVV2 in your authorization request:

If:	Send this Indicator to the Card Issuer:
You have chosen not to submit CVV2	0
You included CVV2 in the authorization request	1
Cardholder has stated CVV2 is illegible	2
Cardholder has stated CVV2 is not on the card	9

- After receiving a positive authorization response, evaluate the CVV2 result code and take appropriate action based on all transaction characteristics.

Result:	Action:
M - Match	Complete the transaction (taking into account all transaction characteristics and any questionable data).
N - No Match**	View the "No-Match" as a sign of potential fraud and take it into account along with the authorization response and any other questionable data. Potentially hold the order for further verification.
P - Not Processed	View the "Not Processed" as a systemic technical problem or the request did not contain all the information needed to verify the CVV2 code. Resubmit the authorization request.
S - CVV2 should be on the card	Consider following up with your customer to verify that he or she checked the correct card location for CVV2. All valid cards are required to have CVV2 printed either in the signature panel or in a white box to the right of the signature panel.
U - Card issuer does not participate in the CVV2 service	Evaluate all available information and decide whether to proceed with the transaction or investigate further.

- Merchants should check with their acquirer regarding CVV2 result code evaluation decisions and appropriate actions.



A cardholder's CVV2 may never be stored as a part of order information or customer data. The storage of CVV2 is strictly prohibited subsequent to authorization.

* In certain markets, CVV2 is required to be present for all card-absent transactions.

** In some markets, if the transaction is approved, but the CVV2 response is a no match, the merchant is protected against fraud chargebacks.

**Billing Address
Verification
with AVS**



The Address Verification Service (AVS)* allows card-absent merchants to check a Visa cardholder's billing address with the card issuer. An AVS request includes the billing address (street address and/or zip or postal code). It can be transmitted in one of two ways:

1. As part of an authorization request, **or**
2. By itself. AVS checks the address information and provides a result code to the merchant that indicates whether the address given by the cardholder matches the address on file with the card issuer.

AVS can only be used to confirm addresses in the U.S., and Canada. In other countries, card issuer participation is optional.

AVS Processing Options

AVS Processed as Part of an Authorization Request

The AVS request can be processed either on a real-time basis or in a batch mode using an electronic terminal or personal computer. Real-time requests are typically used for transaction situations where the customer must wait online for a response. The batch mode is geared more toward lower-cost processing for which no immediate response is required as is usually the case with mail orders.

AVS Processed As Part of Account Verification Request

A merchant may also send an AVS request without an accompanying authorization request by using the Zero Amount Account Number Verification Service**, which is available in all regions. For example:

- The merchant wants to verify the customer's billing address before requesting an authorization, **or**
- The merchant sends an authorization request with AVS data and receives an authorization approval, but also receives an AVS "try again later" response.

* AVS is only available in the U.S. and Canada.

** For more information regarding the Zero Amount Account Number Verification Service, contact your acquirer.

How to Use AVS

Whether AVS* is processed as part of an authorization request, or without it using account verification, the process is as follows:

- When a customer contacts you to place an order,
 - Confirm the usual order information.
 - Ask the customer for the billing address (street address and/or zip or postal code) for the card being used (i.e., the billing address is where the customer's monthly Visa statement is sent for the card being used).
 - Enter the billing address and the transaction information into the authorization request system and process both requests at the same time.
- The card issuer will make an authorization decision separately from the AVS request and compare the cardholder billing address sent with the billing address for that account. The card issuer will then return both the authorization response and a single character alphabetic code result that indicates whether the address given by the cardholder matches the address on file with the card issuer.

You should evaluate the AVS response code and take appropriate action based on all transaction characteristics and any other verification information received with the authorization (i.e., expiration date, CVV2**, etc.). An authorization response **always** takes precedence over AVS. Do not accept any transaction that has been declined, regardless of the AVS response.

* AVS is only available in the U.S. and Canada.

** In certain markets, CVV2 is required to be present for all card-absent transactions.

AVS Result Codes

One of the following AVS* result codes will be returned to the merchant indicating the card issuer's response to the AVS request. A merchant's acquirer may modify these single character alpha AVS codes to make them more self-explanatory—for example, a "Y" response may be shown by the acquirer as an "exact match" or as a "full match," while an "N" response may be shown as a "no match."

Code	Definition	Code Applies to	
		Domestic	Cross-border
A	Street addresses match. The street addresses match but the postal or ZIP codes do not, or the request does not include the postal or ZIP code.	✓	✓
B	Street addresses match. Postal or ZIP code not verified due to incompatible formats. (Acquirer sent both street address and postal or ZIP code.)	✓	✓
C	Street address and postal code or ZIP code not verified due to incompatible formats. (Acquirer sent both street address and postal or ZIP code.)	✓	✓
D	Street addresses and postal or ZIP codes match.		✓
F	Street addresses and postal codes match. (Applies to U.K.-domestic transactions only.)	✓	
G	Address information not verified for international transaction. Card issuer is not an AVS participant, or AVS data was present in the request but card issuer did not return an AVS result, or Visa performed address verification on behalf of the card issuer and there was no address.		✓
I	Address information not verified.		✓
M	Street address and postal and ZIP codes match.		✓
N	No match. Acquirer sent postal or ZIP code only, or street address only, or both postal or ZIP code and street address.	✓	✓
P	Postal or ZIP codes match. Acquirer sent both postal or ZIP code and street address, but street address not verified due to incompatible formats.	✓	✓
R	Retry. System unavailable or timed out. Card issuer ordinarily performs address verification but was unavailable. Visa uses code R when card issuers are unavailable.	✓	
U	Address information is unavailable for that account number, or the card issuer does not support.	✓	
Y	Street address and postal and ZIP code match.	✓	
Z	Postal or ZIP codes match, street addresses do not match or street address not included in request.	✓	✓

Please contact your acquiring bank for further questions on AVS result codes.



If you complete a transaction for which you received an authorization approval and an AVS response of "U" (unavailable), and the transaction is later charged back to you as fraudulent, your acquirer may represent the item. U.S. card issuers must support AVS or lose their right to fraud chargebacks for card-absent transactions. Card issuers also lose fraud chargeback rights for "U" responses in CVV2** request situations.

* AVS is only available in the U.S. and Canada.

** In certain markets, CVV2 is required to be present for all card-absent transactions.

Section 3: Card-Absent Transactions

Guidelines for Using Domestic and Cross-border AVS Result Codes

While Visa does not recommend any particular approach, the following general guidelines are drawn from card-absent industry practices and may be helpful. Merchants should establish their own policy regarding the handling of transactions based on AVS* result codes.

U.S. Code	Int'l Code	Definition	Explanation	Action(s) to Consider
Y	D F M	Exact Match	Both street address and ZIP or Postal Code match.	Generally speaking, you will want to proceed with transactions for which you have received an authorization approval and an "exact match."
A	B	Partial Match	Street address matches, but ZIP or Postal Code does not.	You may want to follow up before shipping merchandise. The card issuer might have the wrong ZIP or Postal Code in its file; merchant staff may have entered the ZIP or Postal Code incorrectly; or this response may indicate a potentially fraudulent situation.
Z	P	Partial Match	ZIP Code matches, but street address does not.	Unless you sent only a ZIP or Postal Code AVS request and it matched, you may want to follow up before shipping merchandise. The card issuer may have the wrong address in its file or have the same address information in a different format; the cardholder may have recently moved; merchant staff may have entered the address incorrectly; or this response may indicate a potentially fraudulent situation.
N	N	No Match	Street address and ZIP or Postal Code do not match.	You may want to follow up with the cardholder before shipping merchandise. The cardholder may have moved recently and not yet notified the card issuer; the cardholder may have given you the shipping address instead of the billing address; or the person may be attempting to execute a fraudulent transaction. "No match" responses generally result in further merchant investigation.

AVS result codes and explanation provided here are meant to give you enough information to make your own determination of what works best for you. How one merchant treats these codes may be different than the way another merchant treats the same codes.



On ZIP or Postal Code only requests and P.O. Box addresses, card issuers may respond either with a "Y" (Exact Match) or a "Z" (Partial Match — ZIP Code/Postal Code Matches).

* AVS is only available in the U.S. and Canada.

International Addresses

AVS* can only be used to confirm addresses in the U.S. and Canada. If you submit an address outside the U.S. and Canada you will receive the response message "G" for "Global." In such cases, you should take further steps to verify the address. You will be liable for any chargebacks if you accept the transaction, even if the card issuer approves it.



Merchant Direct Access Service (MDAS)**

The Merchant Direct Access Service (MDAS) offers merchants access to AVS by dialing a toll-free number using a touch-tone phone. The service is specifically targeted to small MO/TO or Internet merchants for whom AVS may not otherwise be cost effective. Merchants using MDAS are charged on a per-transaction basis.

To use MDAS, you need a touch-tone phone with an outgoing line and a Merchant Access Code (MAC) obtained from your acquirer. To request an address verification, call the MDAS toll-free number. An automated voice unit will guide you through the process of submitting a customer's account number and address, and give you the results of the verification.

MDAS responses are similar to AVS, but do not include a single-letter response code.

MDAS Response	What It Means
Exact Match	Street address and zip code match.
Partial Match	Street address matches, but not zip code.
Partial Match	Zip code matches, but not street address.
No Match	Neither street address nor zip code matches.
Retry Later	Card issuer system is not available at present.
Global	International address; cannot be verified.

Internet Transactions

Today, more and more merchants are adding online sales to their traditional card-present operations. As a result, Visa has developed guidelines and fraud prevention services especially for the Internet.

* AVS is only available in the U.S. and Canada.

** MDAS is only available in the U.S.

EXHIBIT BB

Documentation Obama for America did not use the CVV in the 2012 Campaign

150844380914

The Obama 2012 Campaign's non-use of the campaign was widely observed during the 2012 election cycle, both on opinion blogs, and in online news sources. This omission of use continued through the completion of the 2012 election and was widely reported. The reports below come from the following sources:

- Pameler Geller's Blog Atlas Shrugs, **Obama Campaign Contribution Fraud Continues: Donor Adolf Hitler, 123 Nuremburg Way, Berlin, Germany** http://atlasshrugs2000.typepad.com/atlas_shrugs/2012/04/page/12/ -- posted April 3, 2012. Accessed August 23, 2012
- Scott Johnson at the Powerline Blog: "Dubious Donations (2012 Edition)" <http://www.powerlineblog.com/archives/2012/04/dubious-donations-2012-edition.php>.
- "The President's Online Donations Upgrade" by Neil Munro; The Daily Caller, April 5, 2012. Accessed at <http://dailycaller.com/2012/04/05/the-presidents-online-donations-upgrade/?print=1> on August 23, 2013
- "Fraud found in Obama's Online Donations" by Neil Munro; The Daily Caller May 8, 2012.
- For context we also include an article concerning this practice by the Obama Campaign in the 2008 election by Matthew Mosk in the Washington Post: "Obama Accepting Untraceable Contributions Reviewed After Deposits" by Matthew Mosk, The Washington Post, October 29, 2008 pg A02

1 of 1 DOCUMENT

Atlas Shrugs

April 3, 2012 Tuesday 2:15 AM EST

Obama Campaign Contribution Fraud Continues: Donor Adolph Hitler, 123 Nuremburg Way, Berlin, Germany

BYLINE: Pamela Geller

LENGTH: 1312 words

I donated as Don Corleone - \$2.00 (they wouldn't let me contribute a \$1.00, it had to be at least two bucks.) Don Corleone, 666 Godfather Way, Sleeps with the Fishes, NY. 10001 Email: omerta@gmail.com

Back in 2008, I broke numerous campaign stories on the millions of dollars in illegal contributions that Obama received. It was meticulously documented in my book, *The Post-American Presidency: The Obama Administration's War on America*. Also, check out my article in *The American Thinker*, *Obama's Foreign Donors: The media averts its eyes: It was feckless, reckless and lawless. Worse, Obama got away with it. All of it.*

Atlas broke the story of tens of thousands of dollars coming in from Hamas controlled Gaza; millions coming in from Muslim countries, imaginary Obama's Contributors: Good Will, Loving you, Doo da DooDa and gibberish donors

Credit card fraud was rampant with John Galt, Saddam Hussein, Osama Bin Laden, Bill Ayers, all making contributions. A number of Atlas readers and FB friends have advised me that the credit card fraud is in full swing again. Adrian Murray went to barackobama.com and donated \$3 using the name Adolph Hitler, 123 Nuremburg Way, Berlin, Germany and for good measure put in Dictator of Nazi Party as employer. Got an email back saying Dear Adolph, Thank you for your generous donation....

Because the Obama campaign does not require the CVV 3-digit security code for credit card charges, anyone can donate to Obama's campaign.

The media, in their continuing act of perfidy and criminally corrupt silence, says nothing, does nothing and refuse to report on these blatant election fraud abuses. And it's happening again. Now.

Tom Blumer reports here: *Top Obama Bundler Accused of Fraud; Obama Campaign Disables Credit Card Verification System (Again)*

AP spins it as "See, Obama is so transparent that we actually know when his fundraisers get accused of crimes."

The New York donor, Abake Assongba, and her husband contributed more than \$50,000 to Obama's re-election effort this year, federal records show. But Assongba is also fending off a civil court case in Florida, where she's accused

of thieving more than \$650,000 to help build a multimillion-dollar home in the state - a charge her husband denies.

Obama is the only presidential contender this year who released his list of "bundlers," the financiers who raise campaign money by soliciting high-dollar contributions from friends and associates. But that disclosure has not come without snags; his campaign returned \$200,000 last month to Carlos and Alberto Cardona, the brothers of a Mexican fugitive wanted on federal drug charges.

The Obama campaign is not transparent. It may not even be fundraising within the law. At the other end of the Obama campaign's fundraising, the low dollar donation end they have been emphasizing and using to raffle off dates with the president, they have apparently switched off the credit card address verification system again. Adrian Murray posted this on facebook, on March 31.

The fraud continues. Just went to barackobama.com and donated \$3 using the name Adolph Hitler, 123 Nuremburg Way, Berlin, Germany and for good measure put in Dictator of Nazi Party as employer. Got an email back saying Dear Adolph, Thank you for your generous donation....

The point? To prevent credit card fraud, merchants require that the address match what the credit card issuer has on file. Called the Address Verification System (AVS), an additional layer of protection requires the three digit security code. The Obama team has disabled the AVS so anyone anywhere in the world can anonymously donate to his campaign, thereby exceeding campaign donation limits and violating federal finance laws. They pulled the same stunt in 2008, but the media wouldn't report it.

The Obama campaign switched the AVS off in 2008, and the MSM never called them on it. Murray followed up by trying the same trick with two of the Republican candidates' web sites:

I then went to the Romney and Santorum websites and tried the same thing. Both rejected the donations with a message that the address could not be verified as belonging to the card holder.

Try it. Make up a name and an address and donate to Obama. Then try it with the other two. Only Obama will accept the donation.

Disabling the AVS system has to be done intentionally. According to Adrian Murray, it has been done on the Obama campaign web site - again.

Atlas exclusive groundbreaking coverage:

July 19, 2008: CAMPAIGN FINANCE FRAUD: Obama, who is Jeanne McCurdy?

July 23, 2008: Obama's Foreign Contributions

July 30, 2008: Obama's Anonymous Foreign Donors and Other Bizarre Illegal Activity

July 31, 2008: Obama's Gazan Contributions

July 31, 2008: Obama, Who is Dr. Okechukwu Dimkpa?

July 31, 2008: Obama's Contributors: Good Will? Loving you? UPDATE: Doo da Doo Da

August 2, 2008: And then there are Obama's Gibberish Donors

August 3, 2008: Obama's Fishy "Personal" Fund Raising Pages

August 3, 2008: Obama's "Odd" Contributions: More evidence of foreign contributors

August 4, 2008: WND RUNS MY OBAMA GAZA CONTRIBUTION EXCLUSIVE

August 5, 2008: Poll: AMERICANS DISGUSTED WITH OBAMA'S JIHAD CONTRIBUTIONS

August 6, 2008: Gazans Deny Obama Returned their Jihad Dough: No Honor Among Thieves

August 6, 2008: "PALESTINIAN" CAMPAIGN CONTRIBUTION: OBAMA SHIPPED TEE SHIRTS TO GAZA?

August 10, 2008: OBAMA'S DONATION OBAMANATION: Saputra, Anton , INDONESIA

August 10, 2008: OBAMA'S FOREIGN DONATIONS: THE GLOBAL CANDIDATE FROM IRAN TO BRAZIL TO SOROS

August 10, 2008: OSAMA FOR OBAMA! THIRD "PALESTINIAN" BROTHER/DONOR EXPOSED! "GAZAN" CONTRIBUTIONS FLAGGED BY FEC, OBAMA NEVER REPORTED

August 11, 2008: Obama Response to FEC: Chicago Style "Plausible" Deniability?

August 11, 2008: Obama Contributions: Moving On MoveOn's Money

August 13, 2008: To the Best of Obama's Ability

August 14, 2008: ATLAS, AMERICAN THINKER..... MEDIA AVERSION

August 18, 2008: OBAMA'S CONTRIBUTIONS: I SEE FAKE PEOPLE ... OVER THE LIMIT

August 26, 2008: OBAMA LIED: "Palestinian" Campaign Contributions NEVER RETURNED OR REFUNDED

September 13, 2008: JUST WHO IS CONTRIBUTING, OBAMA?

September 18, 2008: ALSHEIKH, RIYADH CAMPAIGN \$\$ FOR OBAMA

October 1, 2008: More media on Obama's Foreign, Illegal Contributions

October 2, 2008: OBAMA'S FOREIGN DONATIONS: Jagan, Son of chief minister of Andhrapradesh

October 2, 2008: OBAMA FOREIGN ILLEGAL CONTRIBUTIONS: INFILTRATION AT FEC, DOJ, and FBI

October 4, 2008: More Fraud in the Obama Campaign Donations

October 5, 2008: OBAMA CONTRIBUTIONS: THE RNC FINALLY BLINKS!, ATLAS GETS RESULTS! NEWSWEAK PLAGIARIZES ATLAS

October 6, 2008: MCCAIN MENTIONS GAZA CONTRIBUTIONS

October 14, 2008: Atlas Attribution in San Francisco Examiner

October 18, 2008: More Obama Campaign Contribution Irregularities

October 21, 2008: OBAMA'S CONTRIBUTIONS/EXPENSES: ABSOLUTE CORRUPTION

October 22, 2008: "WHO IS JOHN GALT? A CONTRIBUTOR TO COLLECTIVIST OBAMA'S
CAMPAIGN, OF COURSE! UPDATE: RNC FILES SUPPLEMENT COMPLAINT TO FEC"

October 23, 2008: OBAMA ACCEPTS DONATIONS FROM AL QAEDA LINKED TERRORISTS

October 24, 2008: MORE RECKLESS OBAMA CAMPAIGN FRAUD: NO REFUNDS, NO
ACCOUNTABILITY, MORE GIBBERISH DONORS

October 24, 2008: National Journal: OBAMA'S FEC LOOPHOLES

October 25, 2008: ATLAS EXCLUSIVE: OBAMA'S CONTRIBUTIONS FROM ACTIVIST JUDGES

October 25, 2008: CONTRIBUTION FRAUD: John Galt, Saddam Hussein, Osama Bin
Laden, Bill Ayers - Obama has Charged Your Credit card

October 27, 2008: CAMPAIGN FINANCE FRAUD: OBAMA'S LATEST RUSE, DEFLECT/RUN

October 27, 2008: I heard Atlas was Cited at FOX this morning on Campaign
Finance Fraud

October 29, 2008: OBAMA'S CAMPAIGN BOGUS CAMPAIGN FRAUD RESPONSE

October 29, 2008: OBAMA CAMPAIGN FRAUD: STILL TAKING FICTITIOUS DONORS, CREDIT
CARD FRAUD

November 3, 2008: THE BEST ANALYSIS OF CAMPAIGN FRAUD: TOM BLUMER

November 11, 2008: OBAMA ABOVE THE LAW: WILL ESCAPE MASSIVE CAMPAIGN FRAUD AND
MONEY LAUNDERING

LOAD-DATE: April 03, 2012

LANGUAGE: ENGLISH

PUBLICATION-TYPE: Web Blog

JOURNAL-CODE: ATLS-0001

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POSTED ON APRIL 2, 2012 BY SCOTT JOHNSON IN 2012 PRESIDENTIAL ELECTION**DUBIOUS DONATIONS (2012 EDITION)**

Barack Obama has proved the greatest campaign fund-raiser of all time by a long shot. In 2008 his campaign raised more than \$250 million. The Obama campaign even went the extra mile to raise campaign funds by failing to adopt standard protections against fraudulent and illegal giving. Federal law prohibits foreign contributions and requires the disclosure of identifying information for contributions in excess of \$200. Campaigns must accordingly keep running totals for each donor and report them once they exceed \$200.

As we and others noted, the 2008 Obama campaign's records revealed big contributors with names like "Doodad Pro" (employer: "Loving," profession: "You") and "Good Will" (same employer and profession). Both donated via credit card. I believe it was Pamela Geller who reported that some donations came from overseas — raising the question of whether Obama was accepting donations from foreigners.

All of which prompted an enterprising reader to test the controls put in place to enforce compliance with federal campaign law by the Obama and McCain campaigns. He decided to conduct an experiment. He went to the Obama campaign Web site and made a donation under the name "John Galt" (the hero of Ayn Rand's novel *Atlas Shrugged*). He provided the equally fictitious address "1957 Ayn Rand Lane, Galts Gulch, CO 99999." He checked the box next to \$15 and entered his actual credit-card number and expiration date. He was then taken to the next page and notified that his donation had been processed. Others repeated "John Galt's" experiment, giving to Obama under such fictitious names as Della Ware, Joe Plumber, Idiot Savant, Ima BadDonation (with a Canadian bank card) and Fake Donor.

The Obama campaign was able to take these donations because it had turned off the standard Address Verification System that screens credit-card charges for matching names and addresses. (It can also screen cards issued by foreign banks.) The McCain campaign used AVS and provided a searchable database of all donors, including those who fell below the \$200 threshold. The Obama campaign chose not to use the AVS system to screen donations. (The McCain campaign rejected such donations through the use of the AVS system.) You can find a good description of the AVS and CVV fraud prevention devices [here](#).

I wrote about this in the New York Post column "[Dubious donations](#)." The Post subhead observed: "Bam's Web site invites fraud." The Washington Post reported on the matter two days later in the story "[Obama accepting untraceable donations](#)," by Matthew Mosk. Mosk quotes Obama campaign officials on their practices. According to them, everything was copacetic.

Urgent Agenda reader Adrian Murray wondered if the Obama campaign has become any more compliant this time

around than it was last time. He conducted the necessary experiment and wrote Urgent Agenda proprietor Bill Katz:

If you go here you will note that credit card donations to the Obama election campaign do not require the credit card security code [i.e., the CVV code]. What they have done is disable the Address Verification System (AVS) which prevents credit card fraud. Yesterday, just to see what would happen, I submitted a donation and filled out the form as follows:

Name – Adolph Hitler

Address – 123 Nuremburg Way, Berlin, Germany

Occupation – Dictator

Employer – Nazi Party

After submitting, I received an email that began, "Dear Adolph, thank you for your generous donation...."

I then went to the Romney and Santorum websites and tried the same thing. Both rejected the donations with a message that the address could not be verified as belonging to the card holder.

Try it. Make up a name and an address and donate to Obama. Then try it with the other two. Only Obama will accept the donation.

Why is this important? Federal law prohibits any foreign nationals from financially contributing to any election in the United States. It's on the FEC website and is one of our most important safeguards against foreign influence in our elections. But anybody in the world can contribute to Obama. Not only that, but they can do so anonymously. Not only that, they can contribute an unlimited amount since there is no record of who made the donation. I could contribute \$49 every day for the rest of my life by just changing names every time I reach \$2,500 and no one would be the wiser.

I haven't repeated Mr. Murray's experiment, but I believe the situation is as described in the words of the Talking Heads: "Same as it ever was."

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- The Daily Caller - http://dailycaller.com -

The president's online donations upgrade

Posted By [Neil Munro](#) On 8:22 AM 04/05/2012 In Politics | [No Comments](#)

President Barack Obama has redesigned his online donations system to reject some anonymous donations, although his website still accepts donations made with bogus names.

In 2008, reporters discovered that Obama's campaign website was configured to accept donations from unidentifiable donors, including donors overseas.

But in a test April 4, Obama's site rejected donations from unidentifiable donors.

Numerous bloggers have decried Obama's site in the last few days because it does not ask donors to submit the three-digit anti-fraud "CCV" code number when donors are using credit-cards to make online donations.

However, Obama's campaign is not legally obliged to ask for the CCV numbers, as they are merely required to use only their "best effort" to validate the name, occupation and location of the donor. The CCV number is typically used only to verify that the card is in the card-owner's physical possession.

The identity of legitimate donors can be verified by comparing the credit card's main number to the data held by the credit card's issuer. This ensures that campaigns know the real names of donors, even when donors type fake names into the campaign's online donation page.

Gov. Mitt Romney's website does ask for the CCV number.

"That's good practice," said Peter Pasi, the executive vice president at Arlington, Va.-based emotive LLC, which raises funds online for many GOP politicians, including Sen. Rick Santorum.

At the Obama campaign, "somebody actively made the decision to turn [the CCV request] off," said Pasi.

"Why would they do that? I don't know... [but] they probably did it to get an increased response," he said.

The Obama campaign did not respond to The Daily Caller.

A Daily Caller reporter tested Obama's donation system April 4 by donating cash via a pre-paid Visa gift card and an Internet proxy server. The Visa card was bought with untraceable cash, and the proxy server hid TheDC's online identity.

Even though the identity of the donor was technically unverifiable, TheDC fully complied with federal laws, and provided accurate information to the Obama website.

The Obama website rejected the contribution because the Visa gift-card did not have a known address that could be used to verify the donor's identity.

That's much different from 2008, when Obama's campaign accepted unverifiable donations made via American Express gift cards and identity-hiding proxy servers.

In October, 2008, Obama's top campaign aides excused their decision to automatically accept unverified donations with the claim that they would subsequently use manual checks

to verify identities.

"We do a very strong job, both with the technology we use and with this very heavy commitment to comprehensive back-end review," Robert Bauer, general counsel for the Obama campaign, told National Journal, which broke the story.

However, Obama's campaign also claimed to have had 6.5 million online donors in 2008, who collectively donated \$500 million.

The campaign downplayed the scandal before and after the election, even though data released by the campaign showed numerous suspicious donations from overseas, and at least one case where \$174,800 was donated via a credit card under the name of a retired person in Manchester, Mo.

Obama fobbed off a TV question about the donations one week before the 2008 election.

"Look, you know, 3.1 million donors would be a pretty hard thing for us to be able to process," Obama told ABC's Charles Gibson on Oct. 29.

In fact, banking and industry experts said companies routinely process much larger streams of financial data.

A bank official said Obama's staffers could use data from their campaign's bank to identify cases where people were using multiple credit cards to make excess donations or to make donations from overseas.

There was no official and public investigation of the scandal after Obama's election.

[Follow Neil on Twitter](#)

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URL to article: <http://dailycaller.com/2012/04/05/the-presidents-online-donations-upgrade/>

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THE DAILY CALLER

PRINT PAGE

Fraud found in Obama's online donations

By Neil Munro - The Daily Caller 11:58 AM 05/08/2012

President Barack Obama's 2012 campaign has hundreds of thousands of eager, low-dollar donors — and a tiny trickle of unwilling, defrauded donors.

The latest example comes from David Newman, who found a \$15 charge, dated May 6, from the "Obama For America" campaign on one of his debit cards.

Newman had supported Obama in 2008, but "I didn't sign up to say 'Do this every three months or every three years when you need money,'" he told The Daily Caller.

"This is completely 100-percent unauthorized," said Newman, an information technology specialist. The money has since been returned by Bank of America, and the debit card has been cancelled, he said.

Newman's example follows the publication of two examples of small-scale fraud by Powerline, a conservative blog. For example, "Bill G" told Powerline that he had found a \$10 charge to "Obama for America" a few weeks after someone had secretly changed his address in the bank's database.

The Obama campaign declined to answer TheDC's questions for this story.

These minor examples of fraud, however, follow the discovery that Obama's campaigns in 2008 and 2012 adopted shady practices that raised the potential for fraud.

In 2008, for example, Obama's 2008 campaign accepted donations made via untraceable digital gift cards sold over the counter by Mastercard and Visa. National Journal proved that practice on October 24, 2008, but a recent test by TheDC showed that his campaign is now rejecting donations made via gift-cards.

However, Obama is still using many of the same tech experts that he used in 2008, and is still accepting credit card donations made under incorrect names, according to numerous reports from blogs.

Like in 2008, the 2012 campaign is also not asking donors to provide the three-digit or four-digit CVV number on credit cards. That decision reduces the campaign's fundraising costs, but increases the chance of fraudulent donations by people who know the primary long number of a credit card, but not the short CVV number.

The practice may have contributed to a 2008 fraud when a woman in Missouri, Mary Biskup, discovered that her name had been attached to \$174,800 in credit card donations sent to the Obama campaign. Biskup told the Washington Post that her credit-card was not charged for the donation.

Obama's campaign is not legally required to ask for the CVV number. It is also not required to confirm that the names given by small-dollar online donors are correct, partly because the campaign automatically collects the real names and addresses attached to donors' credit cards.

Yet a campaign's decision to accept the false names attached to small donations can have a broader impact than a few cases of fraud.

That's because campaigns are free to assume that multiple small-scale donations made via one credit card are from different people, providing that different false names are provided online with each donation.

They're free to do that even if donors' fake names are utterly implausible, such as "Adolf Hitler," "Osama bin Laden" or "Mickey Mouse."

A loophole is found in rules set by the Federal Election Commission, which has little legal authority to investigate evidence of small-scale credit card fraud by political campaigns.



The 2012 Obama campaign's apparent decision to accept small-scale donations made under false names could allow for a stream of donations from illegal donors, such as people who are neither citizens nor residents of the United States.

The decision would also allow the campaign to accept donations far above the limit of \$2,500 per person, providing each donor supplies a name with each donation. The FEC limits personal donations to \$2,500 per campaign.

So far, there's no evidence that Obama's 2012 campaign is accepting illegal online donations that exceed federal limits or that come from foreigners. He has returned high value checks from at least three people suspected of links to criminals.

But if any campaign chooses to accept online donations under false names, and if it chooses not to add up contributions made via the same credit card, it could also receive a financially significant amount of illegal donations.

That political risk exists because simple software allows illegal donors to deliver unlimited numbers of small-scale donations via credit cards.

In 2008, National Journal successfully used custom made software to deliver numerous "robo-donations" to three campaigns via gift cards. The test was conducted after a check of Obama's 2008 campaign records which showed numerous, sequential and identical donations by donors with strange names, such "Doodad Pro."

"Doodad Pro" submitted at least 791 contributions by October 2008, providing \$19,065 to the campaign, while "Good Will" sent in 835 donations worth \$20,225 between March and May 2008. The source of those donations was not disclosed by the 2008 campaign.

GOP campaigns have so far had better security than Obama's campaigns.

In 2008, Sen. John McCain's online donation system rejected anonymous gift card donations. Currently, Gov. Mitt Romney's websites asks donors for the CVV number.

A pattern of fraud in the Obama campaign's fundraising system should damage the campaign's trustworthiness, said Newman. "The one thing you have is trust when doing online business... [and] if you have someone collecting credit-card information, you are totally responsible" for its security, he said.

At the moment, he added, "this smells like a Nigerian bank-account scam."

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725 of 933 DOCUMENTS

The Washington Post
washingtonpost.com
 The Washington Post

October 29, 2008 Wednesday
 Suburban Edition

**Obama Accepting Untraceable Donations;
 Contributions Reviewed After Deposits**

BYLINE: Matthew Mosk; Washington Post Staff Writer

SECTION: A-SECTION; Pg. A02

LENGTH: 913 words

Sen. Barack Obama's presidential campaign is allowing donors to use largely untraceable prepaid credit cards that could potentially be used to evade limits on how much an individual is legally allowed to give or to mask a contributor's identity, campaign officials confirmed.

Faced with a huge influx of donations over the Internet, the campaign has also chosen not to use basic security measures to prevent potentially illegal or anonymous contributions from flowing into its accounts, aides acknowledged. Instead, the campaign is scrutinizing its books for improper donations after the money has been deposited.

The Obama organization said its extensive review has ensured that the campaign has refunded any improper contributions, and noted that Federal Election Commission rules do not require front-end screening of donations.

In recent weeks, questionable contributions have created headaches for Obama's accounting team as it has tried to explain why campaign finance filings have included itemized donations from individuals using fake names, such as Es Esh or Doodad Pro. Those revelations prompted conservative bloggers to further test Obama's finance vetting by giving money using the kind of prepaid cards that can be bought at a drugstore and cannot be traced to a donor.

The problem with such cards, campaign finance lawyers said, is that they make it impossible to tell whether foreign nationals, donors who have exceeded the limits, government contractors or others who are barred from giving to a federal campaign are making contributions.

"They have opened the floodgates to all this money coming in," said Sean Cairncross, chief counsel to the Republican National Committee. "I think they've made the determination that whatever money they have to refund on the back end doesn't outweigh the benefit of taking

all this money upfront."

The Obama campaign has shattered presidential fundraising records, in part by capitalizing on the ease of online giving. Of the \$150 million the senator from Illinois raised in September, nearly \$100 million came in over the Internet.

Lawyers for the Obama operation said yesterday that their "extensive back-end review" has carefully scrubbed contributions to prevent illegal money from entering the operation's war chest. "I'm pretty sure if I took my error rate and matched it against any other campaign or comparable nonprofit, you'd find we're doing very well," said Robert Bauer, a lawyer for the campaign. "I have not seen the McCain compliance staff ascending to heaven on a cloud."

The Obama team's disclosures came in response to questions from The Washington Post about the case of Mary T. Biskup, a retired insurance manager from Manchester, Mo., who turned up on Obama's FEC reports as having donated \$174,800 to the campaign. Contributors are limited to giving \$2,300 for the general election.

Biskup, who had scores of Obama contributions attributed to her, said in an interview that she never donated to the candidate. "That's an error," she said. Moreover, she added, her credit card was never billed for the donations, meaning someone appropriated her name and made the contributions with another card.

When asked whether the campaign takes steps to verify whether a donor's name matches the name on the credit card used to make a payment, Obama's campaign replied in an e-mail: "Name-matching is not a standard check conducted or made available in the credit card processing industry. We believe Visa and MasterCard do not even have the ability to do this."

"Instead, the campaign does a rigorous comprehensive analysis of online contributions on the back end of the transaction to determine whether a contribution is legitimate."

Juan Proaño, whose technology firm handled online contributions for John Edwards's presidential primary campaign, and for John F. Kerry's presidential campaign and the Democratic National Committee in 2004, said it is possible to require donors' names and addresses to match those on their credit card accounts. But, he said, some campaigns are reluctant to impose that extra layer of security.

"Honestly, you want to have the least amount of hurdles in processing contributions quickly," Proaño said.

Sen. John McCain's campaign has also had questionable donations slip through.

Dan Pfeiffer, Obama's communication's director, said that "no organization can fully insulate itself from these problems. The McCain campaign has accepted contributions from fraudulent contributors like 'A for You,' 'Adorable Manabat,' 'The Gun Shop,' and 'Jesus II' and hundreds of anonymous donors."

But R. Rebecca Donatelli, who handles online contributions for the McCain operation and the RNC, said security measures have been standard in the GOP nominee's fundraising efforts throughout the campaign. She said she was "flabbergasted" to learn that the Obama campaign accepts prepaid cards.

"Yes, a gift card would go through the same process as a regular credit card and be subject to our same back-end review," the Obama campaign said in its response to questions about the use of such cards.

Campaign finance lawyers said there is a long history of debate within the FEC about how to ensure that donors use their own credit cards.

Election lawyer Brett Kappel said the FEC has never grappled with the question of cash cards. "The whole system is set up for them to accept the payment, then determine whether is legal or not. And if it's not, send it back. That's what the statute requires," he said.

LOAD-DATE: October 29, 2008

LANGUAGE: ENGLISH

DISTRIBUTION: Maryland

PUBLICATION-TYPE: Newspaper

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EXHIBIT CC

Documenting the Department of the Treasury's definition of the CVV as an anti-fraud tool; usage by state governments in transactions with the public, and usage by the top ten charities on Forbes Magazine's largest charities list

453

**CVV implementation described in US Treasury 's Financial Manual as
"providing increased protection against Card Fraud."**

<http://fms.treas.gov/cas/ITFM5-7000.pdf>



Treasury Financial Manual

Transmittal Letter No. 675

Volume I

To: Heads of Government Departments, Agencies and Others Concerned

1. Purpose

This transmittal letter releases new I TFM 5-7000: Credit and Debit Card Collection Transactions. This chapter consolidates existing guidance and provides the requirements that Federal Government agencies must follow when collecting obligations via credit or debit card.

2. Page Change

Remove

Insert

I TFM 5-7000

3. Effective Date

This transmittal letter is effective immediately.

4. Inquiries

Direct questions regarding this transmittal letter to:

Settlement Services Division
Financial Management Service
Department of the Treasury
401 14th Street, SW.
Washington, DC 20227
Telephone: 202-874-0807

Date: March 28, 2012

David A. Lebryk
Commissioner

Department of the Treasury
Financial Management Service 

contact is responsible for ensuring that proper reconciliation of Card activity occurs at the organization. This point of contact also must ensure that all correspondence from the Financial Agent and FMS is properly disseminated and/or that suitable action is taken within appropriate timeframes. The Financial Agent should be notified promptly of any changes in the agency point of contact.

If an agency requires processing for an additional collection activity or at another of the agency's locations, an application must be submitted to FMS for approval. Multiple locations may be requested simultaneously using a worksheet supplied by FMS. If an agency needs to change the Agency Location Code (ALC) to which deposits are reported, the agency must notify the FMS Program Contact.

See the FMS Web site at <http://www.fms.treas.gov/cas> for current forms and information.

Section 7025—Honoring of Cards and Surcharges

7025.10—Honoring of Cards

Agencies must honor all valid Cards within the appropriate categories of acceptance when properly presented as payment from cardholders. Agencies must not:

- Try to dissuade a cardholder from using any Card;
- Criticize or mischaracterize any Card, services, or programs;
- Try to persuade or prompt cardholders to use any particular Card;

OR

- Engage in activities that harm the business or brand of Visa, MasterCard, American Express, or Discover.

7025.20—Surcharges

An agency must not directly or indirectly require any cardholder to pay a surcharge in connection with a transaction. Additionally, an agency cannot charge or add a fee to the transaction amount when accepting a Card for payment.

Section 7030—Use of Service Marks

Agencies must display the Visa, MasterCard, American Express, and Discover promotional materials, in the same manner, at the points of interaction to indicate that all Cards are honored. The service marks should be placed near the entrance of the agency or posted on a Web site. No service mark for a specific Card type should be omitted from the display requirements.

Agencies may use the Visa, MasterCard, American Express, and Discover wordmarks on promotional, printed, or broadcast materials, in the same manner, to indicate Cards are acceptable for payment. No wordmark for a specific Card type should be omitted when creating any promotional, printed, or broadcast material.

Section 7035—Validation and Authorization

7035.10—Validation

Agencies must validate all Card present transactions by ensuring the signature on the back of the Card matches the signature on the transaction receipt. In the absence of a signature, agencies should validate the cardholder with proper identification and should require the cardholder to sign the back of the Card in their presence.

When the cardholder is not physically present for the actual transaction, the agency may, at its option, require the card validation code,

the CVV2 for Visa Cards, the CVC2 for MasterCard Cards, and the CID for American Express and Discover Cards. These card security codes are security features for credit and debit card transactions, providing increased protection against Card fraud. Agencies should use the verification responses from the issuer of the card in their decision to accept or decline a transaction.

Refer to Section 7090 for more information on Card validation procedures.

7035.20—Authorization

Agencies must obtain authorization for each sales transaction for the total amount of the transaction. An authorization code indicates the availability of a cardholder's credit or funds at the time the authorization is obtained.

If a sales transaction is not authorized, an agency must not complete the sale. A declined sales transaction is originated from the bank that issued the card.

Authorization must be obtained electronically, except if there is a loss of terminal connectivity. If the Card account number is not able to be read electronically from the magnetic stripe, the agency must manually key enter the Card account number and expiration date into the terminal and must obtain an imprint of the card. The cardholder must sign the draft with the imprint.

If a terminal loses connectivity so that authorization cannot be obtained either electronically or manually through the terminal, the agency must call the Financial Agent's voice authorization telephone number and must obtain a valid authorization. The agency should write the authorization code on the manual imprinter slip, and then the Card must be imprinted and signed by the customer. When the terminal's connectivity is restored, the agency must manually enter the transaction

Examples of CVV usage by State Governments when taking fees/payments from the public

Florida Department of Motor Vehicles

Florida Department of Motor Vehicles

JULIE L. JONES
EXECUTIVE DIRECTOR

Payment Information

Shopping Cart Information:

Card Number: 37002303
Application Name: On Road / Virtual Office
Payment Date: 08/29/2013
Payment Amount: \$28.00

Payment Details (if you have a record fee)

Payment Type: 1

Name on Credit Card: _____

Address Line 1: _____

Address Line 2: _____

City: _____ State: 1 Zip: _____

Card Number: _____

Security Code:

Expiration Date:

Virginia Department of Game and Inland Fisheries

Virginia.gov

Virginia Department of Game and Inland Fisheries

Online Hunting & Fishing License Application

Step 6 - Payment

Card Number: _____

Expiration Date:

Card Security Code:

First Name: _____

Last Name: _____

Address: _____

City: _____

State: _____

Zip Code: _____

*** Email Address: _____

*** Repeat card info: _____

*** New license(s) will be sent to the email address provided above. The address will only be used for this purpose.

SPECIAL NOTE: Not all licenses are available online. If you are unable to purchase a license online, please visit our website for more information.

Processing your credit card payment may take several minutes. Thank you for your patience.

Screenshots of CVV of Forbe's Top 10 Non-Profits


United Way

United Way LIVE UNITED GET UPDATED BY EMAIL

SUPPORT OUR WORK

As opportunities across the country, we're helping every day to ensure every child has a quality education, every family has a stable income, and all Americans enjoy good health. It's to ensure our work, we need your support.

Your Contribution at Work



- Our Work in Education, Income & Health
- Development & Administrative Costs
- United Way Volunteer & Call Centers
- Our Work in Other Human Services
- Reserve Funds

Your Information

All fields are required.

Country:

Update Name: * First Name: * Last Name:

Address:

City:

State:

Zip Code:

Personal Email Address:

Phone Number:

Amount:

☐ \$10 ☐ \$25 ☐ \$50 ☐ \$100 ☐ \$250 ☐ \$500 ☐ \$1,000 ☐ Other:

Credit Card

☐ American Express ☐ MasterCard ☐ Visa

Card Number:

Expiration:

Card Security Code:

The Salvation Army

The Salvation Army

This new drive will support the efforts of The Salvation Army in your community. However, please give quickly, for we need your help now more than ever. If you are a household head, please check the box for household head.

Amount

How much would you like to give?

☐ \$10 ☐ \$25 ☐ \$50 ☐ \$100 ☐ \$250 ☐ \$500 ☐ \$1,000 ☐ Other:

Cardholder Information

Title:

First Name:

Last Name:

Company:

Country:

Street Address:

City:

State:

Zip:

Phone:

☐ Yes, I'd like to receive communications...

Payment Information

Name On Card:

Card Card Number:

Card Type:

Card Expiration:

Card CVC:

To get a live operator and make a donation over the phone, please call:

1-800-SAL-ARMY (723-2769)

Specify a location in your community to receive a donation at a local Salvation Army branch or office.

GIVE WITH TRUST

☐ Yes ☐ No

This drive is urgent. However, we can accept your gift at any time.

PayPal

Catholic Charities USA



Working to End Poverty in America

OUR MISSION

The mission of Catholic Charities USA is to provide a way to people in need, to serve as the pastor in social structures, and to call the entire church and entire people of good will to do the same.

Donate to Help End Poverty

We Believe...

Children who have healthy minds to help them grow up and succeed in school.

Parents should have a secure, safe place for their families to sleep every night.

All people should have access to affordable health care, jobs that pay a livable wage, and economic security for the future.

As with a second mother of Americans living in poverty, we need your help to feed a child to come to school.

Donate to Catholic Charities USA today and make a difference in the lives of 16 million Americans living in poverty.



Call to Give
1-800-919-1238

Mail a Check
Catholic Charities USA
P.O. Box 17064
Baltimore, MD
21287-0646

[Click here for more information on donations, including:](#)

Your Amount

☒ One-time contribution

☐ I want to make a recurring donation.

☐ \$10 ☐ \$15 ☐ \$20
☐ \$25 ☐ \$50 ☐ \$100

☐ other \$

Billing Information

Card Type

Card Number

Expiration Date (MM/YY)

Cardholder Name

Address

City

State

Zip

Country

Phone

Fax

E-mail

Security Code (CVV2/ECC)

Signature

Print

Feeding America



☒ Yes, I would like to receive information about Feeding America.

☐ No, I would not.

First Name

Last Name

City

Country

State

Payment Information Required

Credit Card

PayPal

Amazon

Other

Gift Card

Check

Other

Other

Other

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Other

Other

Other

Other

Other

Other

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TODAY, YOU'RE STRENGTHENING A COMMUNITY

At the Y, we are committed to small local, big programs and lasting communities. Donate today to help us give back.



DONATION LEVELS

- ☐ Other, please enter your gift below.
- ☐ \$1,000
- ☐ \$500
- ☐ \$250
- ☐ \$100
- ☐ \$50
- ☐ \$25

* Required information

SELECT GIFT FREQUENCY

- ☒ I would like to make a one-time gift for the following amount.
Please Donations Request Name: *
- ☐ I would like to make a recurring gift. (If you select a recurring gift, the amount entered below will be charged each month unless you contact your donor to make a change.)

DONOR INFORMATION

First Name *

Last Name *

Street *

Apartment

Address Line 1 *

Address Line 2

City *

State *

Zip *

PAYMENT INFORMATION

Payment Method *

Cardholder's Name *

Card Card Number *

Card Expiration *

Card Card Type *

Card Card Expiration *

BILLING INFORMATION

Address Line 1 *

Address Line 2 *

City *

State *

Zip *

Country *

ADDITIONAL INFORMATION

I would like to give the gift anonymously: ☐ Yes ☒ No

What form of payment do you wish to use? ☐ Credit Card ☐ Debit Card ☐ Other

How are you offering me the Y? (Select all that apply): ☐ Member ☐ Employee ☐ Volunteer ☐ Other

By clicking Submit, you agree that you are providing

the Y with your name, address, and payment information. We will use this information to process your donation and to keep you informed of our programs and services. We will not share your information with any other organization. If you do not wish to receive this information, please click on the "No" button in the "How are you offering me the Y?" section.

6

[illegible]

Forbes Magazine list of largest charities:

Firefox

File

Edit

View

History

Bookmarks

Tools

Window

Help

The 100 Largest U.S. Charities List - Forbes

www.forbes.com/top-charities/list/

Google

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Search accounts, people and lists

451

1 story

22

11

1

3

3

FILTERS

Filter by category: All categories

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3,912

4,440

91

85

110

2

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1,008

2,828

84

82

124

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Catholic Charities USA

1,007

4,800

90

89

87

4

Feeding America

1,343

1,185

68

97

100

5

American National Red Cross

940

3,648

87

92

76

6

Food for the Poor

930

2,918

97

90

101

7

American Cancer Society

806

1,014

77

73

83

8

World Vision

840

1,080

80

86

103

9

YMCA

823

5,016

86

85

84

10

Goodwill Industries International

770

4,437

97

88

91

Direct Connection

192.104.110.129:8080

EXHIBIT DD

Documenting the Obama 2012 campaign required use of CVV for online purchases of campaign-related merchandise during the 2012 election cycle.

Checkout with Free Shipping!

[Edit Your Cart](#) / [Continue Shopping](#)

Billing Information | Edit ✓

Shipping Information | Edit ✓

Payment Information ✓

VISA   

Credit Card Number *

Expiration Date *

Month Year

Card Verification Number *

What is this?

* Required Fields

CONTINUE

Additional Donation >

Order Review >



Exhibit EE

Documentation of the possibility of "robo-donors" at work in the Obama 2008 campaign.

In December 2008, the National Journal's Neil Munro published an article reporting on the viability of "robo-donor" schemes that would, in effect, adapt common hacker tactics to hide the source of donations among many small transactions under assumed names.

National Journal

Online Giving Opens Door For Robo-Donors

By Neil Munro

December 11, 2008

Individuals can contribute large sums of money to political campaigns by programming their home computers to make repeated small donations, and loopholes in federal law allow campaigns to keep this flow of money hidden from public view, a National Journal investigation shows.

Federal law allows political campaigns to accept donations of \$50 or less without recording the identity of the donor. This no-record rule was drafted to protect informal pass-the-hat fundraising at political meetings. However, today's technology makes it easy for individuals to contribute unlimited amounts of money via a series of \$50-or-less online donations to any campaign willing to accept the cash.

With no rules governing "robot donations," campaign officials can say, "Yippy doo, let's go, no need to check anything," whenever a small enough donation is submitted under a unique alias, said former Federal Election Commission Chairman Scott Thomas.

This rule allowing anonymous \$50-or-less donations is different from the more familiar regulation allowing campaigns not to disclose the names of a contributor who gives \$200 or less.

"For years, the FEC has ignored the ultimate tough question: Does the campaign have the ability to just accept that cash and accept piles of it in the course of a day or week?" said Thomas, now head of the political law practice at the firm Dickstein Shapiro. If there was a legal challenge, he added, "There is no way the FEC could claim the authority to force campaigns to disgorge themselves of the money."

The FEC would be on weak grounds "both legally and ethically," said Karl Sandstrom, another former FEC commissioner, if it tried to investigate potentially lax practices by campaigns because the commission has not published adequate guidance on how to deal with technologies such as prepaid credit cards and automated donations.

The issue is likely to become more prominent next year, in part because advocates are lobbying for a bill that would have the federal government provide matching funds for small-scale political donations. Without better safeguards, illegitimate robo-donations could be used to fraudulently gain matching funds,

said David Mason, a third former FEC commissioner.

In recent tests by National Journal, commercial software was used to rapidly and repeatedly donate money to several political sites, each of which replied with a "thank you" e-mail after each transaction.

For example, the software was used to make 10 donations of \$1 apiece to a Web site run by Sen. James Inhofe, R-Okla., five donations to the presidential campaign of John McCain; and five to the Democratic National Committee (as shown in the video above).

There is some inconclusive evidence of robo-donations in the recent presidential election.

The most frequent donor to the McCain campaign was identified as Douglas E. Kroll of Castro Valley, Calif. Between February 2007 and October 2008, he made 51 donations of different amounts, according the McCain campaign's reports to the FEC.

However, records filed by Obama's campaign show some evidence of two robo-donors. For example, "Doodad Pro" made at least 791 contributions from November 2007 to October 2008, amounting to \$19,065. Nearly all those donations were for \$25, and 313 were delivered on Sept. 26. The donor's address was listed as Nunda, N.Y. The campaign also received 835 donations that totaled \$20,225 from a donor named "Good Will" between March 17 and May 12. On March 30, the donor made 92 donations. The donor listed his or her home as Austin, Texas, and employer as "Loving You."

In subsequent reports to the FEC, the Obama campaign said it tried to return both donors' money or reassign it to other fundraising operations outside the campaign. For example, the campaign's cumulative report to the FEC stated that the campaign began returning Good Will's money 10 days after the first donation and continued returning money through September.

"We constantly screened our contributions to look for any issues, and when we could not verify that the contributions were appropriate, we refunded the money" by crediting the amount back to the donor's credit card, said Ben LaBolt, a spokesman for the Obama campaign. The campaign never discovered the identity of Doodad Pro or Good Will, LaBolt said.

The two donors' credit card contributions were processed by credit card companies and banks that identify their customers before awarding them cards. (See NationalJournal.com's Oct. 31 story on this topic.)

The Obama campaign had no legal obligation to identify the donors once their money had been returned.

Roughly \$334.7 million donated to the Obama campaign -- out of \$656 million raised from individuals -- came from donors who each contributed less than \$200. These donors' names have not been disclosed.

For some months prior to the election, the Obama campaign made little or no use of commonplace software to validate the identity of donors. (See this Oct. 24 story from NationalJournal.com.) Unlike the McCain campaign, the Obama campaign accepted funds from donors who claimed addresses that were different from the billing address for their credit cards. The Obama campaign also took donations from prepaid credit cards, which can be purchased anonymously in small increments.

In the weeks prior to the Nov. 4 election, several right-of-center blogs reported that their readers were successfully making small donations to the Obama campaign under obviously fake names and addresses. But unless the Obama campaign releases its records to the public or the FEC, there is no legal mechanism for verifying the validity of the donors who contributed less than \$200 or less than \$50.

Robert Bauer, the Obama campaign's lead lawyer, told National Journal in late October that the campaign did check incoming donations. "Our focus is making sure we comply with campaign finance requirements," mostly through twice-daily computer-aided review of online donations, he said. A software program flags instances where a single person used multiple credit cards, instances of suspicious addresses, strange words, improper business affiliations or donations that exceed federal limits on personal contributions, said Bauer. "We do a very strong job, both with the technology we use and with this very heavy commitment to comprehensive back-end review."

But if a donor provides less than \$50 under a fake name, then campaigns have no legal obligation to record the donation, or to determine the true identity of the donor, or to gauge how much money the donor might have contributed using automated donations under false names, said Thomas.

If a donor gives less than \$200 under a single name, campaigns are not required to inform the FEC of the claimed donation or donations. That nondisclosure rule was put in place to shield the anonymity of small-scale donors, who sometimes face harassment from neighbors, co-workers or employers. However, the campaigns are required to record the donor's name, and to make a modest effort to determine the true identity of the donors. Campaigns can satisfy their requirement to identify donors by having the donors declare their claimed name is correct, and by sending a letter to the address listed by a donor, whether the

address is real or fake.

When a donor provides donations amounting to more than \$200 under a single name, such as Doodad Pro or Good Will, campaigns are required to disclose the cumulative donations in monthly reports to the FEC. That's how bloggers spotted the donations from Doodad Pro and Good Will.

Despite the \$50 no-record rule, and the \$200 no-disclosure rule, there are significant incentives for donors to correctly identify themselves, and for campaigns to correctly identify donors. For example, donors who provide significantly more than \$50 under false names face criminal charges that can get them five years in jail, plus one year in jail for every false declaration, said Sandstrom.

Also, campaigns want accurate lists of names and e-mail addresses so donors can be asked to give more money or to volunteer. Campaigns "do not have to maintain records of the name and addresses [of sub-\$50 donors, but] almost all campaigns do, because they want to solicit them" for more money, said Sandstrom, who now works at the law firm Perkins Coie. "A person who gave to you once will likely give to you a second time."

However, the Obama campaign's numbers will not be audited by federal regulators because Obama did not take federal funds. In contrast, the McCain campaign -- which did accept federal matching funds -- has released the names and the home cities of all of its donors, and its accounts will be audited by the FEC.

There are potential fixes to the problem raised by the combination of robo-donors and the \$50-or-less exception. For example, campaigns can require donors to type characters displayed in so-called "captcha" boxes before completing a contribution. The graphical boxes contain images of distorted letters that are difficult for software robots to read. Also, donors can be required to give an address that matches the address on a credit card already approved by a U.S.-owned bank. Fundraising professionals will likely object to these measures, however, because they can deter some would-be donors.

The McCain campaign already includes at least one self-defense against robot donations. On Nov. 25, it barred additional donations from a National Journal computer used during the magazine's test after first accepting five donations made in quick succession.

Another option would be a law requiring campaigns to preserve records of all online donations for subsequent review by FEC officials. "That would protect people's privacy while allowing the government to police these small-scale

donations," said Bradley Smith, a former FEC chairman who served on the commission from 2000 to 2004. Smith is now a professor at Capital University Law School, Columbus, Ohio.

But these records would have to include data collected by the credit card companies and the banks that process the credit card transactions. Only these companies have full access to the home addresses of donors. The banks are "always going to be the fundamental check on fraud and illegal donations," said Jonathan Zucker, co-founder of Act Blue, which collects online donations for many Democratic candidates.

Other steps may be of only marginal value. For example, a staffer for the Inhofe campaign called National Journal as soon as its robot donations were submitted. The staffer was alerted by specialized software that detected a sequence of two identical donations. This alerting software, he told National Journal, is intended to help campaign officials quickly aid supporters who accidentally contribute more than they intended. However, it could have been bypassed if National Journal had masked its donations behind a series of different names, telephone numbers and donation amounts.

FEC spokesman Bob Biersack said the commission has not launched a formal review of the high-tech donations. "It doesn't mean there could not be one in the future," he added.

But any review of donation technology has to address the anonymity provisions involving the \$50 rule, said Thomas. "That's the heart of the current problem."

Marc Lavallee and Peter Bell assisted with this story.

In 2008, National Journal successfully used custom made software to deliver numerous "robo-donations" to three campaigns via gift cards. The test was conducted after a check of Obama's 2008 campaign records which showed numerous, sequential and identical donations by donors with strange names, such "Doodad Pro."

"Doodad Pro" submitted at least 791 contributions by October 2008, providing \$19,065 to the campaign, while "Good Will" sent in 835 donations worth \$20,225 between

Approximately two months before Munro's article, Matthew Mosk and Sarah Cohen published in the Washington Post a story about Mary Biskup, a woman in who's name \$175,000 in contributions to the Obama Campaign during 2008 were made (well in excess of federal limits) and later returned. Two things stand out about that example. First, that only Biskup's name was used, but not any bank account or credit card belonging to her. Second, some seventy \$2,300.00 donations were made in one day – strongly suggesting an automated system was at work. Mosk and Cohen do not report who the mone was returned to.

<http://voices.washingtonpost.com/44/2008/10/obamas-175000-donor.html>

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RECENT POSTS

Obama's \$175,000 Donor?

By Matthew Mosk and Sarah Cohen

There have been a smattering of incidents reported in which people have seen credit card charges surface suggesting they donated to Barack Obama when they did not.

Now comes the story of Mary T. Biskup, of Manchester, Missouri. Biskup got a call recently from the Obama campaign, which was trying to figure out why she donated \$174,800 to the campaign -- well over the contribution limit of \$2,300.

The answer she gave them was simple. "That's an error."

Biskup, a retired insurance manager who occasionally submits recipes to the local paper, says someone used a credit card to donate the money in her name. No charges ever showed up on her credit card statement.

"We're not out a penny," Biskup said. "I gather that someone has hacked into something using other people's credit cards and putting my name on it."

Obama's campaign spotted the irregular donations, more than 70 of which all arrived on the same day, and aides to the senator said they refunded the money. The campaign began investigating immediately.

"As we reviewed our contributions and the more than 100,000 pages of our report, we noticed repeat donations from one contributor and proactively contacted the donor to verify whether the contributions were appropriate," said Ben LaBolt, a campaign spokesman. "We refunded all of the contributions and contacted authorities when we determined Ms. Biskup had not made them. While no organization is protected from internet fraud - John McCain was forced to refund more than \$1.2 million in contributions and has accepted contributions from non-existent donors like 'Jesus II' -- our review system caught and rectified this issue."

As for Biskup, she said she's been closely following the campaign, and watched every debate. She wouldn't say who she's going to vote for, though she identified herself as a one-time independent who, "after the last eight years" has become "a liberal knee-jerk yellow dog Democrat."

"The campaign has really perked my interest," she said. "But not enough to donate \$175,000."

By Post Editor | October 21, 2008; 8:42 PM ET

Categories: [A Blog](#), [Barack Obama](#), [The Green Zone](#)

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MY PROFILE X

Friends' Activity

Sign Up

Create an account or Log In to see what your friends are doing.

9 questions about Syria you were too embarrassed to ask
442,333 people recommend this.



The Senate's Syria hearing: Live updates
23,351 people recommend this.



Josh Burdette, the face of the 9:30 Club, has died
11,267 people recommend this.



Where the votes stand on Syria
13,101 people recommend this.



Josh Burdette, 9:30 Club security head, dies at 36
3,965 people recommend this.



Where Congress stands on Syria
3,767 people recommend this.

Facebook social plugin

View More Activity

EXHIBIT FF

Articles from the Powerline Blog and Professor Rick Hasen's Election Law blog articulating and discussing the question of the Obama campaign's use (or non-use) of the Address Verification System (AVS). Professor Hasen's blog discusses a response from an unnamed Obama campaign staffer on this issue.

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1 211

POSTED ON APRIL 2, 2012 BY SCOTT JOHNSON IN 2012 PRESIDENTIAL ELECTION

DUBIOUS DONATIONS (2012 EDITION)

Barack Obama has proved the greatest campaign fund-raiser of all time by a long shot. In 2008 his campaign raised more than \$250 million. The Obama campaign even went the extra mile to raise campaign funds by failing to adopt standard protections against fraudulent and illegal giving. Federal law prohibits foreign contributions and requires the disclosure of identifying information for contributions in excess of \$200. Campaigns must accordingly keep running totals for each donor and report them once they exceed \$200.

As we and others noted, the 2008 Obama campaign's records revealed big contributors with names like "Doodad Pro" (employer: "Loving," profession: "You") and "Good Will" (same employer and profession). Both donated via credit card. I believe it was Pamela Geller who reported that some donations came from overseas — raising the question of whether Obama was accepting donations from foreigners.

All of which prompted an enterprising reader to test the controls put in place to enforce compliance with federal campaign law by the Obama and McCain campaigns. He decided to conduct an experiment. He went to the Obama campaign Web site and made a donation under the name "John Galt" (the hero of Ayn Rand's novel *Atlas Shrugged*). He provided the equally fictitious address "1957 Ayn Rand Lane, Galts Gulch, CO 99999." He checked the box next to \$15 and entered his actual credit-card number and expiration date. He was then taken to the next page and notified that his donation had been processed. Others repeated "John Galt's" experiment, giving to Obama under such fictitious names as Della Ware, Joe Plumber, Idiot Savant, Ima BadDonation (with a Canadian bank card) and Fake Donor.

The Obama campaign was able to take these donations because it had turned off the standard Address Verification System that screens credit-card charges for matching names and addresses. (It can also screen cards issued by foreign banks.) The McCain campaign used AVS and provided a searchable database of all donors, including those who fell below the \$200 threshold. The Obama campaign chose not to use the AVS system to screen donations. (The McCain campaign rejected such donations through the use of the AVS system.) You can find a good description of the AVS and CVV fraud prevention devices [here](#).

I wrote about this in the New York Post column "[Dubious donations](#)." The Post subhead observed: "Bam's Web site invites fraud." The Washington Post reported on the matter two days later in the story "[Obama accepting untraceable donations](#)," by Matthew Mosk. Mosk quotes Obama campaign officials on their practices. According to them, everything was copacetic.

[Herald-Arena](#) reader Adrian Murray wondered if the Obama campaign has become any more compliant this time

around than it was last time. He conducted the necessary experiment and wrote Urgent Agenda proprietor Bill Katz:

If you go ~~here~~ you will note that credit card donations to the Obama election campaign do not require the credit card security code [i.e., the CVV code]. What they have done is disable the Address Verification System (AVS) which prevents credit card fraud. Yesterday, just to see what would happen, I submitted a donation and filled out the form as follows:

Name – Adolph Hitler

Address – 123 Nuremburg Way, Berlin, Germany

Occupation – Dictator

Employer – Nazi Party

After submitting, I received an email that began, "Dear Adolph, thank you for your generous donation...."

I then went to the Romney and Santorum websites and tried the same thing. Both rejected the donations with a message that the address could not be verified as belonging to the card holder.

Try it. Make up a name and an address and donate to Obama. Then try it with the other two. Only Obama will accept the donation.

Why is this important? Federal law prohibits any foreign nationals from financially contributing to any election in the United States. It's on the FEC website and is one of our most important safeguards against foreign influence in our elections. But anybody in the world can contribute to Obama. Not only that, but they can do so anonymously. Not only that, they can contribute an unlimited amount since there is no record of who made the donation. I could contribute \$49 every day for the rest of my life by just changing names every time I reach \$2,500 and no one would be the wiser.

I haven't repeated Mr. Murray's experiment, but I believe the situation is as described in the words of the Talking Heads: "Same as it ever was."

Recommend this Power Line article to your Facebook friends.

More from Power Line

IF THIS IS RECOVERY, GOD SAVE US
FROM A SLOWDOWN

HILLARY CLINTON AND NORTH
AFRICAN RIOTS

CAN HILLARY CLINTON'S
AMBITIONS SURVIVE PAT SMITH?

READING POWER

KOCH BROTHERS PASS ON THE
TRIBUNE COMPANY

Election Law Blog

Election Law Blog

The law of politics and the politics of law: election law, campaign finance, legislation, voting rights, initiatives, redistricting, and the Supreme Court nomination process. © Rick Hasen's blog

Obama Campaign Responds to Michael Barone on Credit Card Procedures for Fundraising

Posted on May 7, 2012 12:36 pm by Rick Hasen

In [this post](#), I linked to [Michael Barone's incendiary charges](#) of "thuggery" related to the Obama campaign's supposed failure of the campaign to use "AVS" (address verification) for credit card donations. Barone's claim is that this allowed for fraudulent transactions or worse.

The Obama campaign sends along the following response:

"Credit card contributions to Obama for America are, in fact, processed using AVS (Address Verification System).

"If a billing address is verified via AVS, then the credit card contribution is processed without delay. Some transactions caught by AVS may initially appear to a donor to have been accepted even though this is not the case. Obama for America employs a manual process to review any transaction flagged by AVS, also taking into account other fraud risk factors, and using fraud detection services provided by our credit card processor.

"As an example, the contribution discussed here <http://www.powerlineblog.com/archives/2012/04/dubious-donations-illustrated-illegal-contributor-edition.php> may have initially appeared to have gone through when the donor completed the transaction at 10:18 a.m. but it was rejected at 4:51 p.m. under our standard fraud detection procedures.

"So any claims that Obama for America has disabled AVS are inaccurate; any question about this would have been answered—if the question had been asked."

Share / Save

This entry was posted in [campaign finance](#), [campaigns](#) by [Rick Hasen](#). Bookmark the [permalink \(http://electionlawblog.org/?p=33935\)](http://electionlawblog.org/?p=33935).

EXHIBIT GG

This exhibit documents how AVS works, and the flexible nature of its implementation: allowing an online vendor (or campaign) to decide just how strictly to treat transactions from abroad, or other transactions without an AVS record.

This is documentation from a First Data user guide. First Data is the nation's largest credit card processor. Particular attention should be given to page 31 from the First Data document and the 17 different variables AVS codes can return for the four biggest credit card issuers. Note the particular codes for Visa (compare with Exhibit AA), and for "Global non-AVS participant."



First Data Global Gateway Virtual Terminal® User Guide

Version 5.0

IMPORTANT: Entities that are storing, processing or transmitting cardholder data on behalf of merchants for payment processing transactions or otherwise handling cardholder data, should contact the First Data Global Partner Management team (GPM) at GPM@firstdata.com to discuss rules and regulations associated with direct integration with the First Data Global Gateway.

January 21, 2012

©2010 First Data Corporation. All rights reserved. This document contains confidential and proprietary information of First Data Corporation. A merchant may not disclose copy or use any part of these materials without the prior written consent of First Data Corporation. All trademarks, service marks, and trade names used in this presentation are the property of their respective owners.

Credit Card Number – Card type and last four (4) digits of the card used to purchase the goods and services

Expiration Date – Expiration date of the purchasing card

Customer Contact Information – Customer's Name, Billing Address, Country, and Email Address

Address Verification System

The First Data Global Gateway provides Address Verification System (AVS) codes to help protect a merchant from costly chargebacks and fraud. Some credit cards, such as Discover®, MasterCard®, and Visa®, request the use of AVS when a merchant are processing card-not-present (i.e., MO/T O or e-commerce) transactions.

When performing a credit card Sale or Authorize Only (Pre Authorization) transaction, the First Data Global Gateway Virtual Terminal compares the customer's address, with the address the card-issuing bank has on file for the customer. To take advantage of AVS, a merchant must enter the first line of the customer's billing address and the zip code. For retail keyed transactions, a merchant needs to enter the customer's zip code.

While not all fields on the VT POS page are required, it is considered a best business practice to submit them with every transaction. To avoid higher interchange fees, it recommended merchants submit the five (5) digit zip code for AVS transactions.

The AVS code tells a merchant if the two addresses match. The 3-digit AVS code is located in the middle of the Approval Code on the Transaction Result page.

The following string is a transaction result code. The AVS code is the first three (3) letters in the middle of the number.

0097820000019564:YNAM:12345678901234567890123:

The AVS compares the numeric portion of the street address and the zip code with the information on file with the card-issuing bank.

If the AVS code indicates the address or zip code does not match, a merchant can still complete the transaction. . However, a merchant increase your exposure to fraud.

It is important to know that AVS has some limitations:

- The AVS system is not always reliable. Incorrect results can be generated because people move, report five-digit zip codes, or some report nine-digit zip codes. This may generate a response stating that the address matches, but the zip code does not match.
- The AVS system does not process most addresses outside the United States.

It is recommended to display a message similar to this one for AVS code mismatches:

"We are unable to process your credit card payment at this time. If you still want to purchase this product or service, please call us at 1-800...."

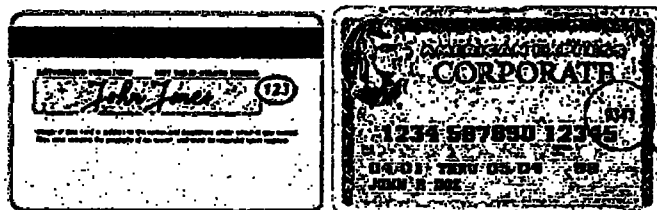
AVS Code Definitions

The table lists the descriptions for AVS codes. The letters in the credit card columns represent the third letter of the AVS code and vary depending on the type of credit card used.

AVS Code	Visa	MasterCard	Discover	American Express	Description
YY	Y	Y	A	Y	Address and zip code match.
NY	Z	Z	Z	Z	Only the zip code matches.
YN	A	A	Y	A	Only the address matches.
NN	N	N	N	N	Neither the address nor the zip code match.
XX	-	W	-	-	Card number not on file
XX	U	U	U	U	Address information not verified for domestic transaction.
XX	R	-	R	R	Retry - system unavailable.
XX	S	-	S	S	Service not supported.
XX	E	-	-	-	AVS not allowed for card type.
XX	-	-	-	-	Address verification has been requested, but not received.
XX	G	-	-	-	Global non-AVS participant. Normally an international transaction.
YN	B	-	-	-	Street address matches for international transaction; Postal code not verified.
NN	C	-	-	-	Street address and Postal code not verified for international transaction.
YY	D	-	-	-	Street address and Postal code match for international transaction.
YY	F	-	-	-	Street address and Postal code match for international transaction. (UK Only)
NN	I	-	-	-	Address information not verified for international transaction.
YY	M	-	-	-	Street address and Postal code match for international transaction.
NY	P	-	-	-	Postal codes match for international transaction; Street address not verified.

Card Codes

The card code is a three (3) or four (4) - digit security code. For Visa, MasterCard, and Discover the number typically appears at the end of the signature panel. For American Express, the number appears on the front of the card. This security card program helps validate that a genuine card is used during a transaction. A card code mismatch blocks the transaction.



The card code is circled

Mail order, Telephone Order (MO/TO), and other transactions when the card is not present have higher fraud rates than face-to-face transactions. To reduce fraud,

1. Use the card code
2. Always enter a card code (if on the card) when processing an authorization for (MO/TO) and e-commerce transactions.
3. For retail transactions, a merchant may want to enter the card code printed on the card to help ensure the authenticity of the card

By using the Card Code results in conjunction with the Address Verification Service (AVS), helps a merchant, make a more informed decision whether to accept or decline a transaction.

Using the Card Code

Enter the card code on the Virtual Terminal page when processing an order. The First Data Global Gateway Virtual Terminal compares the card code with the code from the card-issuing bank. The results of this comparison show in the transaction approval code.

The following string is a typical transaction result.

0097820000019564:YNAM:12345678901234567890123:

The last alphabetic character in the middle (M) is a code indicating whether the card code matched the card-issuing bank's code.

Card Code Definitions

Card Code	Description
M	Card code matches.
N	Card code does not match.
P	Not processed
S	Merchant has indicated that the card code is not present on the card.
U	Issuer is not certified and/or has not provided encryption keys.
X	No response from the credit card association was received.
A blank response indicates no code was sent and there was no indication the code was not present on the card.	

This document is taken from Visa's "Card Acceptance Guidelines for Visa Merchants" referenced in Exhibits AA-CC. Two points are worthy of note in particular. First is the clear statement that AVS is generally available for Visa transactions in the US and Canada only. This is referenced several times. The second is the list of 14 variables on the third page and the discussion of the "G" or global code on the fourth page.

15044380961



Card Acceptance Guidelines for Visa Merchants



Billing Address Verification with AVS



The Address Verification Service (AVS)* allows card-absent merchants to check a Visa cardholder's billing address with the card issuer. An AVS request includes the billing address (street address and/or zip or postal code). It can be transmitted in one of two ways:

1. As part of an authorization request, or
2. By itself. AVS checks the address information and provides a result code to the merchant that indicates whether the address given by the cardholder matches the address on file with the card issuer.

AVS can only be used to confirm addresses in the U.S., and Canada. In other countries, card issuer participation is optional.

AVS Processing Options

AVS Processed as Part of an Authorization Request

The AVS request can be processed either on a real-time basis or in a batch mode using an electronic terminal or personal computer. Real-time requests are typically used for transaction situations where the customer must wait online for a response. The batch mode is geared more toward lower-cost processing for which no immediate response is required as is usually the case with mail orders.

AVS Processed As Part of Account Verification Request

A merchant may also send an AVS request without an accompanying authorization request by using the Zero Amount Account Number Verification Service**, which is available in all regions. For example:

- The merchant wants to verify the customer's billing address before requesting an authorization, or
- The merchant sends an authorization request with AVS data and receives an authorization approval, but also receives an AVS "try again later" response.

* AVS is only available in the U.S. and Canada.

** For more information regarding the Zero Amount Account Number Verification Service, contact your acquirer.

How to Use AVS

Whether AVS* is processed as part of an authorization request, or without it using account verification, the process is as follows:

- When a customer contacts you to place an order,
 - Confirm the usual order information.
 - Ask the customer for the billing address (street address and/or zip or postal code) for the card being used (i.e., the billing address is where the customer's monthly Visa statement is sent for the card being used).
 - Enter the billing address and the transaction information into the authorization request system and process both requests at the same time.
- The card issuer will make an authorization decision separately from the AVS request and compare the cardholder billing address sent with the billing address for that account. The card issuer will then return both the authorization response and a single character alphabetic code result that indicates whether the address given by the cardholder matches the address on file with the card issuer.

You should evaluate the AVS response code and take appropriate action based on all transaction characteristics and any other verification information received with the authorization (i.e., expiration date, CVV2**, etc.). An authorization response **always** takes precedence over AVS. Do not accept any transaction that has been declined, regardless of the AVS response.

* AVS is only available in the U.S. and Canada.

** In certain markets, CVV2 is required to be present for all card-absent transactions.

Section 3: Card-Absent Transactions

AVS Result Codes

One of the following AVS* result codes will be returned to the merchant indicating the card issuer's response to the AVS request. A merchant's acquirer may modify these single character alpha AVS codes to make them more self-explanatory—for example, a "Y" response may be shown by the acquirer as an "exact match" or as a "full match," while an "N" response may be shown as a "no match."

Code	Definition	Code Applies to	
		Domestic	Cross-border
A	Street addresses match. The street addresses match but the postal or ZIP codes do not, or the request does not include the postal or ZIP code.	✓	✓
B	Street addresses match. Postal or ZIP code not verified due to incompatible formats. (Acquirer sent both street address and postal or ZIP code.)	✓	✓
C	Street address and postal code or ZIP code not verified due to incompatible formats. (Acquirer sent both street address and postal or ZIP code.)	✓	✓
D	Street addresses and postal or ZIP codes match.		✓
F	Street addresses and postal codes match. (Applies to U.K.-domestic transactions only.)	✓	
G	Address information not verified for international transaction. Card issuer is not an AVS participant, or AVS data was present in the request but card issuer did not return an AVS result, or Visa performed address verification on behalf of the card issuer and there was no address.		✓
I	Address information not verified.		✓
M	Street address and postal and ZIP codes match.		✓
N	No match. Acquirer sent postal or ZIP code only, or street address only, or both postal or ZIP code and street address.	✓	✓
P	Postal or ZIP codes match. Acquirer sent both postal or ZIP code and street address, but street address not verified due to incompatible formats.	✓	✓
R	Retry. System unavailable or timed out. Card issuer ordinarily performs address verification but was unavailable. Visa uses code R when card issuers are unavailable.	✓	
U	Address information is unavailable for that account number, or the card issuer does not support.	✓	
Y	Street address and postal and ZIP code match.	✓	
Z	Postal or ZIP codes match, street addresses do not match or street address not included in request.	✓	✓

Please contact your acquiring bank for further questions on AVS result codes.



If you complete a transaction for which you received an authorization approval and an AVS response of "U" (unavailable), and the transaction is later charged back to you as fraudulent, your acquirer may represent the item. U.S. card issuers must support AVS or lose their right to fraud chargebacks for card-absent transactions. Card issuers also lose fraud chargeback rights for "U" responses in CVV2** request situations.

* AVS is only available in the U.S. and Canada.

** In certain markets, CVV2 is required to be present for all card-absent transactions.

Guidelines for Using Domestic and Cross-border AVS Result Codes

While Visa does not recommend any particular approach, the following general guidelines are drawn from card-absent industry practices and may be helpful. Merchants should establish their own policy regarding the handling of transactions based on AVS* result codes.

U.S. Code	Int'l Code	Definition	Explanation	Action(s) to Consider
Y	D F M	Exact Match	Both street address and ZIP or Postal Code match.	Generally speaking, you will want to proceed with transactions for which you have received an authorization approval and an "exact match."
A	B	Partial Match	Street address matches, but ZIP or Postal Code does not.	You may want to follow up before shipping merchandise. The card issuer might have the wrong ZIP or Postal Code in its file; merchant staff may have entered the ZIP or Postal Code incorrectly; or this response may indicate a potentially fraudulent situation.
Z	P	Partial Match	ZIP Code matches, but street address does not.	Unless you sent only a ZIP or Postal Code AVS request and it matched, you may want to follow up before shipping merchandise. The card issuer may have the wrong address in its file or have the same address information in a different format; the cardholder may have recently moved; merchant staff may have entered the address incorrectly; or this response may indicate a potentially fraudulent situation.
N	N	No Match	Street address and ZIP or Postal Code do not match.	You may want to follow up with the cardholder before shipping merchandise. The cardholder may have moved recently and not yet notified the card issuer; the cardholder may have given you the shipping address instead of the billing address; or the person may be attempting to execute a fraudulent transaction. "No match" responses generally result in further merchant investigation.

AVS result codes and explanation provided here are meant to give you enough information to make your own determination of what works best for you. How one merchant treats these codes may be different than the way another merchant treats the same codes.



On ZIP or Postal Code only requests and P.O. Box addresses, card issuers may respond either with a "Y" (Exact Match) or a "Z" (Partial Match — ZIP Code/Postal Code Matches).

* AVS is only available in the U.S. and Canada.

International Addresses

AVS* can only be used to confirm addresses in the U.S. and Canada. If you submit an address outside the U.S. and Canada you will receive the response message "G" for "Global." In such cases, you should take further steps to verify the address. You will be liable for any chargebacks if you accept the transaction, even if the card issuer approves it.



Merchant Direct Access Service (MDAS)**

The Merchant Direct Access Service (MDAS) offers merchants access to AVS by dialing a toll-free number using a touch-tone phone. The service is specifically targeted to small MO/TO or Internet merchants for whom AVS may not otherwise be cost effective. Merchants using MDAS are charged on a per-transaction basis.

To use MDAS, you need a touch-tone phone with an outgoing line and a Merchant Access Code (MAC) obtained from your acquirer. To request an address verification, call the MDAS toll-free number. An automated voice unit will guide you through the process of submitting a customer's account number and address, and give you the results of the verification.

MDAS responses are similar to AVS, but do not include a single-letter response code.

MDAS Response	What It Means
Exact Match	Street address and zip code match.
Partial Match	Street address matches, but not zip code.
Partial Match	Zip code matches, but not street address.
No Match	Neither street address nor zip code matches.
Retry Later	Card issuer system is not available at present.
Global	International address; cannot be verified.

Internet Transactions

Today, more and more merchants are adding online sales to their traditional card-present operations. As a result, Visa has developed guidelines and fraud prevention services especially for the Internet.

* AVS is only available in the U.S. and Canada.

** MDAS is only available in the U.S.

This document is from Visa's "Global Visa Card-Not-Present Merchant Guide to Greater Fraud Control" referenced in Exhibits AA-CC. Note that Visa recommends Cybersource and Authorize.net products. As explained in Exhibits AA-CC, Visa owns Cybersource and Cybersource owns Authorize.net. Cybersource was a primary credit card processor for the Obama Campaign in 2012.



Global Visa Card-Not-Present Merchant Guide to Greater Fraud Control

Protect Your Business and Your Customers with
Visa's Layers of Security



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- **Decision Manager (DM)** and **Managed Risk Services** by CyberSource enable mid-size to large companies detect fraud more accurately, review more efficiently, and improve control over fraud management practices.
- **Authorize.Net Advanced Fraud Detection Suite™ (AFDS)** is a set of customizable, rules-based filters and tools that help small businesses identify, manage, and prevent suspicious and potentially costly fraudulent transactions. Authorize Net AFDS is a value-added service of the Authorize.Net Payment Gateway.

The chart below highlights Visa's layers of security by business type.

	VISA/NETFLAUD PREVENTION TOOLS				FRADUCTION SERVICES
	VbV	GVV2	AVS	PCI DSS	DM/AFDS
Internet	✓	✓	✓	✓	✓
Telephone Order		✓	✓	✓	✓
Mail Order			✓	✓	✓

To supplement the effective use of your own data, Visa's fraud prevention tools, and third party data feeds/services, vendor fraud detection solution providers such as CyberSource offer a combination of leading technology and innovative tools for detection and prevention of fraud within the various card-not-present channels. These solutions are designed to help you protect your customers and brand by reducing fraud losses and making the Internet and other sales channels safer to conduct business. To obtain a list of third party fraud prevention solution providers, contact your merchant bank.

- 2 | Global Visa Card-Not-Present Merchant Guide to Greater Fraud Control

1-800-4-NOD-1



EXHIBIT JJ

This exhibit documents the nature of Acorn International's business, its major product lines, and the location of its business. This information comes from p. 93 of the company's May 2, 2007 SEC-filed prospectus as well as its 2013 filings: the 6-K published May 29, 2013 and the 20-F for the year ending December 31, 2012. We also document the company's initial offering on the New York Stock Exchange.

All SEC filings for Acorn are available at <http://www.sec.gov/cgi-bin/browse-edgar?action=getcompany&CIK=0001365742&owner=include&count=40>

6-K 1 d546041d6k.htm FORM 6-K

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Form 6-K

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington D.C. 20549

**REPORT OF FOREIGN ISSUER
PURSUANT TO RULE 13a-16 OR 15d-16 OF THE
SECURITIES EXCHANGE ACT OF 1934**

For the month of May 2013

Commission File Number: 001-33429

Acorn International, Inc.

18/F, 20th Building, 487 Tianlin Road
Shanghai, 200233People's Republic of China
(Address of principal executive office)

Indicate by check mark whether the registrant files or will file annual reports under cover Form 20-F or Form 40-F.

Form 20-F ☒ Form 40-F ☐Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T
Rule 101(b)(1): ☐Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T
Rule 101(b)(7): ☐Indicate by check mark whether by furnishing the information contained in this Form, the registrant is also thereby furnishing
the information to the Commission pursuant to Rule 12g3-2(b) under the Securities Exchange Act of 1934.Yes ☐ No ☒If "Yes" is marked, indicate below the file number assigned to the registrant in connection with Rule 12g3-2(b):82- N/A

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Throughout the remainder of 2013, Acorn intends to focus on improving its call centers' operational efficiency. Acorn also will continue its efforts to strengthen its Internet channels, including its proprietary website sales and sales on the platforms of China's leading E-commerce companies, as well as database sales through its other direct sales channels. Additionally, Acorn will continue to strive to scale up sales of its electronic learning products and enhance their overall market recognition. Acorn anticipates additional new product launches throughout the remainder of the year and higher sales from its outbound telephone sales team leveraging Acorn's customer data base. Furthermore, Acorn's management remains focused on controlling costs across the organization to improve profitability.

These estimates are subject to change. Acorn also reminds investors that its operating results in each period vary significantly as a result of the mix of products sold in the period and the platforms through which they are sold. Therefore, operating results for interim periods are not necessarily indicative of results that may be expected for any other interim period or for the full year. Consequently, in evaluating the overall performance of Acorn's multiple sales platforms in any period, management also considers metrics such as operating margin and gross profit return on advertising expenses.

Conference Call Information

The Company will host a conference call at 8:00 a.m. EDT on August 29, 2013 (8:00 p.m. Beijing Time) to review the Company's financial results and answer investors' questions. You may access the live interactive call via:

- 1-800-860-2442 (U.S. Toll Free)
- 1-412-858-4600 (International)
- 1-866-605-3852 (Canada Toll Free)
- 800-962475 (Hong Kong Toll Free)
- 10-800-120-2304 (China South Toll Free)
- 10-800-712-2304 (China North Toll Free)

Please dial-in approximately 5 minutes in advance to facilitate a timely start.

A replay will be available until 9:00 a.m. EDT on September 9, 2013 and may be accessed via:

- 1-877-344-7529 (U.S. Toll Free)
- 1-412-317-0088 (International)
- Conference number: 10032816

A live and archived webcast of the call will be available on the Company's website at <http://ir.chinadrtv.com>.

About Acorn International, Inc.

Acorn is a media and branding company in China, operating one of China's largest TV direct sales businesses in terms of revenues and TV airtime, and other direct sales platforms and a nationwide distribution network. Acorn's TV direct sales platform consists of airtime purchased from both national and local channels. Acorn's other direct sales platforms include outbound telemarketing centers, e-commerce websites, and catalogs. Acorn has built a proven track record of developing, promoting and selling proprietary-branded products, as well as products from established third parties. For more information, please visit <http://ir.chinadrtv.com>.

424B4 1 d424b4.htm FORM 424(B)(4)

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Filed pursuant to rule 424(b)(4)
Registration No. 333-141860

7,700,000
American Depositary Shares
Representing 23,100,000 Ordinary Shares



Acorn International, Inc.

This is an initial public offering of American depositary shares, or ADSs, each representing three ordinary shares of Acorn International, Inc. We are offering 6,700,000 ADSs, and the selling shareholders identified in this prospectus are offering 1,000,000 ADSs. We will not receive any of the proceeds from the ADSs sold by the selling shareholders. Prior to this offering, there has been no public market for our ordinary shares or ADSs. The initial public offering price is \$15.50 per ADS.

Our application to list our ADSs on the New York Stock Exchange under the symbol "ATV" has been approved.

Investing in our ADSs involves a high degree of risk. See "Risk Factors" beginning on page 14.

	<u>Price to Public</u>	<u>Underwriting Discounts and Commissions</u>	<u>Proceeds, Before Expenses, to Us</u>	<u>Proceeds, Before Expenses, to the Selling Shareholders</u>
Per ADS	\$ 15.500	\$ 1.085	\$ 14.415	\$ 14.415
Total	\$119,350,000	\$8,354,500	\$96,580,500	\$14,415,000

The underwriters have an option to purchase up to 1,155,000 additional ADSs from us at the public offering price, less underwriting discounts and commissions, within 30 days from the date of this prospectus, to cover over-allotments of ADSs.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The underwriters expect to deliver the ADSs to purchasers on or about May 8, 2007.

Merrill Lynch & Co.

Deutsche Bank Securities

CIBC World Markets

The date of this prospectus is May 2, 2007.

Table of Contents**OUR BUSINESS****Overview**

We are a leading integrated multi-platform marketing company in China with a proven track record of developing, promoting and selling consumer products and services. Our two primary sales platforms are our TV direct sales platform and nationwide distribution network. We operate the largest TV direct sales business in China in terms of revenues and TV air time purchased according to Euromonitor International (Asia) Pte Ltd., or Euromonitor. We believe we were one of the first companies in China to use TV direct sales programs, often referred to as TV infomercials, in combination with a nationwide distribution network to market and sell products and services to consumers. Our significant TV air time presence allows us to test-market, promote and sell products and services in China's geographically dispersed and fragmented consumer market. We seek to maximize sales penetration of our products and services that have strong sales and brand development potential by distributing them through our nationwide distribution network. In 2006, we also began using our TV direct sales platform to promote and sell third-party branded products and services pursuant to joint sales arrangements and marketing services arrangements.

Using these integrated TV direct sales and nationwide distribution network platforms, we have developed several leading proprietary brands. In addition, we have expanded into other forms of direct selling, such as catalogs and outbound calls, to further strengthen our promotional efforts and generate additional revenue opportunities from our existing customer base. We believe our vertically integrated direct sales operations, which include product development, TV and other direct sales and marketing, call center operations, and order fulfillment and delivery, combined with our nationwide distribution network, allow us to effectively reach consumers and maximize sales throughout China.

A key contributing factor to the success of our TV direct sales platform is our significant TV air time presence. Since 2003 we have been the largest TV direct sales operator in China in terms of revenue according to Euromonitor. Our TV direct sales programs, which are typically five to ten minutes in length, are currently aired on four nationwide China Central Television, or CCTV, channels, 28 national satellite TV channels, four international satellite channels operating in China and eight local channels. Sales generated through our TV direct sales platform accounted for substantially all of our direct sales net revenues, which in turn comprised 45.1% and 54.7% of our net revenues in 2005 and 2006, respectively. We also purchase TV advertising time for brand promotion advertising to enhance brand awareness of our proprietary products and services. Our brand promotion advertising in connection with our electronic learning devices was recognized in 2005 when we won the EFFIE gold award issued by the China Marketing Association chartered by New York American Marketing Association.

We have three call centers in Shanghai, Beijing and Shenzhen, two of which operate 24 hours per day. Our call centers process telephone orders generated by our direct sales programs and gather real-time data to help analyze the effectiveness of our advertising spending and adjust our offerings. Each of our call centers also places outbound calls to selected customers to market our products and services. In addition, our call center sales representatives are trained to identify and act upon cross-selling opportunities while processing customer orders. As of December 31, 2006, we had 649 sales representatives and 113 customer service representatives. Our sales representatives collectively processed an average of approximately 11,800 and 12,400 incoming calls per day generated from our TV and other direct sales platforms in 2005 and 2006, respectively. Products sold through our TV direct sales and other direct sales platforms are delivered to our customers primarily by national express mail and local delivery companies.

Our nationwide distribution network extends across all provinces and allows us to reach over 20,000 retail outlets covering nearly all of the cities and counties in China. We typically grant our distributors the exclusive right to distribute selected products and services in their respective territories. We closely work with and support our distributors to expand their retail outlet reach, extend our product and service lifecycles and maximize our sales by promotion of our brands through our TV direct sales platform, advertising in local print media and

Acorn's IPO was offered on the New York Stock Exchange on May 3, 2007 as evidenced here:

<http://www.nyse.com/events/1176978984237.html>

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
 WASHINGTON, D.C. 20549

FORM 20-F

(Mark One)

REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR (g) OF THE SECURITIES EXCHANGE ACT OF 1934

OR

x ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
 For the fiscal year ended December 31, 2012

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

OR

SHELL COMPANY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Date of event requiring this shell company report

For the transition period from to

Commission file number: 001-33429

Acorn International, Inc.

(Exact name of Registrant as specified in its charter)

Not applicable

(Translation of Registrant's name into English)

Cayman Islands

(Jurisdiction of incorporation or organization)

18/F, 20th Building, 487 Tianlin Road, Shanghai 200233

(Address of principal executive offices)

Securities registered or to be registered pursuant to Section 12(b) of the Act.

Title of each class
 American Depositary Shares, each representing three
 ordinary shares, par value \$0.01 per share

Name of each exchange on which registered
 New York Stock Exchange

Securities registered or to be registered pursuant to Section 12(g) of the Act.

None

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act.

None

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report: 82,439,960

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes x No

If this report is an annual or transaction report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934. Yes x No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. x Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and

Table of Contents**Factors Affecting Our Results of Operations**

We have benefited from a number of trends that are currently accelerating the growth of the direct sales industry in China, including, among other things, overall economic growth that has resulted in increased disposable income and discretionary consumer spending. Company-specific factors that may affect our future financial condition and results of operations include, among other things, the following:

- the mix of product lines selected by us for marketing through our various sales platforms:

Although we maintain and offer a diverse product portfolio, we generally focus on marketing and selling four to six featured product lines at any one time through our TV and other direct sales platform, and a limited number of products through our nationwide distribution network. Consequently, we have been, and expect to continue to be, dependent on a limited number of featured product lines to generate a large percentage of our net revenues. For example, sales of our mobile phone products, our top selling product line in 2012, contributed to \$64.7 million in our net revenues, representing 26.6% of our total gross revenues in 2012. Among these featured product lines, some of which generally enjoys higher profit margin, such as our fitness and cosmetics product lines, while some of which generally have lower profit margin, such as our mobile phone product line. Currently, our featured product lines mainly include mobile phone products, fitness products, electronic learning products, collectible products and health products. We expect that our fitness product line featuring our Yierjian abdominal trainer and new models of Ozing electronic learning products to be our major revenue drivers in 2013.

- the mix of our TV versus other direct sales platforms:

We sell our products through our TV direct sales platform, other direct sales platform and our nationwide distribution network. Our direct sales (including both TV and other direct sales) accounted for 66.8%, 80.5% and 79.8%, respectively, of our net revenues in 2010, 2011 and 2012, respectively, while our distribution sales accounted for 33.2%, 19.5% and 20.2%, respectively, of our net revenues in 2010, 2011 and 2012, respectively. We expect to continue to focus on our TV and other direct sales platforms, which we believe to be our core competency.

- new product introduced by us and our ability to identify new products:

Our ability to maintain or grow our revenue depends on our ability to successfully identify, develop, introduce and distribute in a timely and cost-effective manner new and upgraded product offerings. We employ a systematic identification and development process. After a potential featured product has been identified and tested, we evaluate a number of key benchmarks, particularly estimated profitability relative to our media expenses, in determining whether to conduct full-scale sales and marketing. We also seek to diversify our product offerings by adding products that offer recurring revenue opportunities. To help us identify suitable new products, we entered into an exclusive partnership agreement on July 21, 2011 with GIS, a full-service international direct-response television distributor, pursuant to which GIS will search for and identify products of interest for us and obtain rights to such products on our behalf. As of the date of this Form 20-F, we identified three new products through GIS, among which one product had been marketed by us in 2012.

- the amount and timing of operating expenses incurred by us, in particular our media procurement expenses:

Our revenues are driven significantly by our spending on advertising, particularly our TV direct sales programs. Our total advertising expenses increased from \$58.5 million in 2010 to \$68.6 million in 2011 and then decreased to \$58.3 million in 2012. The largest component of our total advertising expenses, constituting over 90% of total advertising expenses in each of 2010, 2011 and 2012, is purchased TV advertising time, which correlates to the conversion rate of our inbound calls. The primary performance metric we track and analyze on a daily basis is the conversion rate of our inbound calls. The conversion rate for inbound calls, which is the percentage of inbound calls that result in product purchase orders, was 25.4%, 31.4% and 36.2%, in 2010, 2011 and 2012, respectively. The increase in conversion rate in 2012 was primarily due to increased sales of fitness

Acorn's IPO was offered on the New York Stock Exchange on May 3, 2007 as evidenced here:

<http://www.nyse.com/events/1176978984237.html>

Events



Acorn International, Inc. Celebrates Recent IPO

05/04/2007

**ATV
LISTED
NYSE**

[more company info](#)

Acorn International, Inc. (NYSE-Listed ATV) visits the NYSE to celebrate its May 3, 2007 initial public offering. In honor of the occasion, CEO James Yujun Hu rings The Opening BellSM.

Click the link below to view an archived webcast of The Opening Bell.

[Windows Media Player 300k](#)

Acorn International

Founded in 1998, Acorn International is the largest TV home shopping company in China. The Company markets and sells consumer products through TV home shopping commercials broadcasted nationwide by satellite TV channels. The Company sells approximately 60-branded consumer products classified into five categories including Automotive, Home Electronics, Health & Fitness, Nutritional and Home, Beauty & Leisure. Since its inception, Acorn has built an industry-leading business infrastructure.

[View listed companies from China](#)

Link to related URL : <http://www.chinadrtv.com>

[« BACK](#)

Exhibit KK

This exhibit is taken from Acorn International's current 20-F filing with the SEC for the year ending December 31, 2012. It details the complex structure of the company as held through two offshore corporations: one in the Cayman Islands and one in the British Virgin Islands. This documentation explains how Acorn must do business in China through two Chinese companies owned by Acorn's CEO and another senior company official; and arrangement for which they are compensated through an automatically renewing, no-interest loan agreement valued at approximately \$31 million (190 million RMB).¹ This entire arrangement, including the offshore corporations, is known as "the Group."

Acorn SEC filings are available at <http://www.sec.gov/cgi-bin/browse-edgar?action=getcompany&CIK=0001365742&owner=include&count=40>

¹ For Reminibi to dollar calculations, visit <http://ncalculators.com/currency-converter/RMB-USD-conversion.htm>.

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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

WASHINGTON, D.C. 20549

FORM 20-F

(Mark One)

REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR (g) OF THE SECURITIES EXCHANGE ACT OF 1934

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Commission file number: 001-33429

Acorn International, Inc.

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Not applicable

(Translation of Registrant's name into English)

Cayman Islands

(Jurisdiction of incorporation or organization)

18/F, 20th Building, 487 Tianlin Road, Shanghai 200233

(Address of principal executive offices)

Securities registered or to be registered pursuant to Section 12(b) of the Act.

Title of each className of each exchange on which registeredAmerican Depositary Shares, each representing three
ordinary shares, par value \$0.01 per share

New York Stock Exchange

Securities registered or to be registered pursuant to Section 12(g) of the Act.

None

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act.

None

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report: 82,439,960

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒If this report is an annual or transaction report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934. Yes ☐ No ☒Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and

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concerning Foreign Exchange Administration for Domestic Individuals Participating in Stock Incentive Plan of Overseas-Listed Companies, or Circular 7, in replacement of the Circular 78. According to Circular 7, individuals in PRC (including PRC citizens and foreign individuals who have lived in China over one year) who intend to participate in the stock incentive plan of the same overseas listed company shall unifiedly appoint a qualified PRC domestic agent or a PRC subsidiary of such overseas listed company ("a PRC agency") to conduct foreign exchange registration, open bank accounts and transfer and exchange funds and an overseas entity shall be appointed to conduct exercise of option, buying and selling of relevant stocks or equities and transfer of relevant funds. After such individuals' foreign exchange income received from participation in the stock incentive plan is remitted to PRC, relevant banks shall distribute the above funds from the account opened and managed by the PRC agency to such individuals' foreign exchange accounts. We and our employees within PRC who have been granted share options or stock appreciation rights, or PRC option/stock appreciation right holders, are subject to Circular 7 upon the listing of our ADSs on NYSE. If we or our PRC option/stock appreciation right holders fail to comply with these regulations, we or our PRC option/stock appreciation right holders may be subject to fines and other legal or administrative sanction.

Pursuant to the Notice on Relevant Issues Concerning Collection of Individual Income Tax Related to Income from Share Option issued by the Ministry of Finance and the State Administration of Taxation on March 28, 2005 and the Notice on Issues of Individual Income Tax Concerning Share Incentive Plan issued by the State Administration of Taxation on August 24, 2009, in connection with the share option plan of an overseas listed company, the difference received by a PRC individual who had been granted share options between the exercise price and the fair market price of such shares on the exercise date shall be imposed of individual income tax which shall be withheld by the PRC subsidiary of such overseas listed company.

Regulations on Labor Protection

The PRC Labor Contract Law and its Implementation Rules became effective on January 1, 2008 and September 18, 2008, respectively, which set out specific provisions related to fixed-term and unlimited-term employment contracts, part-time employment, labor dispatch, probation, consultation with labor union, employment without a written contract, dismissal of employees, severance and collective bargaining, pursuant to which relevant PRC government authorities enhanced their enforcement of labor laws and regulations. On December 28, 2012 the Labor Contract Law was amended to impose more stringent requirements on labor dispatch which will become effective on July 1, 2013. Pursuant to amended Labor Contract Law, (i) it is strongly emphasized that dispatched employees shall be entitled to equal pay for equal work as a fulltime employee of an employer; (ii) labor contracts between employers and employees shall be the basic form of employment adopted by Chinese enterprises and employment by labor dispatching is only a supplementary form and shall apply only to temporary, ancillary or substitute works; and (iii) an employer shall strictly control the number of dispatched employees so that they do not exceed certain percentage of total number of employees and the specific percentage shall be prescribed by the labor administrative department of the State Council.

On April 28, 2012, the State Council announced the Special Provisions on Labor Protection of Female Employees, or Female Protection Provisions. As stated in the Female Protection Provisions, a female employee shall be entitled to 98 days of maternity leave, among which 15 days of leave will be available before her giving birth. No employer may lower the wages, dismiss or terminate the employment agreement with a female employee as a consequence of her pregnancy, giving birth or breast-feeding. The Female Protection Provisions also provide rules of the maternity allowance and the relevant medical expenses for female employees who have and have not participated in maternity insurance respectively.

C. Organizational Structure

We commenced operations in 1998 through Beijing Acorn, and in 2000, we established and commenced business operations for two other operating companies, Shanghai Acorn Network Co., Ltd., or Shanghai Acorn, and Shanghai Acorn Trade and Development Co., Ltd., or Shanghai Trade.

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Prior to January 1, 2005, our business was operated through Beijing Acorn, Shanghai Acorn and Shanghai Trade, including their subsidiaries. Each of these three operating companies, referred to as the "combined entities", was under common management, was operated on an integrated basis and was beneficially owned by the same shareholders and, with limited exception, in the same shareholding percentages. To enable us to raise equity capital from investors outside of China, we established a holding company structure by incorporating China DRTV in the British Virgin Islands on March 4, 2004. In 2004, China DRTV formed four PRC subsidiaries and two consolidated PRC affiliated entities. As part of a restructuring to implement an offshore holding company structure to comply with PRC laws imposing restrictions on foreign ownership in direct sales, wholesale distributor and advertising businesses, each of the combined entities, including their subsidiaries, transferred to China DRTV's newly created consolidated subsidiaries and affiliated entities, by means of an asset transfer and liability assumption, substantially all their assets and liabilities at their net book values, *except that* (a) the assets and liabilities of one of the combined entities' subsidiaries were transferred through the transfer to China DRTV of all of that subsidiary's capital stock, and (b) after one of the three pre-restructuring operating companies, Beijing Acorn, transferred certain of its assets to two of China DRTV's subsidiaries, its shareholders transferred their equity interests in Beijing Acorn to two PRC individuals, with Beijing Acorn becoming an additional China DRTV affiliated entity. Commencing on January 1, 2005 our business was conducted through China DRTV and its subsidiaries and, until recently, our three affiliated entities. Other than Beijing Acorn and the other transferred subsidiary, each of the pre-restructuring companies previously engaged in the business was liquidated. We have determined that no change in basis in the assets transferred in connection with the restructuring is appropriate as the transfers constituted a transfer of net assets by entities under common control.

In connection with our initial public offering, we incorporated Acorn International, Inc. in the Cayman Islands on December 20, 2005 as our listing vehicle. Acorn International Inc. became our ultimate holding company when it issued shares to the existing shareholders of China DRTV on March 31, 2006 in exchange for all of the shares that these shareholders held in China DRTV. In September 2007, we entered into a share purchase agreement to acquire MK AND T Communications Limited. The acquisition was completed in November 2008. In October 2007, we formed two Hong Kong subsidiaries wholly-owned by China DRTV, Bright Rainbow Investments Limited and Emoney Investments Limited. On December 13, 2007, we formed Acorn Trade (Shanghai) Co., Ltd., a PRC subsidiary wholly-owned by China DRTV, through which we conduct our wholesale distribution business. Prior to this, our wholesale distribution business was conducted through our two affiliated entities, Shanghai Network and Beijing Acorn. In April, 2008, we transferred 100% of the ownership interest in Shanghai HJX to Bright Rainbow Investments Limited. In December 2008, we acquired 100% of the equity interests of Yiyang Yukang, a mobile phone producer and distributor in China and former third-party supplier of our mobile phone products, which is now a subsidiary of the Company. In February 2010, Emoney Investments Limited was deregistered.

Shanghai Network and Beijing Acorn, our two affiliated entities, are currently owned by two PRC citizens, Don Dongjie Yang, our co-founder, chief executive officer and director, and Weiguo Ge, an assistant general managers of our finance department. Shanghai Network is primarily engaged in our TV direct sales business throughout China except for Beijing. Beijing Acorn is primarily engaged in our TV direct sales business in Beijing. We have entered into contractual arrangements with these two affiliated entities pursuant to which our wholly owned subsidiary, Acorn Information Technology (Shanghai) Co., Ltd., provides technical support and management services to these affiliated entities. In addition, we have entered into agreements with these two affiliated entities and their shareholders, Don Dongjie Yang and Weiguo Ge, providing us with the ability to effectively control each of these affiliated entities. Accordingly, we have consolidated historical financial results of these two affiliated entities in our financial statements as variable interest entities pursuant to U.S. GAAP. Mr. Yang and Mr. Ge collectively hold 12.93% of the outstanding shares of our Company as of the date of this Form 20-F.

In September 2007, we acquired the legal ownership of Shanghai Acorn Advertising Broadcasting Co., Ltd, or Shanghai Advertising, which was previously one of our affiliated entities owned by Don Dongjie Yang and David Chenghong He. As James Yujun Hu and Guoying Du who used to be the designees under the contractual

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arrangements resigned from the Company in 2010, we released the above persons from rights and obligations under the contractual arrangements and new Powers of Attorney were entered into, pursuant to which, Irene Lin Bian and Lifu Chen have been appointed by Don Dongjie Yang and David Chenghong He who were shareholders of two affiliated entities at that time as new designees to exercise their shareholders rights in Shanghai Network and Beijing Acorn, respectively, including their voting rights in the shareholders meeting. David Chenghong He resigned from the Company in February 2011, and the contractual arrangements previously entered into by David Chenghong He were all terminated and Irene Lin Bian became the 25% shareholder in our two affiliated entities and entered into a new set of contractual arrangements. Under the new set of contractual arrangements, Lifu Chen and Weiguo Ge were appointed by Don Dongjie Yang and Irene Lin Bian as new designees to exercise their shareholders rights in Shanghai Network and Beijing Acorn, respectively, including their voting rights in the shareholders meeting. On November 29, 2011, shortly before Irene Lin Bian left the Company, the contractual arrangements previously entered into by Irene Lin Bian were all terminated and Weiguo Ge became the 25% shareholder of our two affiliated entities and entered into a new set of contractual arrangements. Pursuant to the new powers of attorney under the new set of contractual arrangements, Lifu Chen and Yongqiang Zhu was appointed by Don Dongjie Yang and Weiguo Ge as new designees to exercise their shareholders rights in Shanghai Network and Beijing Acorn, respectively, including their voting rights in the shareholders meeting.

In the opinion of our PRC legal counsel, Commerce & Finance, except as disclosed in Item 3.D., "Key Information—Risk Factors—Risks Related to the Regulation of Our Business—If the PRC government takes the view that we did not obtain the necessary approval for our acquisition of Shanghai Advertising, we could be subject to penalties" and as disclosed in Item 3.D., "Key Information—Risk Factors—Risks Related to the Regulation of Our Business—If the PRC government takes the view that our acquisition of Shanghai Advertising does not comply with PRC governmental restrictions on foreign investment in advertising, we could be subject to severe penalties", (1) the ownership structures of our directly owned PRC subsidiaries comply with existing PRC laws and regulations and (2) the ownership structures of our two affiliated entities and our contractual arrangements with these affiliated entities and their shareholders are valid, binding and enforceable, and do not and will not result in a violation of existing PRC laws and regulations.

We have been advised by our PRC legal counsel, Commerce & Finance, however, that there are uncertainties regarding the interpretation and application of current and future PRC laws and regulations with respect to these matters. Accordingly, we cannot assure you that the PRC regulatory authorities, in particular SAIC and MOFCOM, which regulate foreign investment in direct sales companies, will not in the future take views that are contrary to the above opinions of our PRC legal counsel. If the current agreements that establish the structure for conducting our PRC direct sales business were found to be in violation of existing or future PRC laws or regulations, we may be required to restructure our ownership structure and direct sales operations in China or to carry out other actions required by relevant PRC government authorities to comply with PRC laws and regulations, or we could be subject to severe penalties. See Item 3.D., "Key Information—Risk Factors—Risks Related to the Regulation of Our Business—If the PRC government takes the view that the agreements that establish the structure for operating our TV and other direct sales business in China do not comply with PRC governmental restrictions on foreign investment in these areas, we could be subject to severe penalties".

As part of our reorganization, we deregistered U King Communications Equipment (Hong Kong) Limited in May 2011, transferred 100% of the ownership interest in Shanghai Advertising to MK AND T Communications Limited in October 2011 and disposed of our shareholding in Acorn Hong Kong Holdings Limited in December 2011. In addition, we deregistered our wholly-owned subsidiary, Shanghai Acorn Enterprise Management Consulting Co., Ltd. in January 2013, and is currently in the process of deregistering Beijing HJZX Software Technology Development Co., Ltd., which is expected to be completed in 2013.

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The following diagram illustrates our current corporate structure and the place of formation, ownership interest and affiliation of each of our subsidiaries and the two affiliated entities as of the date of this Form 20-F⁽¹⁾:

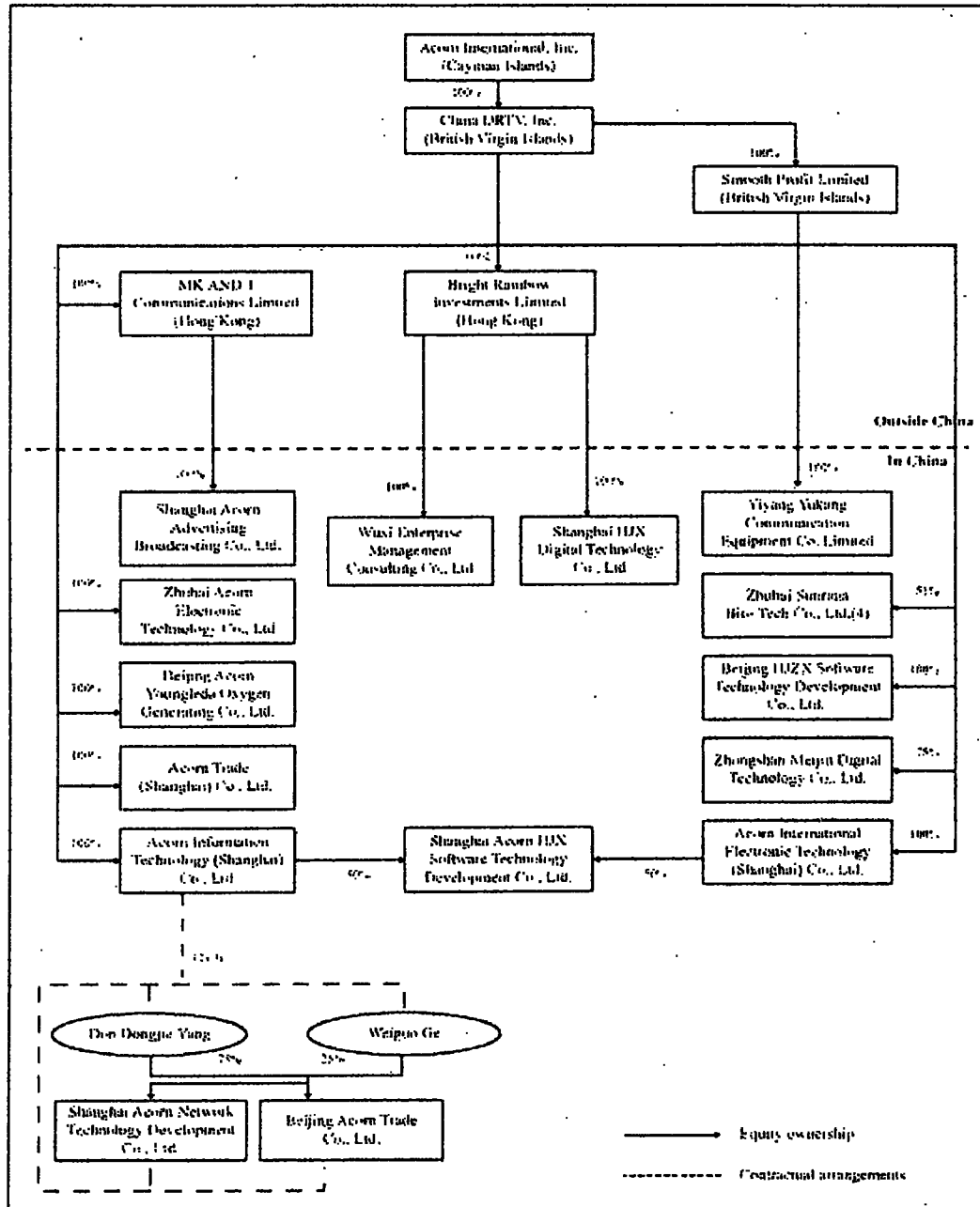


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- (1) For risks related to our current corporate structure, see Item 3.D, "Key Information—Risk Factors—Risks Related to the Regulation of Our Business".
- (2) Agreements that provide us with effective control over Shanghai Acorn Network Technology Development Co., Ltd. and Beijing Acorn Trade Co., Ltd. include equity pledge agreements, irrevocable powers of attorney, a loan agreement, operation and management agreements, exclusive purchase agreements and spouse consent letters. We may modify our contractual arrangements from time to time to facilitate our operations. For previous changes in our contractual arrangements, please see Item 3.C, "Organizational Structure" for further information.
- (3) The economic benefits of Shanghai Acorn Network Technology Development Co., Ltd. and Beijing Acorn Trade Co., Ltd. accrue to Acorn Information Technology (Shanghai) Co., Ltd.
- (4) The Zhuhai Sunrana Bio-Tech Co., Ltd. is currently under the liquidation process.

Material Operating Entities

MOFCOM, or its local counterpart, reviews the application and issues the requisite approval for business operations by foreign entities. Our direct sales business is considered commercial trading and, until 2004, foreign investment in commercial trading was highly restricted by PRC regulations. By December 2004, MOFCOM had significantly reduced these restrictions. Nevertheless, to directly operate our direct sales business, we still need to obtain MOFCOM's approval. Therefore, our direct sales business is currently conducted by our consolidated affiliated entities, Shanghai Network and Beijing Acorn, which hold the necessary licenses to conduct our direct sales business, through contractual arrangements between Acorn Information, our wholly owned subsidiary in China, and these two consolidated affiliated entities. Our wholesale business is currently conducted by Acorn Trade (Shanghai) Co., Ltd.

Our direct sales business, and our advertising operations in support of our direct sales business, are regulated by SAIC. All of our advertising business operations, which include design, production and publication of TV and other advertising, are conducted by Shanghai Advertising, which used to be one of our affiliated entities. We acquired 100% of the legal ownership of Shanghai Advertising through Shanghai Acorn Enterprise Management Consulting Co., Ltd. in September 2007, and subsequently transferred the entire equity interest in Shanghai Advertising to MK AND T Communications Limited as part of our reorganization. The Pudong Administration of Industry and Commerce in Shanghai issued a new business license for Shanghai Advertising to conduct our advertising operations following the acquisition.

In addition, Shanghai HJX, Acorn International Electronic Technology (Shanghai) Co., Ltd. and Zhuhai Acorn Electronic Technology Co., Ltd. and Acorn Trade (Shanghai) Co., Ltd. manufacture and distribute through our nationwide distribution network most of our electronic learning products, electronic dictionary products, posture correction products and oxygen generating devices, and each provides technical support and after-sales services for such products. The direct sales of our consumer electronics products and other fitness products are primarily conducted through Shanghai Network and Beijing Acorn.

Contractual Arrangements with the Consolidated Affiliated Entities and their Shareholders

Our relationships with the two affiliated entities and their shareholders are governed by a series of contractual arrangements. Under PRC law, each of the affiliated entities is an independent legal person and none of them is exposed to liabilities incurred by the other party. Other than pursuant to the contractual arrangements between our wholly owned subsidiary, Acorn Information, and these two affiliated entities, these affiliated entities do not transfer any other funds generated from their operations to us. These contractual arrangements are as set forth below.

Each of our contractual arrangements with these two affiliated entities and their shareholders can only be amended with the approval of our audit committee or another independent body of our board of directors. See Item 7.B, "Major Shareholders and Related Party Transactions—Related Party Transactions" for further information on our contractual arrangements with these parties.

Table of Contents***Agreements that Provide Effective Control and an Option to Acquire Shanghai Network and Beijing Acorn***

These agreements provide us with effective control over these two affiliated entities and their shareholders, Don Dongjie Yang, our co-founder, chief executive officer and director, and Weiguo Ge, one of the assistant general managers of our finance department. They include irrevocable powers of attorney, a loan agreement, equity pledge agreements, operation and management agreements and spouse consent letters. Under the exclusive purchase agreements, we also have exclusive options to purchase the equity interests of the affiliated entities.

- ***Irrevocable Powers of Attorney.*** Under irrevocable powers of attorney, each of the two shareholders of Shanghai Network and Beijing Acorn, Don Dongjie Yang and Weiguo Ge, has granted to designees of Acorn Information, Lifu Chen, one of our senior vice presidents, and Yongqiang Zhu, one of our senior vice presidents, the power to exercise all voting rights of such shareholder in the shareholders' meetings, including but not limited to the power to determine the sale or transfer of all or part of such shareholder's equity interest in, and appoint the directors of, Shanghai Network and Beijing Acorn. These irrevocable powers of attorney have terms of ten years and will automatically renew for another ten years unless terminated by the above-mentioned designees of Acorn Information in writing three months prior to their expiry.
- ***Loan Agreement.*** Under the loan agreement among Acorn Information and the shareholders of these two affiliated entities, Don Dongjie Yang and Weiguo Ge, Acorn Information made a loan to Don Dongjie Yang and Weiguo Ge in an aggregate amount of RMB 162.5 million and agreed to make additional loans not exceeding RMB 30.4 million to Don Dongjie Yang and Weiguo Ge. The loan is to be used primarily for capital investments by the shareholders in Shanghai Network and Beijing Acorn. The loan can only be repaid by the shareholders' transfer of their interests in Shanghai Network and Beijing Acorn to Acorn Information or its designee when permissible under PRC law. The initial term of the loan is ten years and will automatically be renewed for another ten years absent a written termination notice from Acorn Information.
- ***Operation and Management Agreements.*** Under the operation and management agreements among Acorn Information, the two shareholders and each of the affiliated entities, the parties have agreed that Acorn Information will provide guidance and instructions on daily operations and financial affairs of each of these two affiliated entities. The agreements also state that each of the directors, general managers and other senior management personnel of these affiliated entities will be appointed as nominated by Acorn Information. Acorn Information has the authority to exercise the voting rights on behalf of the two shareholders at the shareholder meetings of the two affiliated entities. Acorn Information has agreed to provide security for contracts, agreements or other transactions entered into by these two affiliated entities with third parties, provided that these affiliated entities shall provide counter-security for Acorn Information using their accounts receivable or assets. In addition, each of these affiliated entities agreed not to enter into any transaction that could materially affect its respective assets, obligations, rights or operations without prior written consent from Acorn Information. The terms of these agreements are ten years and will automatically renew for another ten years absent a written termination notice by Acorn Information.
- ***Equity Pledge Agreements.*** Under the equity pledge agreements among Acorn Information and the two shareholders of the affiliated entities, each of Don Dongjie Yang and Weiguo Ge has pledged all of his equity interests in Shanghai Network and Beijing Acorn to Acorn Information to guarantee the performance of the two affiliated entities under the operation and management agreements and the exclusive technical services agreements as described below, as well as their personal obligations under the loan agreements. Each of the shareholders also agrees not to transfer, assign or, pledge his interests in any of these affiliated entities without the prior written consent of Acorn Information. If any of these affiliated entities or either of the two shareholders breaches its respective contractual obligations thereunder, Acorn Information, as pledgee, will be entitled to certain rights, including but not limited to the right to sell the pledged equity interests. The terms of these agreements are ten years and will automatically renew for another ten years absent written termination notice by Acorn Information three months prior to their expiry.

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- *Exclusive Purchase Agreements.* Pursuant to the exclusive purchase agreements among Acorn Information and each of Shanghai Network and Beijing Acorn and their shareholders, Don Dongjie Yang and Weiguo Ge, each of the two shareholders has irrevocably granted Acorn Information or its designee an exclusive option to purchase at any time if and when permitted under PRC law, all or any portion of their equity interests in Shanghai Network and Beijing Acorn for a price that is the minimum amount permitted by PRC law. The terms of these agreements are ten years and will automatically renew for another ten years absent a written termination notice by Acorn Information three months prior to their expiry.
- *Spouse Consent Letters.* Pursuant to the spouse consent letters, the spouse of each of the shareholders of these two affiliated entities acknowledges that she is aware of, and consents to, the execution by her spouse of irrevocable powers of attorney, equity pledge agreements and the exclusive purchase agreements described above. With respect to establishment, grant and performance of the above irrevocable powers of attorney, equity pledge and the exclusive purchase, each spouse further agrees that, whether at present or in the future, she will not take any actions or raise any claims or objection.

Technical Services Agreements that Transfer Economic Benefits from Shanghai Network and Beijing Acorn to Us

Acorn Information has entered into a technical service agreement with each of the affiliated entities to transfer economic interests in these entities to us. Pursuant to the technical service agreements, Acorn Information is the exclusive provider of technical support and consulting services to the two affiliated entities in exchange for service fees. Under these agreements, each of the affiliated entities may not, among other things, dispose of its assets, dissolve, liquidate, merge with any third parties, provide security to any third parties, distribute dividends, engage in transactions with any of its affiliates, make external investment or conduct any business outside of the ordinary course of their respective businesses without the prior consent of Acorn Information. The term of these agreements is ten years and will automatically renew for another ten years unless terminated by Acorn Information.

D. Property, Plant and Equipment

We are headquartered in Shanghai and own an office space of 3,852 square meters. In addition, we have leased an aggregate of approximately 19,315 square meters of office and call center spaces in Beijing, Shanghai and Wuxi. Our leases are typically for a term from one to five years. Our four central warehousing hubs cover approximately 40,410 square meters, among which 4,940 square meters are subject to varying lease terms. We typically enjoy a priority right to renew our leases for our warehouses.

Our manufacturing facilities in Beijing, Shanghai, Shenzhen and Zhuhai occupy an aggregate of approximately 5,808 square meters. Our manufacturing facilities in Zhuhai are used for the production of our oxygen generating device product line, our manufacturing facilities in Shanghai are used for the production of our posture correction product lines, and our manufacturing facility in Shenzhen is used for the production of our electronic learning product line.

Uncertainty exists as to our right to use the land on which our manufacturing facilities are built in Beijing. For additional information regarding this uncertainty, see Item 3.D, "Key Information—Risk Factors—Risks Related to Our Business—Our leases of land and manufacturing facilities in Beijing may not be in full compliance with PRC laws and regulations and we may be required to relocate our facilities, which may disrupt our manufacturing operations and result in decreased net revenues".

During the first quarter of 2009, we obtained a fifty-year land use right of a piece of land in Qingpu district of Shanghai for aggregate consideration of approximately RMB51.2 million (approximately \$7.5 million). We have completed the construction of a warehouse and a factory for keeping our inventories and manufacturing our proprietary branded products, the building ownership certificates of which had been obtained on December 20, 2012.

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ACORN INTERNATIONAL, INC.
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2010, 2011 AND 2012
(In US dollars, except share data, unless otherwise stated)

1. Organization and principal activities

Acorn International, Inc. ("Acorn International") was incorporated in Cayman Islands on December 20, 2005. China DRTV, Inc. ("China DRTV") was incorporated in the British Virgin Islands ("BVI") on March 4, 2004.

Acorn International and its subsidiaries and variable interest entities ("VIEs") (collectively, the "Group") is an integrated multi-platform marketing company in China which develops, promotes and sells products. The Group's two primary sales platforms are integrated direct sales and a nationwide distribution network. Direct sales platforms include TV direct sales, outbound calls, Internet sales, catalogs sales, third-party bank channel sales and direct sales through print media and radio. Direct sales are not only combined with the nationwide distribution network to market and sell the Group's products to consumers, but also used to promote and sell third-party branded products to consumers pursuant to joint sales arrangements.

Consolidated subsidiaries and changes to consolidated subsidiaries

As of December 31, 2012, the subsidiaries of Acorn International were as follows:

<u>Name of subsidiaries</u>	<u>Percentage of ownership</u>	<u>Date of incorporation</u>	<u>Place of incorporation</u>
China DRTV, Inc. ("China DRTV")	100%	March 4, 2004	BVI
Smooth Profit Limited ("Smooth Profit")	100%	September 18, 2007	BVI
MK AND T Communications Limited ("MK AND T")	100%	October 27, 1998	Hong Kong
Bright Rainbow Investments Limited ("Bright Rainbow")	100%	October 29, 2007	Hong Kong
Shanghai Acorn Advertising Broadcasting Co., Ltd. ("Shanghai Advertising")	100%	August 19, 2004	PRC
Shanghai HJX Digital Technology Co., Ltd. ("Shanghai HJX")	100%	August 23, 2004	PRC
Acorn International Electronic Technology (Shanghai) Co., Ltd. ("Acorn Electronic")	100%	August 23, 2004	PRC
Acorn Information Technology (Shanghai) Co., Ltd. ("Acorn Information")	100%	August 27, 2004	PRC
Beijing Acorn Youngleda Oxygen Generating Co., Ltd. ("Beijing Youngleda")	100%	October 20, 2004	PRC
Yiyang Yukang Communication Equipment Co., Ltd. ("Yiyang Yukang")	100%	November 29, 2005	PRC
Zhuhai Sunrana Bio-tech Co., Ltd. ("Zhuhai Sunrana")	51%	June 16, 2006	PRC
Shanghai Acorn Enterprise Management Consulting Co., Ltd. ("Acorn Consulting")	100%	November 8, 2006	PRC
Zhuhai Acorn Electronic Technology Co., Ltd. ("Zhuhai Acorn")	100%	September 26, 2006	PRC
Beijing HJZX Software Technology Development Co., Ltd. ("Beijing HJZX")	100%	January 22, 2007	PRC
Zhongshan Meijin Digital Technology Co., Ltd. ("Zhongshan Meijin")	75%	February 13, 2007	PRC
Acorn Trade (Shanghai) Co., Ltd. ("Acorn Trade")	100%	December 13, 2007	PRC
Shanghai Acorn HJX Software Technology Development Co., Ltd. ("HJX Software")	100%	May 12, 2009	PRC
Wuxi Acorn Enterprise Management Consulting Co., Ltd. ("Wuxi Acorn")	100%	January 29, 2010	PRC

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EXHIBIT LL

This exhibit contains documentation from Acorn's SEC filings of the extensive tax liability and regulatory scrutiny to which the company is continually subject, under what it calls a "legal regime" administrated by the China State Council. These statements are taken from both the company's 2007 Prospectus, and its 2012 20-F filing published April 18, 2013. Much of what is found here comes under the company's declarations of risk in these documents.

These filings are available at <http://www.sec.gov/cgi-bin/browse-edgar?action=getcompany&CIK=0001365742&owner=include&count=40>

The following is from Acorn's 2007 Prospectus

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Filed pursuant to rule 424(b)(4)
Registration No. 333-141860

7,700,000
American Depositary Shares
Representing 23,100,000 Ordinary Shares

**ACORN****Acorn International, Inc.**

This is an initial public offering of American depositary shares, or ADSs, each representing three ordinary shares of Acorn International, Inc. We are offering 6,700,000 ADSs, and the selling shareholders identified in this prospectus are offering 1,000,000 ADSs. We will not receive any of the proceeds from the ADSs sold by the selling shareholders. Prior to this offering, there has been no public market for our ordinary shares or ADSs. The initial public offering price is \$15.50 per ADS.

Our application to list our ADSs on the New York Stock Exchange under the symbol "ATV" has been approved.

Investing in our ADSs involves a high degree of risk. See "Risk Factors" beginning on page 14.

	Price to Public	Underwriting Discounts and Commissions	Proceeds, Before Expenses, to Us	Proceeds, Before Expenses, to the Selling Shareholders
Per ADS	\$ 15.500	\$ 1.085	\$ 14.415	\$ 14.415
Total	\$119,350,000	\$ 8,354,500	\$96,580,500	\$14,415,000

The underwriters have an option to purchase up to 1,155,000 additional ADSs from us at the public offering price, less underwriting discounts and commissions, within 30 days from the date of this prospectus, to cover over-allotments of ADSs.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The underwriters expect to deliver the ADSs to purchasers on or about May 8, 2007.

Merrill Lynch & Co.**Deutsche Bank Securities**

CIBC World Markets

The date of this prospectus is May 2, 2007.

Table of Contents**CHINESE GOVERNMENT REGULATIONS**

The PRC government extensively regulates the industries in which we operate our business. We operate our direct sales and advertising businesses in China under a legal regime consisting of the State Council, which is the highest authority of the executive branch of the PRC central government, and several ministries and agencies under its authority including, among others, the State Administration for Industry and Commerce, or SAIC, the Ministry of Commerce, or MOFCOM, the State Administration for Radio, Film and Television, or SARFT, the State Administration for Food and Drug, or SAFD and the Ministry of Information Industry, or MII.

In the opinion of Haiwen & Partners, our PRC legal counsel: (1) the ownership structure of our company complies with, and immediately after this offering, will comply with, current PRC laws and regulations; and (2) our contractual arrangements with Shanghai Network, Beijing Acorn and Shanghai Advertising and their shareholders are valid and binding on all parties to these arrangements and do not violate existing PRC laws or regulations.

The TV direct sales industry and other direct sales industries in China are still in their infancy and the competitive landscape and range of products being offered continue to evolve rapidly. There are substantial uncertainties regarding the interpretation and application of existing or proposed PRC laws and regulations. We cannot assure you that the PRC regulatory authorities would find that our corporate structure and our business operations comply with PRC laws and regulations. If the PRC government finds us to be in violation of PRC laws and regulations, we may be required to pay fines and penalties, obtain certain licenses, approvals, or permits and change, suspend or discontinue our business operations until we comply with applicable laws.

This section sets forth a summary of what we believe are the most significant regulations or requirements that affect our business activities in China and our shareholders' right to receive dividends and other distributions from us.

Regulatory Requirements for Foreign Participation***Direct Sales and Wholesale Distribution Business***

Foreign investments in direct sales and wholesale businesses are both principally governed by the Administrative Measures on Foreign Investment in Commercial Sector promulgated by the Ministry of Commerce, or the Commercial Sector Measures, on April 16, 2004. The Commercial Sector Measures lowered the previous thresholds for foreign investors to enter the commercial sector in China and completely removed the previous restrictions on the location of and maximum foreign shareholding percentage in foreign-invested commercial enterprises as of December 11, 2004. Under the Commercial Sector Measures, the establishment of a foreign-invested direct sales (including direct sales via TV, telephones, mail and Internet) or wholesale distribution enterprise must obtain approval from MOFCOM or its authorized local counterparts.

Under the PRC Law on Sino-foreign Equity Joint Venture Enterprises (revised in 2001), the PRC Law on Sino-foreign Cooperative Joint Venture Enterprises (revised in 2000), and the PRC Law on Wholly Foreign-owned Enterprises (revised in 2000), a foreign-invested enterprise is allowed to sell its self-produced products. Our distribution of our proprietary branded products is primarily conducted by our indirect subsidiaries which manufacture these proprietary branded products and sell such products as their self-produced products. Under the PRC laws, sellers of special products, such as medicine, medical devices and health protection products, are required to review the necessary manufacturing permits provided by the manufacturers.

Advertising Services

The principal regulation governing foreign ownership in the advertising industry is the Administrative Regulation on Foreign-invested Advertising Enterprises jointly promulgated by the Ministry of Commerce and

The following is taken from the 2012 20-F, pp. 26-28. It declares Acorn's considerable tax liabilities if the company's Chinese regulators decide its structure or business is legally suspect.

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
 WASHINGTON, D.C. 20549

FORM 20-F

(Mark One)

- ☐ REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR (g) OF THE SECURITIES EXCHANGE ACT OF 1934
- OR
- ☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
 For the fiscal year ended December 31, 2012
- OR
- ☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
- OR
- ☐ SHELL COMPANY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
 Date of event requiring this shell company report
- For the transition period from _____ to _____
- Commission file number: 001-33429

Acorn International, Inc.

(Exact name of Registrant as specified in its charter)

Not applicable

(Translation of Registrant's name into English)

Cayman Islands

(Jurisdiction of incorporation or organization)

18/F, 20th Building, 487 Tianlin Road, Shanghai 200233

(Address of principal executive offices)

Securities registered or to be registered pursuant to Section 12(b) of the Act.

Title of each class
 American Depositary Shares, each representing three
 ordinary shares, par value \$0.01 per share

Name of each exchange on which registered
 New York Stock Exchange

Securities registered or to be registered pursuant to Section 12(g) of the Act.

None

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act.

None

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report: 82,439,960

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. ☐ Yes ☒ NoIf this report is an annual or transaction report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934. ☐ Yes ☒ NoIndicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. ☒ Yes ☐ No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (\$232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and

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introduce new measures that will not have a negative effect on us. For example, our financial condition and results of operation may be adversely affected by changes in tax regulations applicable to us.

Although the Chinese economy has been transitioning from a planned economy to a more market-oriented economy since the late 1970s, the Chinese government continues to play a significant role in regulating industry development by imposing industrial policies. The Chinese government also exercises significant control over China's economic growth through the allocation of resources, controlling the incurrence and payment of foreign currency-denominated obligations, setting monetary policy and providing preferential treatment to particular industries or companies. Changes in any of these policies, laws and regulations could adversely affect the overall economy in China, which could harm our business.

In particular, our business is primarily dependent upon the economy and the business environment in China. Our growth strategy is based upon the assumption that demand in China for our products will continue to grow with the growth of Chinese economy. However, the growth of the Chinese economy has been uneven across geographic regions and economic sectors, and experienced an economic slowdown in 2009 as a result of the global economic crisis. In addition, given the current European economic and sovereign debt crisis, we cannot assure you that the Chinese economy will continue to grow, that if there is growth, such growth will be steady and uniform, or that if there is a slowdown, such slowdown will not have a negative effect on our business. Any significant change in China's political or social conditions may also adversely affect our operations and financial results.

The discontinuation of any of the preferential tax treatments and government subsidies available to us in China could materially and adversely affect our results of operations and financial condition.

Under PRC laws and regulations effective until December 31, 2007, our operating subsidiaries, Acorn International Electronic Technology (Shanghai) Co., Ltd., Shanghai HJX, Zhuhai Acorn Electronic Technology Co., Ltd., Beijing Acorn Youngleda Oxygen Generating Co., Ltd. and Yiyang Yukang enjoyed preferential tax benefits afforded to foreign-invested manufacturing enterprises and had been granted a two-year exemption from enterprise income tax beginning from their first profitable year and a 50% reduction of enterprise income tax rate for three years thereafter. The definition of a manufacturing enterprise under PRC law was vague and was subject to discretionary interpretation by the PRC authorities. If we were to be deemed not qualified in the past or if the tax preferential treatments enjoyed by us in accordance with local government rules or policies were deemed in violation of national laws and regulations and were abolished or altered, we would be subject to the standard statutory tax rate, which was 33% for calendar years ended on or before December 31, 2007 and is 25% for calendar years starting on or after January 1, 2008, and we could be required to repay the income tax for the previous three years at the applicable non-preferential tax rate. Additionally, our subsidiaries also received tax holidays and subsidies for certain taxes paid by us, as well as subsidies which formed part of the incentives provided by local government for our investment in local district. These incentives were granted by local government agencies and may be deemed inappropriate by the central government. In addition, China passed a new Enterprise Income Tax Law, or the New EIT Law, and its implementing rules, both of which became effective on January 1, 2008. Some of our preferential tax treatments could be discontinued or phased out under the New EIT Law. Loss of any preferential tax treatments and subsidies could have material and adverse effects on our results of operations and financial condition. See Item 5.A, "Operating and Financial Review and Prospects—Operating Results—Taxation".

Under China's New EIT Law, we may be classified as a "resident enterprise" of China. Such classification could result in unfavorable tax consequences to us and our non-PRC shareholders.

The New EIT Law provides that enterprises established outside China whose "de facto management bodies" are located in China are considered "resident enterprises" and will generally be subject to the uniform 25% enterprise income tax rate as to their global income. Under the implementation rules, "de facto management" is defined substantial and overall management and control over such aspects as the production and business,

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personnel, accounts and properties of an enterprise. In addition, two tax circulars issued by the State Administration of Taxation on April 22, 2009 and July 27, 2011 respectively regarding the standards used to classify certain Chinese-controlled enterprises established outside of China as "resident enterprises" clarified that dividends and other income paid by such "resident enterprises" will be considered to be PRC source income, subject to PRC withholding tax, currently at a rate of 10%, when recognized by non-PRC enterprise shareholders. These two circulars also subject such "resident enterprises" to various reporting requirements with the PRC tax authorities. Under the implementation rules to the New EIT Law, a "de facto management body" is defined as a body that has material and overall management and control over the manufacturing and business operations, personnel and human resources, finances and other assets of an enterprise. In addition, the tax circulars mentioned above detail that certain Chinese-controlled enterprises will be classified as "resident enterprises" if the following are located or resident in China: senior management personnel and departments that are responsible for daily production, operation and management; financial and personnel decision making bodies; key properties, accounting books, company seal, and minutes of board meetings and shareholders' meetings; and half or more of the senior management or directors having voting rights.

Currently, there are no detailed rules or precedents governing the procedures and specific criteria for determining "de facto management bodies" which are applicable to our company or our overseas subsidiary. The above two circulars only apply to offshore enterprises controlled by PRC enterprises or PRC enterprise groups, not those controlled by PRC individuals or foreign corporations like us. In the absence of detailed implementing regulations or other guidance determining that offshore companies controlled by PRC individuals or foreign corporations like us are PRC resident enterprises, we do not currently consider our company or any of our overseas subsidiaries to be a PRC resident enterprise.

However, if the PRC tax authorities determine that our Cayman Islands holding company is a "resident enterprise" for PRC enterprise income tax purposes, a number of unfavorable PRC tax consequences could follow. First, we may be subject to enterprise income tax at a rate of 25% on our worldwide taxable income as well as PRC enterprise income tax reporting obligations. In our case, this would mean that income such as interest on offering proceeds and other non-China source income would be subject to PRC enterprise income tax at a rate of 25%, in comparison to no taxation in the Cayman Islands. Second, although under the New EIT Law and its implementation rules dividends paid to us from our PRC subsidiaries would qualify as "tax-exempt income", we cannot guarantee that such dividends will not be subject to a 10% withholding tax, as the PRC foreign exchange control authorities, which enforce the withholding tax, have not yet issued guidance with respect to the processing of outbound remittances to entities that are treated as resident enterprises for PRC enterprise income tax purposes. Finally, if our Cayman Islands holding company is deemed to be a PRC tax resident enterprise, a 10% withholding tax shall be imposed on dividends we pay to our non-PRC shareholders and with respect to gains derived from our non-PRC shareholders transferring our shares or ADSs. Similar results would follow if our BVI holding company is considered a PRC "resident enterprise".

The contractual arrangements entered into among Acorn Information, each of our consolidated affiliated entities and their shareholders and those arrangements entered into between us or one of our Chinese subsidiaries and an entity affiliated with us may be subject to audit or challenge by the Chinese tax authorities. A finding that we, Acorn Information, our consolidated affiliated entities or any of our Chinese subsidiaries owe additional taxes could substantially reduce our net earnings and the value of your investment.

Under PRC laws and regulations, arrangements and transactions among related parties may be subject to audit or challenge by the PRC tax authorities. The new EIT Law became effective on January 1, 2008 and provides authority for the PRC tax authority to make special adjustments to taxable income as well as new reporting requirements. In particular, an enterprise must submit its annual tax return together with information on related party transactions to the tax authorities. The tax authorities may impose reasonable adjustments on taxation if they have identified any related party transactions that are inconsistent with arm's-length principles. In addition, the PRC tax authorities issued Implementation Measures for Special Tax Adjustments (Trial) on

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January 8, 2009 which set forth tax-filing disclosure and contemporaneous documentation requirements, clarify the definition of “related party”, guide the selection and application of transfer pricing methods, and outline the due process procedures for transfer pricing investigation and assessment. We could face material and adverse tax consequences if the PRC tax authorities determine that the contractual arrangements entered into among Acorn Information, each of our consolidated affiliated entities and their shareholders or those arrangements entered into between us or one of our PRC subsidiaries and an entity affiliated with us do not represent arm’s-length prices and as a result, adjust any of the income in the form of a transfer pricing adjustment. A transfer pricing adjustment could, among other things, result in a reduction of expense deductions for PRC tax purposes recorded by us, our consolidated affiliated entities, or our PRC subsidiaries or an increase in taxable income, all of which could increase our tax liabilities. In addition, the PRC tax authorities may impose late payment fees and other penalties on us, our consolidated affiliated entities or our PRC subsidiaries for under-paid taxes.

The PRC legal system embodies uncertainties which could limit the available legal protections.

The PRC legal system is a civil law system based on written statutes. Unlike common law systems, it is a system in which decided legal cases have little precedential value. In 1979, the PRC government began to promulgate a comprehensive system of laws and regulations governing economic matters in general. The overall effect of legislation over the past three decades has significantly enhanced the protections afforded to various forms of foreign investment in China. 12 of our 13 PRC operating subsidiaries are foreign invested enterprises incorporated in China. They are subject to laws and regulations applicable to foreign investment in China in general and laws and regulations applicable to foreign-invested enterprises in particular. However, these laws, regulations and legal requirements change frequently, and their interpretation and enforcement involve uncertainties. For example, we may have to resort to administrative and court proceedings to enforce the legal protection that we enjoy either by law or contract. However, since PRC administrative and court authorities have significant discretion in interpreting and implementing statutory and contractual terms, it may be more difficult to evaluate the outcome of administrative and court proceedings and the level of legal protection we enjoy than in more developed legal systems. In addition, such uncertainties, including the inability to enforce our contracts, could materially and adversely affect our business and operations. Furthermore, the PRC legal system is based in part on government policies and internal rules (some of which are not published on a timely basis or at all) that may have a retroactive effect. As a result, we may not be aware of our violation of these policies and rules until some time after the violation. In addition, any litigation in China may be protracted and result in substantial costs and diversion of resources and management attention. Furthermore, intellectual property rights and confidentiality protections in China may not be as effective as in the United States or other countries. Accordingly, we cannot predict the effect of future developments in the PRC legal system, particularly with regard to the media, advertising and retail industries, including the promulgation of new laws, changes to existing laws or the interpretation or enforcement thereof, or the preemption of local regulations by national laws. These uncertainties could limit the legal protections available to us, and our foreign investors, including you.

Governmental control of currency conversion may limit our ability to utilize our revenues effectively and affect the value of your investment.

The PRC government imposes controls on the convertibility of the RMB into foreign currencies and, in certain cases, the remittance of currency out of China. We receive substantially all of our revenues in RMB. Under existing PRC foreign exchange regulations, payments of current account items, including profit distributions, interest payments and trade and service-related foreign exchange transactions, can be made in foreign currencies without prior SAFE approval by complying with certain procedural requirements. Therefore, after complying with certain procedural requirements, Acorn International's PRC subsidiaries are able to pay dividends in foreign currencies to us without prior approval from SAFE. However, approval from or registration with appropriate government authorities is required where RMB is to be converted into foreign currency and remitted out of China to pay capital expenses such as the repayment of loans denominated in foreign currencies. The PRC government may also at its discretion restrict access to foreign currencies for current account transactions in the future. If the foreign exchange control system prevents us from obtaining sufficient foreign

The following is taken from pp. 49-61 of this year's 20-F and explains in considerable detail and context the numerous Chinese government bodies Acorn is subject to, and the ways these bodies can penalize the company if decisions are made against it.

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
 WASHINGTON, D.C. 20549

FORM 20-F

(Mark One)

- .. REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR (g) OF THE SECURITIES EXCHANGE ACT OF 1934
- OR
- x ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
 For the fiscal year ended December 31, 2012
- OR
- .. TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
- OR
- .. SHELL COMPANY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
 Date of event requiring this shell company report
- For the transition period from to
- Commission file number: 001-33429

Acorn International, Inc.

(Exact name of Registrant as specified in its charter)

Not applicable

(Translation of Registrant's name into English)

Cayman Islands

(Jurisdiction of incorporation or organization)

18/F, 20th Building, 487 Tianlin Road, Shanghai 200233

(Address of principal executive offices)

Securities registered or to be registered pursuant to Section 12(b) of the Act.

Title of each class
**American Depositary Shares, each representing three
 ordinary shares, par value \$0.01 per share**

Name of each exchange on which registered
New York Stock Exchange

Securities registered or to be registered pursuant to Section 12(g) of the Act.**None****Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act.****None**

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report: 82,439,960

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒If this report is an annual or transaction report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934. Yes ☐ No ☒Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and

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Kindergarten English. Shengshi Huawen claimed that Shanghai HJX and New China Store should: (1) make compensation of RMB500,000; (2) stop selling electronic learning products infringing their copyrights; (3) apologize publicly. The court hearing will be held on May 21, 2013.

We believe that the above legal proceedings will not have a material adverse effect on our financial conditions. See Item 3.D, "Key Information—Risk Factors—We have in the past been, currently are, and in the future may again be, subject to intellectual property rights infringement claims and other litigations by third parties, which could be time-consuming and costly to defend or litigate, divert our attention and resources, or require us to enter into licensing agreements. These licenses may not be available on commercially reasonable terms, or at all."

Management Information System

Our management information system and technology infrastructure is designed to support our key operations. Full redundancy design and data backup are built into our systems. We also have an uninterruptible power supply that can provide up to four hours of power in case of power outage to allow full functioning of our call center and customer services operations during that period.

Our major system modules and functions, which facilitate various aspects of our business, include the following:

- call center business management system, which facilitates automatic incoming call connection to available sales representatives or customer service representatives, data collection and organization of information received through call center representatives' caller interactions, processing of after-sales service issues and monitoring of call center representatives for training and quality assurance purposes;
- outbound call management system, which facilitates automatic outgoing dialing processes from a predetermined subgroup derived from our database and matches calls with available representatives;
- database management system, which facilitates the collection and updating of customer information;
- warehouse management system, or WMS, which aims to control the movement and storage of materials within our warehouse;
- supply chain management system, or SCM, which aims to manage complex and dynamic supply and demand networks including our various suppliers and merchandise;
- short message service, or SMS, system, which supports SMS product order confirmation and advertising;
- TV direct sales monitoring system, which facilitates monitoring and analysis of TV direct sales programs, including timing, quality and effectiveness; and
- database backup.

In addition, our four warehouses are connected to a central inventory management system through virtual private network connections. Reports are generated and reconciled daily to provide management with up-to-date inventory information.

We believe our information technology system is one of the key tools with which we are able to identify market trends and demands early.

Chinese Government Regulations

The PRC government extensively regulates the industries in which we operate our business. We operate our direct sales and advertising businesses in China under a legal regime consisting of the State Council, which is the highest authority of the executive branch of the PRC central government, and several ministries and agencies

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under its authority including, among others, the State Administration for Industry and Commerce, or SAIC, the Ministry of Commerce, or MOFCOM, the State Administration for Radio, Film and Television, or SARFT, the State Administration for Food and Drug, or SAFD and the Ministry of Industry and Information Technology, or MIIT. Meanwhile, we operate our Concurrent-Business Insurance Agency business under the regulations promulgated by the China Insurance Regulatory Commission, or the CIRC.

In the opinion of our PRC legal counsel, Commerce & Finance, except as disclosed in Item 3.D, "Key Information—Risk Factors—Risks Related to the Regulation of Our Business—If the PRC government takes the view that we did not obtain the necessary approval for our acquisition of Shanghai Advertising, we could be subject to penalties", and as disclosed in Item 3.D, "Key Information—Risk Factors—Risks Related to the Regulation of Our Business—If the PRC government takes the view that our acquisition of Shanghai Advertising does not comply with PRC governmental restrictions on foreign investment in advertising, we could be subject to severe penalties", (1) the ownership structures of our directly owned PRC subsidiaries comply with existing PRC laws and regulations; and (2) the ownership structure of our affiliated entities and our contractual arrangements with our affiliated entities and their shareholders are valid, binding and enforceable, and do not and will not result in a violation of existing PRC laws and regulations.

There are substantial uncertainties regarding the interpretation and application of existing or proposed PRC laws and regulations. We cannot assure you that the PRC regulatory authorities would find that our corporate structure and our business operations comply with PRC laws and regulations. If the PRC government finds us to be in violation of PRC laws and regulations, we may be required to pay fines and penalties, obtain certain licenses, approvals, or permits and change, suspend or discontinue our business operations until we comply with applicable laws.

The following discussion sets forth a summary of what we believe are the most significant regulations or requirements that affect our business activities in China and our shareholders' right to receive dividends and other distributions from us.

Regulatory Requirements for Foreign Participation***Direct Sales and Wholesale Distribution Businesses***

Foreign investments in direct sales and wholesale businesses are both principally governed by the Administrative Measures on Foreign Investment in Commercial Sector promulgated by the Ministry of Commerce, or the Commercial Sector Measures on April 16, 2004 as supplemented. The Commercial Sector Measures lowered the previous thresholds for foreign investors to enter the commercial sector in China and completely removed the previous restrictions on the location of and maximum foreign shareholding percentage in foreign-invested commercial enterprises as of December 11, 2004. Under the Commercial Sector Measures, the establishment of a foreign-invested direct sales (including direct sales via TV, telephones, mail and Internet) or wholesale distribution enterprise must obtain approval from MOFCOM or its authorized local counterparts. On September 12, 2008, MOFCOM authorized its Provincial counterparts to approve the establishment or modification of a foreign-invested commercial enterprise except the one engaged in direct sale via TV, phones, mail, Internet, vender and other non-store methods or distribution of audio-visual products, books, newspapers and magazines which still should be approved by MOFCOM. On August 19, 2010, MOFCOM further authorized its Provincial counterparts to approve for the establishment of a foreign-invested enterprise to engage in direct sale via internet exclusively.

Under the PRC Law on Sino-foreign Equity Joint Venture Enterprises (revised in 2001), the PRC Law on Sino-foreign Cooperative Joint Venture Enterprises (revised in 2000), and the PRC Law on Wholly Foreign-owned Enterprises (revised in 2000), a foreign-invested enterprise is allowed to sell its self-produced products. Our distribution of our proprietary branded products is primarily conducted by our indirect subsidiaries which manufacture these proprietary branded products and sell such products as their self-produced products.

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Under the PRC laws, sellers of special products, such as medicine, medical devices and health protection products, are required to review the necessary manufacturing permits provided by the manufacturers.

Advertising Services

The advertising industry used to be a restricted industry for foreign investment under the Guideline Catalog of Foreign Investment Industries (2004 Revision). However, on October 31, 2007, the National Development and Reform Commission and MOFCOM jointly issued the Guideline Catalog of Foreign Investment Industries (2007 Revision) that identified the advertising industry as permitted industry for foreign investment. On December 24, 2011 the National Development and Reform Commission and MOFCOM jointly issued the Guideline Catalog of Foreign Investment Industries (2011 Revision), under which the advertising industry continues to remain as permitted industry. As a permitted industry, approval of MOFCOM or its local counterpart is no longer required for a foreign invested enterprise or its domestic subsidiary to invest in advertising unless required by other specific PRC laws and regulations.

Direct investment by foreign investors in the advertising industry in China is further subject to the Administrative Regulation on Foreign-Invested Advertising Enterprises jointly promulgated by MOFCOM and SAIC on March 2, 2004 and further revised on October 1, 2008. Under this advertising regulation, foreign investors are required to have had at least three years of experience in directly operating an advertising business outside of China before they may receive approval to own 100% of an advertising business in China. Foreign investors that do not have three years of experience are permitted to invest in advertising businesses, provided that such foreign investors have at least two years of direct operations in the advertising business outside of China and that such foreign investors may not own 100% of advertising businesses in China. Furthermore, all foreign invested advertising companies must obtain approval from SAIC or MOFCOM or their local counterparts.

On April 11, 2006, SAIC and MOFCOM also issued a Notice on the Issues Concerning Foreign Investors' Establishing Foreign-Invested Advertising Enterprises through Equity Merger and Acquisition requiring that foreign-invested advertising enterprises that are established by foreign investors through equity mergers or acquisitions also satisfy the conditions of the Administrative Regulation on Foreign-Invested Advertising Enterprises.

Our Direct Sales Operations

Due to the complicated and lengthy approval process and MOFCOM's uncertain position towards approving investment in direct sale business by foreign investors under the Commercial Sector Measures, our direct sales business is currently conducted by our consolidated affiliated enterprises owned by Don Dongjie Yang and Weiguo Ge—Shanghai Network and Beijing Acorn. As domestic companies, these companies are not subject to the Commercial Sector Measures, but they are controlled by us through a set of contractual arrangements. See Item 4.C, "Information on the Company—Organizational Structure". In the opinion of our PRC legal counsel, Commerce & Finance:

- The ownership structures of Acorn Information, Shanghai Network and Beijing Acorn are in compliance with existing PRC laws and regulations; and
- Our contractual arrangements among Acorn Information, Shanghai Network and Beijing Acorn and their shareholders are valid, binding and enforceable, and do not and will not result in a violation of existing PRC laws and regulations.

We have been advised by our PRC legal counsel, Commerce & Finance, however, that there are uncertainties regarding the interpretation and application of current and future PRC laws and regulations. Accordingly, there can be no assurance that the PRC regulatory authorities, in particular SAIC and MOFCOM, which regulate foreign investment in direct sales companies, will not in the future take a view that is contrary to

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the above opinions of our PRC legal counsel. If the current agreements that establish the structure for conducting our PRC direct sales business were found to be in violation of existing or future PRC laws or regulations, we may be required to restructure our ownership structure and direct sales operations in China or to carry out other actions required by relevant PRC government authorities to comply with PRC laws and regulations, or we could be subject to severe penalties. See Item 3.D, "Key Information—Risk Factors—Risks Related to the Regulation of Our Business—If the PRC government takes the view that the agreements that establish the structure for operating our TV and direct sales business in China do not comply with PRC governmental restrictions on foreign investment in these areas, we could be subject to severe penalties".

Our Advertising Operations

On September 24, 2007, we acquired 100% of the legal ownership of Shanghai Advertising, which had been one of our affiliated entities, through Shanghai Acorn Enterprise Management Consulting Co., Ltd., or Acorn Consulting. At the time of our acquisition, the advertising industry was still a restricted industry for foreign investment under the Guideline Catalog of Foreign Investment Industries (2004 Revision), and required the approval of Shanghai Foreign Investment Commission, or SAIC, MOFCOM's local counterpart in Shanghai. However, we completed the registration of such acquisition with Pudong Administration of Industry and Commerce in Shanghai on September 24, 2007 without SAIC's approval based on SAIC's advice that this acquisition was a purely domestic acquisition without any foreign related issues. Our PRC legal counsel, Commerce & Finance, has advised us that it is unlikely that we would be required by the PRC regulatory authorities, in particular SAIC and MOFCOM, both as regulators of foreign investment, to seek such approval to make up for our deficiency or any penalties would be imposed upon us for failure to obtain such approval. However, we cannot assure you that SAIC or MOFCOM will not take a different view from ours. See Item 3.D, "Key Information—Risk Factors—Risks Related to the Regulation of Our Business—If the PRC government takes the view that we did not obtain the necessary approval for our acquisition of Shanghai Advertising, we could be subject to penalties."

We have been further advised by Commerce & Finance that, according to an anonymous consultation with SFIC, because our acquisition of Shanghai Advertising was completed through Acorn Consulting, a domestic subsidiary of foreign invested enterprises, the acquisition was not subject to the requirement that foreign investors have the requisite years of operating experience in an advertising business outside of China. Similarly, Pudong Administration of Industry and Commerce in Shanghai did not require us to show that Acorn Consulting had the requisite years of operating experience either before or after it accepted the registration of the acquisition and issued a new business license to Shanghai Advertising on September 24, 2007. However, we cannot assure you that the PRC government will not take a different view from ours. If the PRC government determines that we did not obtain the requisite approval or that this acquisition violated the requirements on foreign investment or re-investment in advertising businesses in China, we may be subject to severe penalties including, among others, the revocation of the business licenses of our related subsidiaries, discontinuation of our advertising operations, the imposition of conditions with which we or our PRC subsidiaries may be unable to comply, and the restructuring of Shanghai Advertising. The imposition of any of these penalties could result in a material adverse effect on our ability to conduct our business. See Item 3.D, "Key Information—Risk Factors—Risks Related to the Regulation of Our Business—If the PRC government takes the view that our acquisition of Shanghai Advertising does not comply with PRC governmental restrictions on foreign investment in advertising, we could be subject to severe penalties."

Our Wholesale Distribution Operations

Historically, our wholesale distribution business was conducted through our two affiliated entities, Shanghai Acorn Network Technology Development Co., Ltd. and Beijing Acorn Trade Co., Ltd. due to the complicated approval process and MOFCOM's uncertain position toward approving investment in wholesale distribution business by foreign investors. On December 5, 2007, we received approval from Shanghai Qingpu People's government approving our setup of Acorn Trade (Shanghai) Co. Ltd., or Acorn Trade, a PRC subsidiary

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wholly-owned by China DRTV, to conduct our wholesale distribution business. A valid business license was issued by Shanghai Administration of Industry and Commerce on December 13, 2007.

Regulation of Manufacturing and Sale of Special Consumer Products

Some of the products we offer through our direct sales platforms and some of the proprietary branded products we manufacture and sell are categorized as medical devices. Therefore, we are required to comply with relevant PRC laws and regulations regarding the manufacture and sale of medical devices.

In the PRC, medical devices are classified into three different categories for regulation and supervision by SAFD, depending on the degree of risk associated with each medical device and the extent of regulation needed to ensure safety and proper operation of the product. Class I includes medical devices posing a low risk to the human body, whose operation and safety can be assured through routine inspection. Class II includes those with medium risk to the human body, which warrant a greater degree of regulation. Class III includes those devices that pose a potential high risk to the human body, are implanted in the human body, or are used to support or sustain life, and therefore are subject to tight regulation. All the medical devices that we manufacture belong to Class II above. Under PRC laws and regulations, manufacturers of Class II medical devices must apply to the provincial-level SAFD for a valid Medical Device Manufacturing Enterprise License and Class II medical device operators must hold a valid Medical Device Operation Enterprise License, with limited exceptions. In addition, manufacturers of Class II medical devices must register their manufactured Class II medical devices with SAFD at the provincial level and obtain a Medical Device Registration Certificate. Violation of these provisions may result in fines, termination of operations, confiscation of illegal income, or in the most serious cases, criminal prosecution.

One of our subsidiaries, Acorn International Electronic Technology (Shanghai) Co., Ltd. holds a Medical Device Registration Certificate for a neck massager with a valid term of four years from July 21, 2009. Another of our subsidiaries, Shanghai HJX Digital Technology Co., Ltd. holds a valid Medical Device Operation Enterprise License that will expire on March 14, 2015. Another of our subsidiaries, Acorn Trade (Shanghai) Co., Ltd., holds a valid Medical Device Operation Enterprise License that expired on March 20, 2013, and we are currently in the process of renewing this license. Separately, our two direct sale affiliated entities Shanghai Network and Beijing Acorn, hold valid Medical Device Operation Enterprise Licenses, which expire on March 14, 2015 and June 22, 2015, respectively. In addition, Zhuhai Acorn Electronic Technology Co., Ltd. holds a Medical Device Manufacturing Enterprise License expiring on October 25, 2016 and a Medical Device Registration Certificate for an oxygen generating device that expired on May 17, 2015. We are also in the process of renewing other expired licenses and certificates that are required for our operation and products.

For the purposes of strengthening the supervision and management of medical devices and protecting human health and life safety, on May 20, 2011 the Ministry of Health promulgated the Administrative Measures for the Recall of Medical Devices (Trial), or Recall Measures which provides that medical device manufacturing enterprises shall eliminate defects of products of certain types, models or batches that have already been launched into the market for sale by way of warning, examination, repair, re-labelling, revision and amendment of the instruction manual, software upgrade, exchange, withdrawal or destruction according to the prescribed procedures. The recall is classified into two categories, that is, voluntary recall and compelled recall. If a medical device manufacturing enterprise discovers that a medical device is defective after conducting investigation and evaluation, it shall immediately decide to recall such device. If, upon investigation and evaluation, the drug regulatory department finds any defect in medical device that manufacturing enterprise should have voluntarily recalled, the drug regulatory department shall compel the concerned enterprise to recall the concerned medical devices. If medical device manufactured by us is found any defects prescribed in Recall Measures, we shall be subject to recall of the defective medical device.

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Regulation of Internet Content Providers

We currently operate www.chinadriv.com and www.ozing.com.cn through which our customers can familiarize themselves with our products. We are required to comply with the Administrative Measures on Internet Content Services issued by the State Council on September 25, 2000, Measures for the Archival Administration of Non-operational Internet Content Services issued by the Ministry of Information Industry (now the Ministry of Industry and Information Technology) on February 8, 2005 and the Administrative Measures on Internet Pharmaceuticals Information Services issued by SAID on July 8, 2004 in our operation of the website.

Under the above regulations internet content providers must apply for a Telecommunications and Information Services Operating License, or ICP License, or a Value-added Telecommunications Business Permit for Internet Information Service if they are deemed to be an "operating business". Internet content providers not deemed to be operating businesses are only required to file a registration with the relevant information industry authorities. The online dissemination of information regarding medical devices must also be approved by SAID at the provincial level and validated by an Internet Pharmaceuticals Information Service Qualification Certificate issued by SAID. Violation of these provisions will result in a warning, an order to rectify within a certain period, a fine, or the closing of the website.

As internet information service in the website of www.chinadriv.com and www.ozing.com.cn is not deemed as an operating business, we only need to file with the relevant information industry authorities for record, which we have finished. In addition, we hold an Internet Pharmaceuticals Information Service Qualification Certificate, which will expire on May 3, 2016.

Regulation of Internet Shopping

On May 31, 2010 the State Administration of Industry and Commerce promulgated Provisional Measures on Internet Commodity Trade and Relevant Service which provide rules for internet commodity operators to comply with. Pursuant to these provisional measures, internet commodity operators shall inform consumers of the name, variety, quantity, quality, price, transportation fee, delivery method, payment method, exchange and return of commodity and other main information of the commodity before consumers purchase the same.

On June 24, 2010 MOFCOM promulgated the Outline of Promoting Healthy Development of Internet Shopping which requires relevant authorities to encourage enterprises to develop internet sales, expand internet shopping field, attach importance to rural internet shopping market, improve support service, protect legal interests of consumers and standardize internet market order.

On December 28, 2010 MOFCOM, MITT and other departments jointly issued the Notice on Implementing Scheme of Cracking Down Infringement on Intellectual Properties and Manufacture and Sale of Fake Commodity in Internet Shopping which, among other things, requires to strengthen supervision and control over internet shopping platform and transaction parties, set up access system for tradable commodity and intensify the fight against infringement on intellectual properties and manufacture and sale of fake commodity in internet shopping.

On January 5, 2011 the MOFCOM issued the Notice on Regulation of Promotion Activities in Internet Shopping, pursuant to which, among other things, (1) internet shopping enterprises shall ensure the quality of promotional commodity; (2) price fraud and false promotion is strictly forbidden; and (3) infringement on intellectual properties and manufacture and sale of fake commodity in promotion will be severely cracked down.

Regulations of Internet Information Protection

On December 28, 2012 the Standing Committee of the National People's Congress promulgated the Decision on Strengthening Internet Information Protection which provides that, among other things, internet service providers and other entities shall obtain consent from relevant persons before collecting and using

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personal electronic information during business activities and shall make public rules on collecting and using personal information; personal electronic information collected shall be strictly kept confidential and shall not be divulged, tampered with, damaged, sold or illegally provided to others; no person is allowed to send commercial electronic information to any recipient without the recipient's consent or request, or after the recipient gives an explicit refusal.

Regulations of Concurrent-Business Insurance Agency

On August 4, 2000 the China Insurance Regulatory Commission, or the CIRC, promulgated the Interim Measures for the Administration of Concurrent-Business Insurance Agency, or the Interim Measures, effective as of the date of promulgation. A concurrent-business insurance agent shall obtain the License for Concurrent-Business Insurance Agency before its commencement of such business, and the scope of the agency business shall be subject to the types of insurance specified in the License for Concurrent-Business Insurance Agency.

On June 22, 2007 CIRC promulgated the Measures for the Administration of Insurance Licenses, effective on September 1, 2007. The insurance institutions within the territory of People's Republic of China shall obtain an insurance license, including Concurrent-Business Insurance Agencies.

On September 25, 2009 CIRC promulgated the Measures for Penalizing Unlawful Conducts in Insurance Intermediary Business Operations, effective on October 1, 2009. In the event that, during the process of investigating and dealing with illegal conducts of insurance companies in relation to intermediary insurance business operations, CIRC becomes aware of illegal conducts of any insurance agents, brokers or insurance assessment institutions, it shall combine the investigation on both matters and deal with them as one case.

The CIRC issued the License for Concurrent-Business Insurance Agency to Shanghai Network on Jan 10, 2012. The license is valid for a period of three years and we should handle the insurance agency business specified in our license.

Regulation of Advertising Activities

The principal regulations governing advertising businesses in China include the Advertising Law (1994) and the Advertising Administrative Regulations (1987) and Implementing Rules on the Advertising Administrative Regulations (2004 Revision). SARFT and SAIC are the main responsible regulatory authorities in China overseeing the entire advertising industry. SAIC has the authority to make administrative rules to regulate advertising activities, register or approve the establishment of advertising companies, and examine and oversee daily advertising activities to ensure relevant regulations are not violated. In addition to supervision by SAIC, SARFT sets technical standards for broadcasting, regulates signal landings among different broadcasting networks and monitors the operations of all TV and radio stations. Due to the politically sensitive nature of China's media industry, the contents of TV and radio programs must go through a lengthy approval process prior to broadcasting. Contents of advertisements, which are regulated to a lesser extent, must be approved by the TV or radio stations carrying the advertisements and proper advertising committee(s), effectively eliminating the possibility of broadcasting real-time, live advertising programs. The current regulations also prohibit private enterprises from owning or operating a TV or radio station.

Business License for Advertising Companies

Companies that engage in advertising activities must obtain from the SAIC or its local branches a business license with advertising business specifically included in the business scope. A company conducting advertising activities without such a license may be subject to penalties, including fines, confiscation of advertising income and an order to cease advertising operations. Our subsidiary Shanghai Advertising has obtained a business license with advertising specifically included in the business scope from the local branch of SAIC.

Advertising Airtime

Since the Chinese government imposes strict regulations on TV station/channel ownership and operations, TV home shopping companies can only purchase blocks of airtime for product advertising as opposed to

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engaging in long-term channel leasing agreements as in some other countries. In addition to regulating TV station ownership, SARFT also sets regulatory standards on the amount of advertising time allowed on TV broadcasting.

Airtime used to broadcast TV direct sales programs and TV home shopping programs is typically considered to be advertising time. On September 10, 2009, the State Administration of Radio, Film and Television, or SARFT, issued the Circular on Strengthening the Administration of TV Direct Sales Advertising and Home Shopping Programs, which requires that TV direct sales advertising programs not be broadcast on some specialized TV channels, including news channels and international channels, and TV home shopping channels and not be broadcast on satellite TV channels during the period from 6:00pm to 12:00pm every day. The Administrative Measures on Advertising on Television or Radio issued by the SARFT on September 8, 2009 and effective as of January 1, 2010 which was amended on November 15, 2011 further requires that the total airtime allocated to commercial advertising on each TV channel not exceed 12 minutes per hour and not exceed 18 minutes in total during the period from 7:00pm to 9:00pm; no commercial advertising shall be inserted in whatever form during broadcasting of an episode (calculated as 45 minutes) of a television drama. Violation of these time restrictions may result in a warning, an order to correct the violation, a fine of up to RMB20,000, the suspension of broadcasting relevant to advertising, the suspension of the operation of the TV channel where the relevant advertising is broadcast, or even the withdrawal of the TV station's operating license.

Under current PRC law, advertising operators can only sell advertising airtime to advertisers and are not allowed to sell to other advertising operators.

Advertising Content

PRC advertising laws and regulations set forth certain content requirements for advertisements in China, which include prohibition on, among other things, misleading content, superlative wording, socially destabilizing content, or content involving obscenities, superstition, violence, discrimination, or infringement of the public interest. Advertising for medical devices, fitness and other special products are subject to stricter regulation which prohibits any unscientific assertions or assurances in terms of effectiveness or usage, comparison with other similar products in terms of effectiveness or safety, and reference to medical research institutes, academic institutions, medical organizations, experts, doctors, or patients regarding the effectiveness or safety of the products advertised. In addition, all advertising relating to medical devices, fitness agrochemicals, as well as other advertisements that are subject to censorship by administrative authorities pursuant to relevant laws and regulations, must be submitted to the relevant administrative authorities for content review and approval prior to dissemination. Furthermore, SARFT and SAIC have issued a circular temporarily prohibiting, after August 1, 2006, the advertising of pharmaceutical products, diet and slimming products, medical devices, breast enhancement products and height increasing products in the form of TV- and radio-based direct sales programs pending adoption of new government rules. On September 10, 2009, the Circular on Strengthening the Administration of TV Direct Sales Advertising and Home Shopping Programs was issued by the SARFT, prohibiting the TV direct sales and home shopping programs to advertise pharmaceuticals, breast-enhancement products, diet and slimming products, and medical devices which are implantable or need instruction by experts. Meanwhile, the Administrative Measures on Advertising on Television or Radio, issued by the SARFT on September 8, 2009 and effective as of January 1, 2010 which was amended on November 15, 2011, prohibited the pharmaceutical and medical device or health related advertising program to contain the recovery rate or efficiency rate or certification by the doctors, experts, patients or public figures. Furthermore, Criteria for the Examination and Publication of Medical Device Advertisements were issued by the Ministry of Health, the State Administration for Industry and Commerce, the SFDA and became effective on May 20, 2009, which provided strict regulation on medical device advertisements publication. According to the Circular Concerning Further Severely Punishing Illegal Advertisements of Pharmaceuticals, Medical Devices and Health Food effective in February 2010, enterprises which published the illegal advertisements will be severely punished. On February 12, 2010 SARFT promulgated the Notice on Further Strengthening Examination and Supervision on Advertising on Television and Radio, which requires that, among other things, in TV shopping advertisement: (1) no host is

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allowed to participate in advertisement; (2) exaggerative voice, intonation and gestures are prohibited; and (3) no form such as news report, interview and news materials and information is allowed to be used. See Item 3.D, "Key Information—Risk Factors—Risks Related to the Regulation of Our Business—Governmental actions to regulate TV- and radio-based direct sales programs of medical devices and diet and slimming products will adversely impact sales of our branded neck massager product line and some of our other products and may adversely impact our future overall operating results".

Entities whose products are to be advertised, or advertisers, entities offering advertising services such as linking advertisers with TV stations or newspapers, or advertising operators, and disseminators are all required by PRC laws and regulations to ensure that the content of advertising they produce or disseminate is true and in full compliance with applicable laws and regulations. In providing advertising services, advertising operators and disseminators must review the prescribed supporting documents provided by advertisers and verify that the content of advertising complies with applicable laws and regulations. In addition, prior to disseminating advertisements for certain commodities which are subject to government censorship and approval, advertising disseminators are obligated to check the relevant approval documents for those advertisements. Violation of these regulations may result in penalties, including fines, confiscation of advertising income, orders to cease dissemination of the advertising, orders to publish a correction of the misleading information and criminal punishment. In circumstances involving serious violations, SAIC or its local counterparts may revoke the violator's licenses or permits for advertising business operations. Furthermore, advertisers, advertising operators, and disseminators may be subject to civil liability if they infringe on the legal rights and interests of third parties in the course of their advertising business.

Beginning on January 1, 2008, advertisers dealing with advertisements that relate to pharmaceuticals, medical devices and health related foods are subject to a credit rating. SAFD and its local branches will annually collect information relating to the advertiser's record of compliance with the relevant advertising regulations in respect of the above products, and grade the credit of distributors based on the collected information. The credit rating of each advertiser will be either good credit, dishonor credit, or material dishonor credit. Any violations of related laws and regulations within one year by the advertising operator may result in a rating of dishonor credit or material dishonor credit for that year. Distributors with dishonor credit or material dishonor credit may be ordered to take corrective measures and may be subject to special supervision and/or public disclosure of their credit ratings.

In addition, PRC unfair competition law prohibits us and our distributors from conveying misleading, false or inaccurate information with respect to product quality, production, functionality, or other features, through advertising.

We have employed advertising industry professionals who will examine the content of our advertising and who will apply for the necessary approvals and permits for advertising certain special consumer products. In addition, our advertising channels, such as TV stations, newspapers, and radio stations, employ advertising inspectors who are trained to review advertising content for compliance with relevant laws and regulations. However, we cannot assure you that all of our advertising is in compliance with relevant PRC laws and regulations, nor can we assure you that the advertising our distributors place on local media networks complies with relevant PRC laws and regulations. In the past, we have been fined for certain advertising that is considered misleading or false by authorities. In some cases, we were required to accept product returns. Moreover, the SAFD issued a circular on October 31, 2005 announcing that advertising placed in several local newspapers by us and one of our distributors for our sleeping aid products and oxygen generating devices violated the relevant laws by including unapproved content. These violations for the sleeping aid products advertising were considered by SAFD to be a serious violation. The local SAFDs have ordered such advertising to be discontinued for use. As of January 1, 2008, any violation of advertising regulations relating to our sleeping aid product and oxygen generating devices by us or our distributors may result in SAFD issuing a rating to us or our distributors of dishonor credit or material dishonor credit. See Item 3.D, "Key Information—Risk Factors—Risks Related to the Regulation of Our Business—We and our distributors are subject to various laws regulating our advertising,

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including the content of our TV direct sales programs, and any violation of these laws by us or our distributors could result in fines and penalties, harm our product brands and result in reduced net revenues".

Regulation on Foreign Exchange Control and Administration

Foreign exchange in China is primarily regulated by:

- The Foreign Currency Administration Rules (1996), as amended; and
- The Administration Rules of the Settlement, Sale and Payment of Foreign Exchange (1996), or the Administration Rules. Under the Foreign Currency Administration Rules, Renminbi is convertible for current account items, including the distribution of dividends, interest payments, and trade and service-related foreign exchange transactions. Conversion of Renminbi into foreign currency for capital account items, such as direct investment, loans, investment in securities, and repatriation of funds, however, is still subject to the approval of SAFE.

Under the Administration Rules, foreign-invested enterprises may only buy, sell, and remit foreign currencies at banks authorized to conduct foreign exchange transactions after providing valid commercial documents and, in the case of capital account item transactions, only after obtaining approval from SAFE. Capital investments directed outside of China by foreign-invested enterprises are also subject to restrictions, which include approvals by SAFE, and the State Reform and Development Commission.

On November 19, 2012, the SAFE promulgated the Notice of the SAFE on Further Improving and Adjusting the Foreign Exchange Policies on Direct Investment, or the Notice, which shall come into force as of December 17. According to the Notice, (i) the opening of and payment into foreign exchange accounts under direct investment account are no longer subject to approval by the SAFE; (ii) reinvestment with legal income of foreign investors in China is no longer subject to approval by the SAFE; (iii) the procedures for capital verification and confirmation that foreign-funded enterprises need to go through are simplified.

We receive substantially all of our revenue in Renminbi, which is currently not a freely convertible currency. Under our current structure, our income will be primarily derived from dividend payments from our subsidiaries in China.

The value of the Renminbi against the U.S. dollar and other currencies may fluctuate and is affected by, among other things, changes in China's political and economic conditions. The conversion of Renminbi into foreign currencies, including U.S. dollars, has been based on rates set by the People's Bank of China. On July 21, 2005, the PRC government changed its policy of pegging the value of the Renminbi to the U.S. dollar. Under the new policy, the Renminbi will be permitted to fluctuate within a band against a basket of certain foreign currencies. This change in policy resulted initially in an approximately 2.0% appreciation in the value of the Renminbi against the U.S. dollar. There remains significant international pressure on the PRC government to adopt a substantial liberalization of its currency policy, which could result in a further and more significant appreciation in the value of the Renminbi against the U.S. dollar.

Regulation of Foreign Exchange in Certain Onshore and Offshore Transactions

In January and April 2005, the PRC State Administration of Foreign Exchange, or SAFE, issued two rules that require PRC residents to register with and receive approvals from SAFE in connection with their offshore investment activities. SAFE has announced that the purpose of these regulations is to achieve the proper balance of foreign exchange and the standardization of the cross-border flow of funds.

On October 21, 2005, SAFE issued the Notice on Issues Relating to the Administration of Foreign Exchange in Fund-raising and Reverse Investment Activities of Domestic Residents Conducted via Offshore Special

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Purpose Companies, or Notice 75, which became effective on November 1, 2005. Notice 75 replaced the two rules issued by SAFE in January and April 2005 mentioned above. According to Notice 75:

- prior to establishing or assuming control of an offshore company for the purpose of financing that offshore company with assets or equity interests in an onshore enterprise in the PRC, each PRC resident, whether a natural or legal person, must complete the overseas investment foreign exchange registration procedures with the relevant local SAFE branch;
- an amendment to the registration with the local SAFE branch is required to be filed by any PRC resident that directly or indirectly holds interests in that offshore company upon either (1) the injection of equity interests or assets of an onshore enterprise to the offshore company, or (2) the completion of any overseas fund raising by such offshore company; and
- an amendment to the registration with the local SAFE branch is also required to be filed by such PRC resident when there is any material change involving a change in the capital of the offshore company, such as (1) an increase or decrease in its capital, (2) a transfer or swap of shares, (3) a merger or division, (4) a long-term equity or debt investment, or (5) the creation of any security interests over the relevant assets located in China.

Moreover, Notice 75 applies retroactively. As a result, PRC residents who have established or acquired control of offshore companies that have made onshore investments in the PRC in the past are required to complete the relevant overseas investment foreign exchange registration procedures by March 31, 2006. Under the relevant rules, failure to comply with the registration procedures set forth in Notice 75 may result in restrictions being imposed on the foreign exchange activities of the relevant onshore company, including the payment of dividends and other distributions to its offshore parent or affiliate and the capital inflow from the offshore entity, and may also subject relevant PRC residents to penalties under PRC foreign exchange administration regulations.

On May 20, 2011 SAFE promulgated the Implementing Rules for Foreign Exchange Administration Concerning Financing and Round-Trip Investment by Domestic Residents through Offshore Special-Purpose Companies which became effective on July 1, 2011 (the "Implementing Rules"). The Implementing Rules provide in detail the procedures, required documents and review standard of foreign exchange registration regarding financing and round-trip investment by domestic residents through offshore special-purpose companies.

As a Cayman Islands company, and therefore a foreign entity, if Acorn International purchases the assets or an equity interest of a PRC company owned by PRC residents in exchange for our equity interests, such PRC residents will be subject to the registration procedures described in Notice 75. Moreover, PRC residents who are beneficial holders of our shares are required to register with SAFE in connection with their investment in us.

As a result of the uncertainties relating to the interpretation and implementation of Notice 75 and the Implementing Rules, we cannot predict how these regulations will affect our business operations or strategies. For example, our present or future PRC subsidiaries' ability to conduct foreign exchange activities, such as remittance of dividends and foreign-currency-denominated borrowings, may be subject to compliance with such SAFE registration requirements by relevant PRC residents, over whom we have no control. In addition, we cannot assure you that any such PRC residents will be able to complete the necessary approval and registration procedures required by the SAFE regulations. We require all shareholders in Acorn International who are PRC residents to comply with any SAFE registration requirements and we understand that the relevant shareholders have registered their offshore investment in us with Shanghai SAFE, but we have no control over either our shareholders or the outcome of such registration procedures. Such uncertainties may restrict our ability to implement our acquisition strategy and adversely affect our business and prospects. See Item 3.D, "Key Information—Risk Factors—Risks Relating to China—Regulations relating to offshore investment activities by PRC residents may increase the administrative burden we face and create regulatory uncertainties that could

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restrict our overseas and cross-border investment activity, and a failure by our shareholders who are PRC residents to make any required applications and filings pursuant to such regulations may prevent us from being able to distribute profits and could expose our PRC resident shareholders to liability under PRC law”.

Regulation of Overseas Listings

On August 8, 2006, six PRC regulatory agencies, including MOF/COM, the State Assets Supervision and Administration Commission, or SASAC, the State Administration for Taxation, SAIC, the CSRC, and SAFE, jointly adopted the Regulation on Mergers and Acquisitions of Domestic Enterprises by Foreign Investors, or the New M&A Rule, which became effective on September 8, 2006. This New M&A Rule, among other things, purports to require offshore SPVs formed for listing purposes and controlled directly or indirectly by PRC companies or individuals, such as our company, to obtain the approval of the CSRC prior to publicly listing their securities on an overseas stock exchange.

Dividend Distributions

Pursuant to the Foreign Currency Administration Rules promulgated in 1996 and amended in 1997 and 2008, and various regulations issued by SAFE and other relevant PRC government authorities, the PRC government imposes controls on the convertibility of RMB into foreign currencies and, in certain cases, the remittance of currency out of China.

The principal regulations governing the distribution of dividends paid by wholly foreign-owned enterprises and Sino-foreign joint equity enterprise enterprises include:

- The Wholly Foreign-Owned Enterprise Law (1986), as amended in 2000;
- The Wholly Foreign-Owned Enterprise Law Implementing Rules (1990), as amended in 2001;
- The Sino-foreign Joint Equity Enterprise Law (1979), as amended in 2001;
- The Sino-foreign Joint Equity Enterprise Law Implementing Rules (1983), as amended in 2001; and
- Company Law of the PRC (2005).

Under these regulations, foreign-invested enterprises in China may pay dividends only out of their accumulated profits, if any, determined in accordance with PRC accounting standards and regulations. In addition, a foreign-invested enterprise in China is required to set aside at least a certain percentage of its after-tax profit based on PRC accounting standards each year to its general reserves. These reserves are not distributable as cash dividends. The board of directors of a foreign-invested enterprise has the discretion to allocate a portion of its after-tax profits to employee welfare and bonus funds. These funds, however, may not be distributed to equity owners except in the event of liquidation.

Regulations on Employee Share Options

In December 2006, the People's Bank of China promulgated the Administrative Measures for Individual Foreign Exchange, which set forth the requirements for foreign exchange transactions by PRC individuals relating to current account items and capital account items. The Implementation Rules of the Administrative Measures for Individual Foreign Exchange issued on January 5, 2007 by SAFE specify approval requirements for PRC citizens who are granted shares or share options by an overseas listed company according to its employee stock ownership plan or stock option plan.

On March 28, 2007, SAFE issued the Operating Rules for Administration of Foreign Exchange for Domestic Individual's Participation in Employee Stock Ownership Plans and Stock Option Plans of Overseas Listed Companies, or the Circular 78. On February 15, 2012, SAFE promulgated the Circular on Relevant Issues

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concerning Foreign Exchange Administration for Domestic Individuals Participating in Stock Incentive Plan of Overseas-Listed Companies, or Circular 7, in replacement of the Circular 78. According to Circular 7, individuals in PRC (including PRC citizens and foreign individuals who have lived in China over one year) who intend to participate in the stock incentive plan of the same overseas listed company shall unifiedly appoint a qualified PRC domestic agent or a PRC subsidiary of such overseas listed company ("a PRC agency") to conduct foreign exchange registration, open bank accounts and transfer and exchange funds and an overseas entity shall be appointed to conduct exercise of option, buying and selling of relevant stocks or equities and transfer of relevant funds. After such individuals' foreign exchange income received from participation in the stock incentive plan is remitted to PRC, relevant banks shall distribute the above funds from the account opened and managed by the PRC agency to such individuals' foreign exchange accounts. We and our employees within PRC who have been granted share options or stock appreciation rights, or PRC option/stock appreciation right holders, are subject to Circular 7 upon the listing of our ADSs on NYSE. If we or our PRC option/stock appreciation right holders fail to comply with these regulations, we or our PRC option/stock appreciation right holders may be subject to fines and other legal or administrative sanction.

Pursuant to the Notice on Relevant Issues Concerning Collection of Individual Income Tax Related to Income from Share Option issued by the Ministry of Finance and the State Administration of Taxation on March 28, 2005 and the Notice on Issues of Individual Income Tax Concerning Share Incentive Plan issued by the State Administration of Taxation on August 24, 2009, in connection with the share option plan of an overseas listed company, the difference received by a PRC individual who had been granted share options between the exercise price and the fair market price of such shares on the exercise date shall be imposed of individual income tax which shall be withheld by the PRC subsidiary of such overseas listed company.

Regulations on Labor Protection

The PRC Labor Contract Law and its Implementation Rules became effective on January 1, 2008 and September 18, 2008, respectively, which set out specific provisions related to fixed-term and unlimited-term employment contracts, part-time employment, labor dispatch, probation, consultation with labor union, employment without a written contract, dismissal of employees, severance and collective bargaining, pursuant to which relevant PRC government authorities enhanced their enforcement of labor laws and regulations. On December 28, 2012 the Labor Contract Law was amended to impose more stringent requirements on labor dispatch which will become effective on July 1, 2013. Pursuant to amended Labor Contract Law, (i) it is strongly emphasized that dispatched employees shall be entitled to equal pay for equal work as a fulltime employee of an employer; (ii) labor contracts between employers and employees shall be the basic form of employment adopted by Chinese enterprises and employment by labor dispatching is only a supplementary form and shall apply only to temporary, ancillary or substitute works; and (iii) an employer shall strictly control the number of dispatched employees so that they do not exceed certain percentage of total number of employees and the specific percentage shall be prescribed by the labor administrative department of the State Council.

On April 28, 2012, the State Council announced the Special Provisions on Labor Protection of Female Employees, or Female Protection Provisions. As stated in the Female Protection Provisions, a female employee shall be entitled to 98 days of maternity leave, among which 15 days of leave will be available before her giving birth. No employer may lower the wages, dismiss or terminate the employment agreement with a female employee as a consequence of her pregnancy, giving birth or breast-feeding. The Female Protection Provisions also provide rules of the maternity allowance and the relevant medical expenses for female employees who have and have not participated in maternity insurance respectively.

C. Organizational Structure

We commenced operations in 1998 through Beijing Acorn, and in 2000, we established and commenced business operations for two other operating companies, Shanghai Acorn Network Co., Ltd., or Shanghai Acorn, and Shanghai Acorn Trade and Development Co., Ltd., or Shanghai Trade.

EXHIBIT MM

Documentation from both Acorn's May 2, 2007 Prospectus and its 2012 20-F, detailing that Acorn International's dependence on the company's "Vertically Integrated Entities" or VIEs. This is because:

- Acorn must conduct what it calls its "direct sales" business under a complex and strictly controlled PRC regulatory regime, and as such is dependent both on the approval of numerous Chinese government regulatory bodies.
 - This means Acorn is also dependent on good relationships with the two Chinese nationals who own the VIEs (c.f. Exhibit KK), and that the Chinese government must continue to look favorably on the VIEs themselves.
- The "direct sales" the VIEs support have comprised between 66 % and 80 % of Acorn's business during the 2010-2012 fiscal years.

All information taken from Acorn International's 424(B) and 20-F SEC filings available here: <http://www.sec.gov/cgi-bin/browse-edgar?action=getcompany&CIK=0001365742&owner=include&count=40>

This information is taken from pp. 8, 69, and F-10 through F-14 of Acorn's 2012 20-F, and supports our statements regarding Acorn's dependence on direct sales and the legal and regulatory arrangement made possible by the VIEs.

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
 WASHINGTON, D.C. 20549

FORM 20-F

(Mark One)

- ☐ REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR (g) OF THE SECURITIES EXCHANGE ACT OF 1934
- OR
- ☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
 For the fiscal year ended December 31, 2012
- OR
- ☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
- OR
- ☐ SHELL COMPANY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
 Date of event requiring this shell company report
- For the transition period from _____ to _____
- Commission file number: 001-33429

Acorn International, Inc.

(Exact name of Registrant as specified in its charter)

Not applicable

(Translation of Registrant's name into English)

Cayman Islands

(Jurisdiction of incorporation or organization)

18/F, 20th Building, 487 Tianlin Road, Shanghai 200233

(Address of principal executive offices)

Securities registered or to be registered pursuant to Section 12(b) of the Act.

Title of each class
 American Depositary Shares, each representing three
 ordinary shares, par value \$0.01 per share

Name of each exchange on which registered
 New York Stock Exchange

Securities registered or to be registered pursuant to Section 12(g) of the Act.

None

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act.

None

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report: 82,439,960

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. ☐ Yes ☒ NoIf this report is an annual or transaction report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934. ☐ Yes ☒ NoIndicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. ☒ Yes ☐ No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and

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Although we have previously offset declining sales of a featured product line through increased sales of a new or expanded featured product line, we may be unable to do so in the future. If we fail to identify and introduce additional successful products, including those to replace existing featured products suffering from declining sales or approaching the end of their product lifecycle, our gross revenues may not grow or may decline and our market share and value of our brand may be materially and adversely affected.

Our business depends significantly on the strength of our product brands and corporate reputation; our failure to develop, maintain and enhance our product brands and corporate reputation may materially and adversely affect the level of market recognition of, and trust in, our products.

In China's fragmented, developing and increasingly competitive consumer market, product brands and corporate reputation have become critical to the success of our new products and the continued popularity of our existing products. Our ability to develop, maintain and enhance a given products brand image and recognition depends largely on our ability to remain a leader in the TV direct sales market industry in China. Our brand promotion efforts, particularly our brand promotion activities, may be expensive and may fail to either effectively promote our product brands or generate additional sales.

Our product brands, corporate reputation and product sales could be harmed if, for example:

- our advertisements, including our TV direct sales programs, or the advertisements of the owners of the third-party brands that we market or those of our distributors, are deemed to be misleading or inaccurate;
- our products fail to meet customer expectations;
- we provide poor or ineffective customer service;
- our products contain defects or otherwise fail;
- consumers confuse our products with inferior or counterfeit products;
- consumers confuse our TV direct sales programs with those of our competitors, some of which may promote inferior products, be misleading or inaccurate, or be of poor production quality; or
- consumers find our outbound calls intrusive or annoying.

Furthermore, some of our customers reported that they have received phone calls from certain unidentified third parties impersonating our staff. These unidentified individuals called our customers to request that they (i) modify their order because the ordered product was out of stock or (ii) reject an ordered product upon delivery because it was damaged. In some cases, these unidentified individuals delivered counterfeit or inferior products to our customers. After our internal investigation and the investigation conducted by relevant PRC authorities, a group of impersonators were arrested by the police and were sentenced by the court in August 2011. We believe that this case will play a great role to prevent similar events in the future, however, we can not assure you that similar events won't happen in the future. We believe that we have taken the necessary steps to prevent similar events from recurring. However, there can be no assurance that we will be able to effectively prevent the recurrence of such events in the future, and in case such events recurs in the future, it could materially adversely affect our reputation among our customers and potential customers and our result of operations.

Our business depends on our access to TV media time to market our products in China, which is limited by PRC regulations. We do not generally have long-term contracts to purchase TV media time, and any regulatory or other disruption of our access to desired TV time slots could negatively impact the effectiveness of our TV direct sales platform.

Our business is dependent on having access to media time to televise our TV direct sales programs. A significant portion of our direct sales, which accounted for 66.8%, 80.5% and 79.8% of our total net revenues

Table of Contents**Factors Affecting Our Results of Operations**

We have benefited from a number of trends that are currently accelerating the growth of the direct sales industry in China, including, among other things, overall economic growth that has resulted in increased disposable income and discretionary consumer spending. Company-specific factors that may affect our future financial condition and results of operations include, among other things, the following:

- the mix of product lines selected by us for marketing through our various sales platforms:

Although we maintain and offer a diverse product portfolio, we generally focus on marketing and selling four to six featured product lines at any one time through our TV and other direct sales platform, and a limited number of products through our nationwide distribution network. Consequently, we have been, and expect to continue to be, dependent on a limited number of featured product lines to generate a large percentage of our net revenues. For example, sales of our mobile phone products, our top selling product line in 2012, contributed to \$64.7 million in our net revenues, representing 26.6% of our total gross revenues in 2012. Among these featured product lines, some of which generally enjoys higher profit margin, such as our fitness and cosmetics product lines, while some of which generally have lower profit margin, such as our mobile phone product line. Currently, our featured product lines mainly include mobile phone products, fitness products, electronic learning products, collectible products and health products. We expect that our fitness product line featuring our Yierjian abdominal trainer and new models of Ozing electronic learning products to be our major revenue drivers in 2013.

- the mix of our TV versus other direct sales platforms:

We sell our products through our TV direct sales platform, other direct sales platform and our nationwide distribution network. Our direct sales (including both TV and other direct sales) accounted for 66.8%, 80.5% and 79.8%, respectively, of our net revenues in 2010, 2011 and 2012, respectively, while our distribution sales accounted for 33.2%, 19.5% and 20.2%, respectively, of our net revenues in 2010, 2011 and 2012, respectively. We expect to continue to focus on our TV and other direct sales platforms, which we believe to be our core competency.

- new product introduced by us and our ability to identify new products:

Our ability to maintain or grow our revenue depends on our ability to successfully identify, develop, introduce and distribute in a timely and cost-effective manner new and upgraded product offerings. We employ a systematic identification and development process. After a potential featured product has been identified and tested, we evaluate a number of key benchmarks, particularly estimated profitability relative to our media expenses, in determining whether to conduct full-scale sales and marketing. We also seek to diversify our product offerings by adding products that offer recurring revenue opportunities. To help us identify suitable new products, we entered into an exclusive partnership agreement on July 21, 2011 with GIS, a full-service international direct-response television distributor, pursuant to which GIS will search for and identify products of interest for us and obtain rights to such products on our behalf. As of the date of this Form 20-F, we identified three new products through GIS, among which one product had been marketed by us in 2012.

- the amount and timing of operating expenses incurred by us, in particular our media procurement expenses:

Our revenues are driven significantly by our spending on advertising, particularly our TV direct sales programs. Our total advertising expenses increased from \$58.5 million in 2010 to \$68.6 million in 2011 and then decreased to \$58.3 million in 2012. The largest component of our total advertising expenses, constituting over 90% of total advertising expenses in each of 2010, 2011 and 2012, is purchased TV advertising time, which correlates to the conversion rate of our inbound calls. The primary performance metric we track and analyze on a daily basis is the conversion rate of our inbound calls. The conversion rate for inbound calls, which is the percentage of inbound calls that result in product purchase orders, was 25.4%, 31.4% and 36.2%, in 2010, 2011 and 2012, respectively. The increase in conversion rate in 2012 was primarily due to increased sales of fitness

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ACORN INTERNATIONAL, INC.

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2010, 2011 AND 2012
(In US dollars, except share data, unless otherwise stated)**

1. Organization and principal activities

Acorn International, Inc. ("Acorn International") was incorporated in Cayman Islands on December 20, 2005. China DRTV, Inc. ("China DRTV") was incorporated in the British Virgin Islands ("BVI") on March 4, 2004.

Acorn International and its subsidiaries and variable interest entities ("VIEs") (collectively, the "Group") is an integrated multi-platform marketing company in China which develops, promotes and sells products. The Group's two primary sales platforms are integrated direct sales and a nationwide distribution network. Direct sales platforms include TV direct sales, outbound calls, Internet sales, catalogs sales, third-party bank channel sales and direct sales through print media and radio. Direct sales are not only combined with the nationwide distribution network to market and sell the Group's products to consumers, but also used to promote and sell third-party branded products to consumers pursuant to joint sales arrangements.

Consolidated subsidiaries and changes to consolidated subsidiaries

As of December 31, 2012, the subsidiaries of Acorn International were as follows:

<u>Name of subsidiaries</u>	<u>Percentage of ownership</u>	<u>Date of incorporation</u>	<u>Place of incorporation</u>
China DRTV, Inc. ("China DRTV")	100%	March 4, 2004	BVI
Smooth Profit Limited ("Smooth Profit")	100%	September 18, 2007	BVI
MK AND T Communications Limited ("MK AND T")	100%	October 27, 1998	Hong Kong
Bright Rainbow Investments Limited ("Bright Rainbow")	100%	October 29, 2007	Hong Kong
Shanghai Acorn Advertising Broadcasting Co., Ltd. ("Shanghai Advertising")	100%	August 19, 2004	PRC
Shanghai HJX Digital Technology Co., Ltd. ("Shanghai HJX")	100%	August 23, 2004	PRC
Acorn International Electronic Technology (Shanghai) Co., Ltd. ("Acorn Electronic")	100%	August 23, 2004	PRC
Acorn Information Technology (Shanghai) Co., Ltd. ("Acorn Information")	100%	August 27, 2004	PRC
Beijing Acorn Youngleda Oxygen Generating Co., Ltd. ("Beijing Youngleda")	100%	October 20, 2004	PRC
Yiyang Yukang Communication Equipment Co., Ltd. ("Yiyang Yukang")	100%	November 29, 2005	PRC
Zhuhai Sunrana Bio-tech Co., Ltd. ("Zhuhai Sunrana")	51%	June 16, 2006	PRC
Shanghai Acorn Enterprise Management Consulting Co., Ltd. ("Acorn Consulting")	100%	November 8, 2006	PRC
Zhuhai Acorn Electronic Technology Co., Ltd. ("Zhuhai Acorn")	100%	September 26, 2006	PRC
Beijing HJZX Software Technology Development Co., Ltd. ("Beijing HJZX")	100%	January 22, 2007	PRC
Zhongshan Meijin Digital Technology Co., Ltd. ("Zhongshan Meijin")	75%	February 13, 2007	PRC
Acorn Trade (Shanghai) Co., Ltd. ("Acorn Trade")	100%	December 13, 2007	PRC
Shanghai Acorn HJX Software Technology Development Co., Ltd. ("HJX Software")	100%	May 12, 2009	PRC
Wuxi Acorn Enterprise Management Consulting Co., Ltd. ("Wuxi Acorn")	100%	January 29, 2010	PRC

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Table of Contents**ACORN INTERNATIONAL, INC.****NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)****FOR THE YEARS ENDED DECEMBER 31, 2010, 2011 AND 2012**

(In US dollars, except share data, unless otherwise stated)

1. Organization and principal activities—(Continued)***Consolidated subsidiaries and changes to consolidated subsidiaries—(Continued)***

In January 2010, Shanghai An-Nai-Chi Automobile Maintenance Products Co., Ltd. ("Shanghai An-Nai-Chi"), a previously consolidated subsidiary engaged in manufacturing and selling autocare products, received a cash injection of \$1.5 million from a third party investor. Upon the completion of the capital injection, the Group's equity interests in Shanghai An-Nai-Chi decreased from 51.0% to 33.2% and the Group lost control and ceased to consolidate Shanghai An-Nai-Chi as a subsidiary. The Group accounts for the retained investment in Shanghai An-Nai-Chi using the equity method of accounting.

In May 2011, U King Communication Equipment (Hong Kong) Limited ("U King Hong Kong"), a previously consolidated subsidiary of the Group, was deregistered and the Group ceased to consolidate U King Hong Kong upon the completion of this deregistration.

In December 2011, the Group sold all of its 51% equity interest in Acorn Hong Kong Holdings Limited. ("Acorn Hong Kong"), a previously consolidated subsidiary of the Group for cash consideration of HK\$6.1 million (\$0.8 million USD equivalent). Upon the completion of the disposal, the Group ceased to consolidate Acorn Hong Kong as a subsidiary. The gain on the disposition of the investment in Acorn Hong Kong in 2011 was \$55,379 and was recognized in other income in the consolidated statement of operations.

VIE Arrangements

As of December 31, 2012, the variable interest entities of Acorn International were as follows:

<u>Name of variable interest entities</u>	<u>Date of incorporation</u>	<u>Place of incorporation</u>
Beijing Acorn Trade Co., Ltd. ("Beijing Acorn")	March 19, 1998	PRC
Shanghai Acorn Network Technology Development Co., Ltd. ("Shanghai Network")	November 2, 2004	PRC

People's Republic of China ("PRC") laws and regulations restrict foreign ownership of entities engaged in direct sales in China. To comply with PRC laws and regulations, Acorn International conducts its direct sales through two VIEs (Beijing Acorn and Shanghai Network) which hold direct sales licenses. The two VIEs are owned 100% by two PRC nationals: Yang Dongjie (or Don Dongjie Yang), Acorn International's co-founder, Chief Executive Officer ("CEO") and director, and Mr. Weiguo Ge, one of the assistant general managers of our finance department. Each of the two VIEs was established by the two shareholders on behalf, and for the exclusive benefits of Acorn International. Acorn Information, a wholly-owned subsidiary of Acorn International, entered into various agreements with each of the two VIEs and their shareholders, including (i) Irrevocable Powers of Attorney, under which each of the two shareholders of the VIEs granted to Acorn Information the power to exercise all voting rights as a shareholder of the VIEs, (ii) Loan Agreements, under which Acorn Information made interest-free loans to the shareholders of the VIEs in an aggregate amount of approximately RMB162.5 million (equivalent to US\$25.9 million) and agreed to make additional interest-free loans not exceeding approximately RMB30.4 million (equivalent to US\$4.8 million) for capital contributions by the shareholders in the VIEs, (iii) Operation and Management Agreements, under which the shareholders of the VIEs agreed that Acorn Information directs the day-to-day operational and financial activities of the VIEs including appointing directors and senior management, and that the VIEs do not conduct any transactions which might substantially affect their assets, obligations, rights and business operations without the prior written consent of

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ACORN INTERNATIONAL, INC.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
FOR THE YEARS ENDED DECEMBER 31, 2010, 2011 AND 2012
(In US dollars, except share data, unless otherwise stated)

1. Organization and principal activities—(Continued)*VIE Arrangements—(Continued)*

Acorn Information, (iv) Equity Pledge Agreements, under which the shareholders of the VIEs pledged all of their equity interests in the VIEs to Acorn Information as collateral to guarantee the performance of the VIEs under the Operation and Management Agreements and the Exclusive Technical Services Agreements as described below, as well as their personal obligations under the Loan Agreements, (v) Exclusive Purchase Agreements, under which the shareholders of the VIEs irrevocably granted Acorn Information an exclusive option to purchase at any time if and when permitted under PRC law, all or any portion of their equity interests in the VIEs for a price that is the minimum amount permitted by PRC law, and (vi) Technical Service Agreements, under which Acorn Information became the exclusive provider of technical support and consulting services to the VIEs in exchange for service fees.

Through the above arrangements, Acorn Information holds all the variable interests of the two VIEs and has power to direct the activities that most significantly impact the economic success of the VIEs and absorbs the majority of the economic risks and rewards of the VIEs through service fees. The nominal shareholders lack the ability to make decisions that have a significant effect on the VIEs' operations and do not absorb the expected losses because the capital of the VIEs were funded using loans borrowed from Acorn Information. Therefore, Acorn International is the primary beneficiary of the two VIEs and accordingly, the financial statements of Beijing Acorn and Shanghai Network have been consolidated with Acorn International as its subsidiaries since they were established.

The ownership structures of Acorn Information and each of the two VIEs are in compliance with existing PRC laws and regulations according to the opinions of the Group's PRC legal counsel. The contractual arrangements among Acorn Information and the two VIEs and their shareholders are valid, binding and enforceable. However, there are uncertainties regarding the interpretation and application of current and future PRC laws and regulations. The PRC regulatory authorities that regulate foreign investment in direct sales companies may take a view in the future that is contrary to the above opinions of the Group's PRC legal counsel. If the current agreements that establish the structure for conducting the Group's PRC direct sales business were found to be in violation of existing or future PRC laws or regulations, the Group may be required to restructure its ownership structure and direct sales operations in the PRC to comply with PRC laws and regulations, which may affect the Group's financial position and cash flows related to these VIE structures. In addition, there are uncertainties in the PRC legal system that could limit the Group's ability to enforce these contractual agreements in the event that the consolidated VIEs or their shareholders fail to meet their contractual obligations. If the legal structure and contractual arrangements were found to be in violation of PRC laws and regulations, the PRC government could:

- revoke the business and operating licenses of the Group's PRC subsidiaries and VIEs;
- discontinue or restrict the operations of any related-party transactions among the Group's PRC subsidiaries and VIEs;
- limit the Group's business expansion in China by way of entering into contractual arrangements;
- impose fines or other requirements with which the Group's PRC subsidiaries may not be able to comply;
- require the Group or the Group's PRC subsidiaries to restructure the relevant ownership structure or operations; or

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ACORN INTERNATIONAL, INC.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
FOR THE YEARS ENDED DECEMBER 31, 2010, 2011 AND 2012
(In US dollars, except share data, unless otherwise stated)

1. Organization and principal activities—(Continued)*VIE Arrangements—(Continued)*

Restrict or prohibit the Group's use of the proceeds of the additional public offering to finance the Group's business and operations in China. The Group's ability to conduct its business may be negatively affected if the PRC government were to carry out any of the aforementioned actions. As a result, the Group may not be able to consolidate the VIEs in its consolidated financial statements as it may lose the ability to exert effective control over the VIEs and its shareholder, and it may lose the ability to receive economic benefits from the VIEs. The Group, however, does not believe such actions would result in the liquidation or dissolution of the Group or the VIEs.

The aforementioned two shareholders are the shareholders of the Group, which owns all of the equity interests in the VIEs and the two shareholders are also beneficial owners of the Group. The interests of the two shareholders as the beneficial owners of the VIEs may differ from the interests of the Group as a whole, since the two shareholders hold 12.2% of the total common shares issued and outstanding as of December 31, 2012. ~~The Group cannot assure that when conflicts of interest arise, the two shareholders will act in the best interests of the Group or that conflicts of interests will be resolved in the Group's favor.~~ Currently, the Group does not have existing arrangements to address potential conflicts of interest the two shareholders may encounter in their capacity as beneficial owners, director and officer of the VIEs, on the one hand, and as beneficial owners, director and officer of the Group, on the other hand. The Group believes the two shareholders will not act contrary to any of the contractual arrangements and the Exclusive Purchase Agreements provides the Group with a mechanism to remove the two shareholders as beneficial shareholders of the VIEs should he act to the detriment of the Group. The Group relies on the two shareholders as directors and executive officers of the Group, to fulfill their fiduciary duties and abide by laws of the PRC and Cayman Islands and act in the best interest of the Group. If the Group cannot resolve any conflicts of interest or disputes between the Group and the two shareholders, the Group would have to rely on legal proceedings, which could result in disruption of its business, and there is substantial uncertainty as to the outcome of any such legal proceedings.

The Group believes that its ability to direct the activities of the two VIEs that most significantly impact the VIEs' economic performance is not affected by the above uncertainties in the PRC legal system. Accordingly, the two VIEs continue to be consolidated VIEs of the Group.

Summary financial information of the Group's two VIEs included in the accompanying consolidated financial statements is as follows:

	For the years ended December 31,		
	2010	2011	2012
Net revenues	\$195,749,845	\$290,145,402	\$190,302,130
Net income	\$ 5,243,804	\$ 6,876,485	\$ 1,765,918

~~The VIEs contributed an aggregate of 66.8%, 80.1% and 78.5% of the consolidated net revenues for the years ended December 31, 2010, 2011, and 2012, respectively.~~ The Group's operations not conducted through contractual arrangements with the VIE primarily consist of its distribution sale business. As of the fiscal years ended December 31, 2011 and 2012, the VIEs accounted for an aggregate of 14.8% and 12.5%, respectively, of the consolidated total assets, and 23.1% and 25.5%, respectively, of the consolidated total liabilities. The assets not associated with the VIEs primarily consist of cash and cash equivalents, short-term investments, inventory, prepaid land use right and property and equipment, net.

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ACORN INTERNATIONAL, INC.
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
FOR THE YEARS ENDED DECEMBER 31, 2010, 2011 AND 2012
(In US dollars, except share data, unless otherwise stated)

1. Organization and principal activities—(Continued)***VIE Arrangements—(Continued)***

There are no consolidated VIEs' assets that are collateral for the VIEs' obligations and can only be used to settle the VIEs' obligations. There are no creditors (or beneficial interest holders) of the VIEs that have recourse to the general credit of the Group or any of its consolidated subsidiaries. Should the VIEs require financial support, the Group or its subsidiaries may, at its option and subject to statutory limits and restrictions, provide financial support to its VIEs through loans to the shareholders of the VIEs or entrustment loans to the VIEs.

Relevant PRC laws and regulations restrict the VIEs from transferring a portion of its net assets, equivalent to the balance of its statutory reserve and its share capital, to the Group in the form of loans and advances or cash dividends.

2. Summary of principal accounting policies***(a) Basis of presentation***

The consolidated financial statements of the Group have been prepared in accordance with the accounting principles generally accepted in the United States of America ("US GAAP").

(b) Basis of consolidation

The consolidated financial statements include the financial statements of Acorn International, its majority-owned subsidiaries and consolidated VIEs. All intercompany transactions and balances are eliminated upon consolidation.

Net income or loss of a subsidiary is attributed to the Company and to the noncontrolling interests even if this results in the noncontrolling interests having a deficit balance. Noncontrolling interests in subsidiaries are presented separately from the Group's equity therein.

(c) Use of estimates

The preparation of financial statements in conformity with US GAAP requires the Group to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements, as well as the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates. Significant accounting estimates reflected in the Group's financial statements include allowance for doubtful accounts, inventory valuation, assumptions related to the valuation of available-for-sale debt securities and embedded derivative, useful lives and impairment of long-lived assets and goodwill, assumptions used in purchase price allocation, assumptions related to the valuation of share-based compensation and related forfeiture rates, assumptions used in determining the fair value of retained noncontrolling investment upon deconsolidation of former subsidiaries, and valuation allowance on deferred tax assets and provision for uncertain tax positions.

This is a statement from p. 137 of Acorn's 2007 Prospectus dated May 2, 2007. This documents that the arrangement with the VIEs for the sake of the direct sales business goes back to the company's founding as a publicly traded entity. One of the individuals who owns the VIEs, David Chenghong He, has since been replaced by Weiguo Ge. Dongjie Yang has remained throughout and owns 75 % of both VIEs (see also Exhibit KK).

424B4 1. d424b4.htm FORM 424(B)(4)

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Filed pursuant to rule 424(b)(4)
Registration No. 333-141860

7,700,000
American Depositary Shares
Representing 23,100,000 Ordinary Shares



Acorn International, Inc.

This is an initial public offering of American depositary shares, or ADSs, each representing three ordinary shares of Acorn International, Inc. We are offering 6,700,000 ADSs, and the selling shareholders identified in this prospectus are offering 1,000,000 ADSs. We will not receive any of the proceeds from the ADSs sold by the selling shareholders. Prior to this offering, there has been no public market for our ordinary shares or ADSs. The initial public offering price is \$15.50 per ADS.

Our application to list our ADSs on the New York Stock Exchange under the symbol "ATV" has been approved.

Investing in our ADSs involves a high degree of risk. See "Risk Factors" beginning on page 14.

	Price to Public	Underwriting Discounts and Commissions	Proceeds, Before Expenses, to Us	Proceeds, Before Expenses, to the Selling Shareholders
Per ADS	\$ 15.500	\$ 1.085	\$ 14.415	\$ 14.415
Total	\$119,350,000	\$ 8,354,500	\$96,580,500	\$14,415,000

The underwriters have an option to purchase up to 1,155,000 additional ADSs from us at the public offering price, less underwriting discounts and commissions, within 30 days from the date of this prospectus, to cover over-allotments of ADSs.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The underwriters expect to deliver the ADSs to purchasers on or about May 8, 2007.

Merrill Lynch & Co.

Deutsche Bank Securities

CIBC World Markets

The date of this prospectus is May 2, 2007.

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the State Administration for Industry and Commerce on March 2, 2004, or the Advertising Regulation. Under these advertising regulations, as of December 10, 2005 there is no longer any maximum foreign shareholding percentage in an advertising enterprise. However, foreign investors are required to have had at least three years experience in directly operating an advertising business outside of China before they may receive approval to own 100% of an advertising business in China. Foreign investors that do not meet these requirements are permitted to invest in advertising businesses, provided that such foreign investors have at least two years of direct operations in the advertising business outside of China and that such foreign investors may not own 100% of advertising businesses in China.

Our Direct Sales, Wholesale Distribution and Advertising Operations

Due to the complicated and lengthy approval process and MOFCOM's uncertain position towards approving investment in direct sale and wholesale distribution businesses by foreign investors under the Commercial Sector Measures, and due to our lack of sufficient advertising industry experience as required under the Advertising Regulation, our direct sales and advertising businesses are currently conducted by our consolidated affiliated enterprises owned by Don Dongjie Yang and David Chenghong He—Shanghai Network, Beijing Acorn and Shanghai Advertising. As domestic companies, these companies are not subject to the Commercial Sector Measures or the Advertising Regulation, but they are controlled by us through a set of contractual arrangements. See "Our Corporate Structure." In the opinion of Haiwen & Partners, our PRC legal counsel:

- The ownership structures of Acorn Information, Shanghai Network, Beijing Acorn and Shanghai Advertising are in compliance with existing PRC laws and regulations both currently and immediately after giving effect to this offering; and
- Our contractual arrangements among Acorn Information, Shanghai Network, Beijing Acorn and Shanghai Advertising and their shareholders are valid, binding and enforceable, and will not result in violation of PRC laws and regulations currently in effect.

We have been advised by our PRC legal counsel, Haiwen & Partners, however, that there are substantial uncertainties regarding the interpretation and application of current and future PRC laws and regulations. Accordingly, there can be no assurance that the PRC regulatory authorities will not in the future take a view that is contrary to our PRC legal counsel. We have been further advised by our PRC counsel that if the PRC government determines that the agreements establishing the structure for operating our TV direct sales business do not comply with PRC government regulations on foreign investment in the TV direct sales business, we could be subject to severe penalties. See "Risk Factors—Risks Related to the Regulation of Our Business—If the PRC government takes the view that the agreements that establish the structure for operating our TV and other direct sales, wholesale distribution and advertising businesses in China do not comply with PRC governmental restrictions on foreign investment in these areas, we could be subject to severe penalties."

Regulation of Manufacturing and Sale of Special Consumer Products

Some of the products we offer through our direct sales platforms and some of the proprietary branded products we manufacture and sell are categorized as medical devices and pharmaceuticals. Therefore, we are required to comply with relevant PRC laws and regulations regarding the manufacture and sale of medical devices and pharmaceuticals.

In the PRC, medical devices are classified into three different categories for regulation and supervision by SAIFD, depending on the degree of risk associated with each medical device and the extent of regulation needed to ensure safety and proper operation of the product. Class I includes medical devices posing a low risk to the human body, whose operation and safety can be assured through routine inspection. Class II includes those with medium risk to the human body, which warrant a greater degree of regulation. Class III includes those devices that pose a potential high risk to the human body, are implanted in the human body, or are used to support or

EXHIBIT NN

This exhibit documents the growth in Robert Roche's ownership of Acorn, as a function of shares beneficially owned, by comparing those numbers in Acorn's May 2, 2007 Prospectus, and its most recent 20-F for the year ending December 31, 2012. Roche's ownership has grown from 16.06 % to 46.41 %.

All information taken from Acorn's SEC filings available here:

<http://www.sec.gov/cgi-bin/browse-edgar?action=getcompany&CIK=0001365742&owner=include&count=40>

This document is taken from the 2007 Prospectus and clearly shows Roche's ownership listed at 16.06 %.

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424B4 1 d424b4.htm FORM 424(B)(4)

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Filed pursuant to rule 424(b)(4)

Registration No. 333-141860

7,700,000

American Depositary Shares

Representing 23,100,000 Ordinary Shares

**ACORN****Acorn International, Inc.**

This is an initial public offering of American depositary shares, or ADSs, each representing three ordinary shares of Acorn International, Inc. We are offering 6,700,000 ADSs, and the selling shareholders identified in this prospectus are offering 1,000,000 ADSs. We will not receive any of the proceeds from the ADSs sold by the selling shareholders. Prior to this offering, there has been no public market for our ordinary shares or ADSs. The initial public offering price is \$15.50 per ADS.

Our application to list our ADSs on the New York Stock Exchange under the symbol "ATV" has been approved.

Investing in our ADSs involves a high degree of risk. See "Risk Factors" beginning on page 14.

	Price to Public	Underwriting Discounts and Commissions	Proceeds, Before Expenses, to Us	Proceeds, Before Expenses, to the Selling Shareholders
Per ADS	\$ 15.500	\$ 1.085	\$ 14.415	\$ 14.415
Total	\$119,350,000	\$ 8,354,500	\$96,580,500	\$14,415,000

The underwriters have an option to purchase up to 1,155,000 additional ADSs from us at the public offering price, less underwriting discounts and commissions, within 30 days from the date of this prospectus, to cover over-allotments of ADSs.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The underwriters expect to deliver the ADSs to purchasers on or about May 8, 2007.

Merrill Lynch & Co.**Deutsche Bank Securities**

CIBC World Markets

The date of this prospectus is May 2, 2007.

Table of Contents**PRINCIPAL AND SELLING SHAREHOLDERS**

The following table sets forth information with respect to the beneficial ownership of our ordinary shares, on a fully diluted basis assuming conversion of all of our Series A convertible redeemable preferred shares and Series A-1 convertible redeemable preferred shares into ordinary shares, the exercise of all of our outstanding share options and all Stock Appreciation Rights, or SARs and as adjusted to reflect the sale of the ADSs offered in this offering as of the date of this prospectus, by:

- each of our directors and executive officers;
- each person known to us to own beneficially more than 5.0% of our ordinary shares; and
- each other selling shareholder participating in this offering.

Beneficial ownership includes voting or investment power with respect to the securities. Except as indicated below, and subject to applicable community property laws, the persons named in the table have sole voting and investment power with respect to all ordinary shares shown as beneficially owned by them. Percentage of beneficial ownership is based on (i) 78,303,993 ordinary shares outstanding as of the date of this prospectus, including options and SARs exercisable by such person within 60 days after the date of this prospectus, and which includes 69,571,364 ordinary shares outstanding as of the date of this prospectus assuming the conversion of all outstanding preferred shares into ordinary shares, and (ii) ordinary shares outstanding after closing of this offering, including options and SARs exercisable by such person within 60 days after the date of this prospectus, each assuming the conversion of all preferred shares into ordinary shares, and further assuming no change in the number of ADSs offered by the selling shareholders and us as set forth on the cover page of this prospectus. The underwriters may choose to exercise the over-allotment options in full, in part or not at all.

Upon the exercise of any vested SAR, the holder is entitled to receive our shares having a value equal to the difference between the market price of our ordinary shares on the exercise date and the base price of the SAR. The number of shares acquired upon exercise of vested SARs is based on their base price and an initial public offering price of \$15.50 per ADS as set forth on the cover of this prospectus.

Name	Shares beneficially owned prior to this offering		Shares to be sold by selling shareholders in this offering		Shares beneficially owned after this offering	
	Number	Percent	Number	Percent	Number	Percent
Directors and Executive Officers						
Robert W. Roche⁽¹⁾	16,554,895	21.14%	—	—	15,808,201	16.06%
James Yujun Hu⁽²⁾	17,834,989	22.78%	—	—	17,648,315	17.93%
Don Dongjie Yang⁽³⁾	7,944,262	10.15%	—	—	7,944,262	8.07%
Guoying Du⁽⁴⁾	2,423,173	3.09%	—	—	1,123,363	1.14%
Ella Man Lin⁽⁵⁾	2,364,834	3.02%	—	—	2,364,834	2.40%
David Chenghong He⁽⁶⁾	2,354,831	3.01%	—	—	2,354,831	2.39%
Kevin Guohui Hu⁽⁷⁾	1,050,560	1.34%	—	—	1,050,560	1.07%
Gordon Xiaogang Wang	*	*	—	—	*	*
Andrew Y. Yan	*	*	—	—	*	*
Denny Lee	*	*	—	—	*	*
Shujun Li	*	*	—	—	*	*
Ying Wu	*	*	—	—	*	*
Joe Zhixiong Zhou	*	*	—	—	*	*

Principal and Selling Shareholders

This document is taken from Acorn's 2012 20-F and clearly shows Roche's ownership at 46.41 %.

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20-F 1 d449436d20f.htm FORM 20-F

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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

WASHINGTON, D.C. 20549

FORM 20-F

(Mark One)

REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR (g) OF THE SECURITIES EXCHANGE ACT OF 1934

OR

x ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2012

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

OR

SHELL COMPANY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Date of event requiring this shell company report

For the transition period from

to

Commission file number: 001-33429

Acorn International, Inc.

(Exact name of Registrant as specified in its charter)

Not applicable

(Translation of Registrant's name into English)

Cayman Islands

(Jurisdiction of incorporation or organization)

18/F, 20th Building, 487 Tianlin Road, Shanghai 200233

(Address of principal executive offices)

Securities registered or to be registered pursuant to Section 12(b) of the Act.

Title of each class

Name of each exchange on which registered

American Depositary Shares, each representing three
ordinary shares, par value \$0.01 per share

New York Stock Exchange

Securities registered or to be registered pursuant to Section 12(g) of the Act.

None

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act.

None

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report: 82,439,960

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

If this report is an annual or transaction report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and

Table of Contents**E. Share Ownership**

The following table sets forth information with respect to the beneficial ownership of our ordinary shares as of March 31, 2013:

- each of our directors and executive officers;
- each person known to us to own beneficially more than 5% of our ordinary shares; and

Beneficial ownership includes voting or investment power with respect to the securities. Except as indicated below, and subject to applicable community property laws, the persons named in the table have sole voting and investment power with respect to all ordinary shares shown as beneficially owned by them. The percentage of beneficial ownership is based on 82,439,960 ordinary shares outstanding as of March 31, 2013, taking into consideration options, SARs and restricted stock units exercisable by such person within 60 days of March 31, 2013.

Name	Shares beneficially owned as of March 31, 2013	
	Number	Percent
Directors and Executive Officers		
Robert W. Roche ⁽¹⁾	38,259,726	46.41
Don Dongjie Yang ⁽²⁾	10,763,655	13.06
Andrew Y. Yan	*	*
Gordon Xiaogang Wang	*	*
Jun Ye	—	—
Jing Wang	—	—
William Liang	—	—
Eric Zhenyu He	—	—
Peng Lu	*	*
Lifu Chen	*	*
Rong Wang	*	*
Yongqiang Zhu	*	*
Marcelo Kexun Zheng	—	—
Tony Bin Gao	—	—
Geoffrey Weiji Gao	—	—
Principal Shareholders		
SB Asia Investment Fund II L.P. ⁽³⁾	22,097,088	26.80
Acorn Composite Corporation ⁽⁴⁾	13,054,421	15.84
D.Y. Capital, Inc. ⁽⁵⁾	6,518,656	7.91
Bireme Limited ⁽⁶⁾	20,000,000	24.26

* Upon exercise of options and SARs currently exercisable or vested within 60 days after March 31, 2013, would beneficially own less than 1% of our ordinary shares.

- (1) Includes (i) 1,846,291 ordinary shares held by The Grand Crossing Trust, which is an irrevocable trust for the benefit of Robert W. Roche's children, (ii) 12,052,976 ordinary shares and 333,815 ADSs held by Acorn Composite Corporation, which is a company owned by Robert W. Roche, (iii) 282,140 ADSs held by Robert Roche Trust, which is a trust for the benefit of Robert W. Roche, (iv) 583,920 ADSs held by Moore Bay Trust, which is a charitable trust with Robert W. Roche's children being the beneficiaries of the remainder (v) 558,611 ADSs held by the Felicitas Trust, which is an irrevocable trust for the benefit of Robert W. Roche's children (vi) 87.7% of 129,770 Ordinary Shares and 6,623,410 ADSs held by Bireme Limited, i.e., 113,808 ordinary shares and 5,808,731 ADSs, (vii) 515,000 ADS held by Catalonia Holdings Ltd. The voting agreement among James Yujun Hu, The Grand Crossing Trust and Acorn Composite Corporation dated July 6, 2006 has been revoked by Robert W. Roche in November 2008.
- (2) Includes (i) 6,518,656 ordinary shares held by D.Y. Capital, Inc, a company owned by Don Dongjie Yang, (ii) 12.3% of 129,770 ordinary shares and 6,623,410 ADSs held by Bireme Limited, i.e., 15,962 ordinary shares and 814,679 ADSs, and (iii) 1,785,000 ordinary shares issuable upon exercise of options and SARs held by Don Dongjie Yang.

EXHIBIT 00

Roche's background with American Chamber of Commerce (AmCham) in Shanghai, China, and the conjunction of this work with Vice President Biden's 2011 trip to China.

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Robert Roche was the 2010 chairman of the American Chamber of Commerce in Shanghai. See, <http://www.eastwestcenter.org/ewc-in-washington/events/previous-events-2010/sept-29-amcham-shanghai/>. "**Robert Roche** is the director of Acorn International and the 2010 chairman of AmCham Shanghai. Roche, who is an entrepreneur, attorney and investor, founded Acorn International, China's largest infomercial company in 2007. He also founded and is chairman of Oaklawn Marketing, the largest infomercial company in Japan. After arriving in Shanghai, Roche also co-founded URBN Hotel, the first carbon neutral hotel in China. He is also a member of the USA Pavilion Steering Committee for the 2010 Shanghai World Expo. Additionally, he was one of three non-US based members of President Obama's National Finance Committee. Additionally, Robert was recently named to President Obama's Advisory Committee for Trade Policy and Negotiations."

See also, http://www.china.org.cn/business/2010-10/20/content_21162170.htm. "'China is a key market for US exports and arguably the most important destination for sustained export growth going forward,' said Robert Roche, chairman of AmCham Shanghai."

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September 29, 2010: American Chamber of Commerce in Shanghai Delegation



(Click to enlarge) From left to right: Satu Limaye, director of the East-West Center in Washington discusses export promotion with Ms. Brenda Lei Foster, Dr. Christian Murck, Mr. Robert Roche and Mr. Benjamin H. Kinnas.

The U.S.-China Economic Relationship and the National Export Initiative



(Washington, DC) Despite certain regulatory concerns, and market access issues, members of the American Chamber of Commerce in Shanghai (AmCham Shanghai) maintain that the business climate and operating conditions in China are excellent. The latest AmCham Shanghai report, "*U.S. Export Competitiveness in China: Winning in the World's Fastest-Growing Market*," illustrates the importance of engaging the Chinese market and developing a US trade policy which would increase export competitiveness and create jobs and economic growth in the United States. This East-West Center in Washington Asia Pacific Political Economy seminar featured Mr. Robert Roche, chairman of AmCham Shanghai and director of Acorn International; Ms. Brenda Lei Foster, president of AmCham Shanghai; Mr. Benjamin Kinnas, senior vice president and general manager of Wells Fargo Bank's Shanghai branch; and Dr. Christian Murck, president of the American Chamber of Commerce in China, who discussed key ways in which the United States could improve export promotion in China.

Large businesses and small and medium enterprises (SMEs), alike, are establishing roots in China, where there is long-term potential for economic growth. They can be found in the large coastal cities, but are also spreading across the country, and are doing more and more business in medium-sized cities as well. Despite the growing number of US businesses in China, Mr. Roche stressed that the United States government and policy-makers should do everything possible to boost US export competitiveness, because the United States is increasingly losing market share to competitor countries, such as Germany and Japan. President Obama's National Export Initiative (NEI), released on March 11, 2010, has attracted considerable attention, but Dr. Murck still believes that greater action on trade policy is needed. He argued that promoting exports would increase the number of US jobs and help economic recovery take place.

Mr. Kinnas also argued that there are still more measures to be taken to revitalize U.S. exports to China, which are currently down from 10.76 % of China's imports from the world, in 2001, to 7.18% of imports in 2008. Based on the AmCham Shanghai China Market Export Competitiveness Index, included in the recent report, the United States only ranked number twelve, while countries, such as Taiwan, South Korea, Japan, Germany, the EU and Malaysia took the top rankings. Some recommendations for boosting competitiveness included: a presidential export mission to China, enhanced federal, state and local export promotion programs which could help U.S. businesses navigate the Chinese market, and continued dialogue with the Chinese government on difficult economic issues.

To read the recently released AmCham Shanghai report, "*U.S. Export Competitiveness in China*," please [click here](#).

Robert Roche is the director of Acorn International and the 2010 chairman of AmCham Shanghai. Roche, who is

an entrepreneur, attorney and investor, founded Acorn International, China's largest infomercial company in 2007. He also founded and is chairman of Oaklawn Marketing, the largest infomercial company in Japan. After arriving in Shanghai, Roche also co-founded URBN Hotel, the first carbon neutral hotel in China. He is also a member of the USA Pavilion Steering Committee for the 2010 Shanghai World Expo. Additionally, he was one of three non-US based members of President Obama's National Finance Committee. Additionally, Robert was recently named to President Obama's Advisory Committee for Trade Policy and Negotiations.

Brenda Foster is the president of AmCham Shanghai. Prior to assuming this position in 2005, she was president and CEO of ULU Group, Ltd., a firm specializing in emerging technologies in the Asia-Pacific region. Ms. Foster has also held the positions of executive advisor to the governor of Hawaii for International and National Affairs, director of the State of Hawaii's Office of International Relations and executive director of Hawaii's World Affairs Council, and the Pacific and Asian Affairs Council. She was also on the Board of the USA Pavilion at the Shanghai 2010 World Expo.

Benjamin H. Kinnas is senior vice president and general manager of Wells Fargo Bank's Shanghai branch. He is concurrently regional manager for trade finance in the Asia Pacific region. Prior to his current regional responsibilities, Kinnas served as general manager of the bank's Tokyo branch. He is an experienced emerging markets banker who advocates trade and sensible and appropriate financial market reform and liberalization in these emerging markets. Kinnas is also vice chair of AmCham Shanghai's Financial Services Committee, is an active member of the Shanghai Bankers Association.

Christian Murck is the president of the American Chamber of Commerce in the People's Republic of China (AmCham-China). He is also the independent director of J.P. Morgan Chase (China) Ltd. Before joining AmCham-China as president in April, 2010, Murck served as vice chairman-Asia, chief executive officer-Asia and managing director of China for APCO Worldwide, from 2001- 2010. Before joining APCO, he was the Managing Director and Senior Country Officer of The Chase Manhattan Bank for 5 years. Murck was also previously based in Taipei, from 1991-1996, and was Chairman of the American Chamber of Commerce in Taiwan, 1995-1996.

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China.org.cn

Call for competitive US exports

Shanghai Daily, October 20, 2010

Improving United States export competitiveness in China is crucial to sustain economic growth and create jobs in the US, senior officials at the American Chamber of Commerce in Shanghai said Tuesday.

A 12-member delegation of AmCham Shanghai visited the US last month and held more than 40 meetings over three days with a wide range of US firms. They lobbied the government at all levels to enhance Sino-US trade relations.

"China is a key market for US exports and arguably the most important destination for sustained export growth going forward," said Robert Roche, chairman of AmCham Shanghai.

Benjamin H. Kinnas, general manager of Wells Fargo Bank Shanghai Branch and a delegation member, said: "The real competitor of the US is not China, but other big traders who also want to increase their exports to China."

According to an AmCham Shanghai's latest report, while the US has increased its exports to China by 330 percent since 2000, the country still punches below its weight in comparison to overseas competitors.

In the second quarter of this year, American export of goods to China rose 24 percent from a year earlier but exports from Germany, South Korea and Japan jumped 53 percent, 39 percent and 29 percent, respectively.

The report said that capturing an additional 1 percent of China's import market translates into US\$12.3 billion in extra US exports and creation of more than 76,000 jobs for Americans.

[Back](#) [Print](#)

Documentation from AmCham Shanghai website of Roche's participation in August 19, 2011 meeting in Beijing with then Chinese Vice President Xi Jinping and Vice President Joe Biden. Mr. Xingping specifically discussed Intellectual Property Rights Enforcement. Roche was Vice Chairman of AmCham Shanghai at this time.



The American
Chamber of Commerce
in Shanghai



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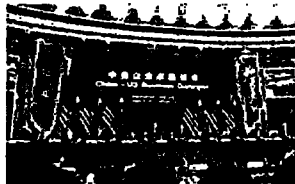


FOR THOSE WHO EXPECT MORE

AMCHAM NEWS

Vice President Biden, U.S. business leaders meet with China's Vice President Xi Jinping in Beijing

Date: August 23, 2011



On August 19, China's Vice President Xi Jinping pledged that China will build up its intellectual property (IP) protection and ensure a fair competitive environment for U.S. businesses in his remarks to U.S. Vice President Joe Biden and U.S. business leaders, including AmCham Shanghai Chairman Eric Musser and Vice Chairman Robert Roche, during an interactive roundtable in Beijing.

Vice President Xi, expected to be China's next president, said that the government will "intensify IPR protection and treat all businesses as equals in terms of the accreditation of indigenous innovation products and government procurement," echoing Chinese President Hu Jintao's statements when visiting the U.S. earlier this year. Vice President Xi also discussed China's focus on strengthened domestic demand and opportunities where China and the U.S. could cooperate, as well as stressing China's confidence in the U.S. economy. "We believe that the U.S. economy will achieve even better development as it rises to challenges," he said.

Vice President Biden, in response to Vice President Xi's comments, agreed on the importance of healthy competition and touched on the U.S.'s willingness to engage China on trade matters. "Bilateral trade and investment between the United States and China ... is growing rapidly in both directions," said Biden. "We'd like it to go even more rapidly in terms of investment in the United States because it creates jobs and it creates economic opportunities in both countries... Our enhanced cooperation, to put it bluntly and succinctly, is extremely good for the United States."

Photo: Official White House Photo by David Lienemann

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Shanghai Centre, Suite 568 1376 Nanjing Road West Shanghai 200040 China

上海美国商会 中国上海市南京西路1376号上海商城东楼568室

Phone : (8621) 6279-7119 Fax : (8621) 6279-7643

E-mail : amcham@amcham-shanghai.org Website : www.amcham-shanghai.org RSS

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EXHIBIT PP

Documentation that the history Alibaba/Taobao's and Baidu's "notorious markets" status with USTR. This goes back before the present administration and extends to the year Roche was appointed to Advisory Committee on Trade Partnership and Negotiation (ACTPN). Compare with Exhibits QQ and RR.

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The excerpt below is from the 2008 "Special 301" Report of the office of the United States Trade Representative. As discussed in the Report's introduction Trade Act of 1974 requires the United States Trade Representative to publicly identify those countries which do not sufficiently protect U.S. intellectual property under what's known as the "Special 301" provision. Under that that authority USTR conducts investigations and creates watch-lists.

This 2008 Report details the infringements ascribed to both Baidu and Alibaba/Taobao. It also discusses in some detail the major problems with China regarding the enforcement of Intellectual Property Rights (IPR).

The document may be found in full at: <http://www.ustr.gov/about-us/press-office/reports-and-publications/archives/2008/2008-special-301-report>



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2008 Special 301 Report

The Administration's top priorities this year continue to be addressing weak IPR protection and enforcement, particularly in China and Russia. Although this year's Special 301 Report shows positive progress in many countries, rampant counterfeiting and piracy problems have continued to plague China and Russia, indicating a need for stronger IPR regimes and enforcement in those countries.

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2008 SPECIAL 301 REPORT

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

EXECUTIVE SUMMARY

Introduction

The "Special 301" Report is an annual review of the global state of intellectual property rights (IPR) protection and enforcement, conducted by the Office of the United States Trade Representative (USTR) pursuant to Special 301 provisions of the Trade Act of 1974 (Trade Act). The 2008 Special 301 review process examined IPR protection and enforcement in 78 countries. Following extensive research and analysis, USTR designates 46 countries in this year's Special 301 Report in the categories of Priority Watch List, Watch List, and/or Section 306 Monitoring status. This report reflects the Administration's resolve to encourage and maintain effective IPR protection and enforcement worldwide.

The Special 301 designations and actions announced in this report are the result of close consultations with affected industry groups and other private sector representatives, foreign governments, Congressional leaders, and interagency coordination within the United States Government. This Administration is committed to using all available methods to resolve IPR-related issues and ensure that market access is fair and equitable for U.S. products of IPR-intensive industries.

The Administration's top priorities this year continue to be addressing weak IPR protection and enforcement, particularly in China and Russia. Although this year's Special 301 Report shows positive progress in many countries, rampant counterfeiting and piracy problems have continued to plague China and Russia, indicating a need for stronger IPR regimes and enforcement in those countries.

In addition to China and Russia, the Special 301 Report sets out significant concerns with respect to such trading partners as Argentina, Chile, India, Israel, Pakistan, Thailand, and Venezuela. In addition, the report notes that the United States will consider all options, including, but not limited to, initiation of dispute settlement consultations in cases where countries do not appear to have implemented fully their obligations under the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement).

In this year's review, USTR highlights the need for significantly improved enforcement against counterfeiting and piracy, Internet piracy, counterfeit pharmaceuticals, transshipment of pirated and counterfeit goods, requirements for authorized use of legal software by government ministries, proper implementation of the TRIPS Agreement by developed and developing country WTO members, and full implementation of TRIPS Agreement standards by new WTO members at the time of their accession.

Positive Developments

Several countries made significant positive progress on IPR protection and enforcement in 2007. For example, Russia has increased penalties for copyright crimes and stepped up action against unlicensed optical disc plants. China has made progress on implementation of measures to

reduce end-user software piracy and agreed to strengthen enforcement against company name misuse. In Taiwan, prosecutions for business software piracy have increased, and Taiwan passed legislation making illegal and subjecting to civil and criminal liability services that intentionally facilitate peer-to-peer file sharing. Seizures of counterfeit pharmaceuticals have increased in Indonesia and Nigeria. India has approved initiating action for accession to the Madrid Protocol. China and Australia joined the two key World Intellectual Property Organization (WIPO) treaties for copyright protection. Malaysia launched a new intellectual property (IP) Court, consisting of 15 sessions courts and 6 high courts. Vietnam has taken actions to address the problem of signal piracy. The country sections of this Report describe numerous other positive developments.

In 2007, the United States worked to strengthen IPR laws and enforcement around the globe. The three pending free trade agreements (FTAs) all contain world-class IPR provisions, and FTA partner countries such as the Dominican Republic and Oman overhauled their IPR laws as part of the FTA implementation process.

In addition, USTR is pleased to announce that the following countries are having their status improved in the Special 301 Report or are being removed entirely because of progress on IPR issues this past year:

- Belize is being removed from the Watch List due to improvements in IPR enforcement efforts following heightened engagement with the United States.
- Egypt is being moved from the Priority Watch List to the Watch List due to improvements in pharmaceutical IPR protection. The United States urges Egypt to make further improvements, however, in its IPR enforcement efforts and to further clarify its practices with respect to data protection.
- Lebanon is being moved from the Priority Watch List to the Watch List due to improvements in IPR enforcement efforts. Despite this progress, the United States urges Lebanon to pass long-awaited IPR amendments.
- Lithuania is being removed from the Watch List due to improvements in IPR enforcement and passage of IPR legislation following heightened engagement with the United States.
- Turkey is being moved from the Priority Watch List to the Watch List due to improvements in IPR protection. The United States encourages Turkey to make further improvements to its IPR protection and enforcement regimes.
- Ukraine is being moved from the Priority Watch List to the Watch List due to improvements in IPR protection following close engagement with the United States during WTO accession negotiations. The United States urges Ukraine to continue, however, to make improvements in IPR enforcement and to effectively implement its recently passed IPR laws.

The United States commends this positive progress by our trading partners. The United States will continue to work with these and other countries to achieve further improvements in IPR protection and enforcement during the coming year.

Free Trade Agreements and Implementation

The United States is committed to promoting strong intellectual property rights through a variety of mechanisms, including the negotiation of FTAs, which contain intellectual property chapters that establish strong protections for copyrights, patents, and trademarks, as well as rules for enforcement.

The United States is pleased to have worked together with many countries to strengthen IPR protection and enforcement through bilateral and multilateral FTAs. Agreements concluded in recent years include the Republic of Korea FTA (KORUS FTA), Panama Trade Promotion Agreement, Bahrain FTA, Oman FTA, the Peru Trade Promotion Agreement, the Colombia Trade Promotion Agreement, and the Central America-Dominican Republic Free Trade Agreement (CAFTA-DR) which covers Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic. Each of these FTAs has resulted in commitments to strengthen IPR protection and enforcement in those countries. In regions such as the Middle East and Asia, the United States has used an increasing number of trade and investment framework agreement (TIFA) negotiations to enhance intellectual property protection and enforcement.

Following the conclusion of these agreements, the United States continues to work closely with our trading partners to ensure proper implementation of FTA obligations under domestic law and strengthen bilateral cooperation.

Generalized System of Preferences (GSP) Reviews

As another mechanism for promoting strong intellectual property regimes around the world, USTR reviews IPR practices in connection with the implementation of trade preference programs such as the Generalized System of Preferences (GSP). USTR will continue to review IPR practices in Russia, Lebanon, and Uzbekistan under ongoing GSP reviews.

Anti-Counterfeiting Trade Agreement (ACTA)

On October 23, 2007, U.S. Trade Representative Susan C. Schwab announced that the United States will seek to negotiate an Anti-Counterfeiting Trade Agreement (ACTA). ACTA will bring together countries that recognize the critical importance of strong IPR enforcement for a prosperous economy. The ACTA is envisioned as a leadership effort among countries that will raise the international standard for IPR enforcement to address today's challenges of counterfeiting and piracy. ACTA will build upon the Administration's prior bilateral and regional cooperation successes.

STOP! Initiative

USTR is actively engaged in implementing the Administration's Strategy Targeting Organized Piracy (STOP!) initiative. Announced in October 2004, STOP! brings together all the major players – the federal government, private sector, and trading partners – to take concerted action to crack down on piracy and counterfeiting. The initiative is part of an effort to enhance

coordination among all relevant U.S. Government agencies and U.S. trading partners to tackle this global problem. As part of STOP!, USTR continues to advocate the adoption of best practices guidelines for IPR enforcement.

As part of this effort, USTR, in coordination with other agencies, is introducing new initiatives in multilateral fora to improve the global intellectual property environment that will aid in disrupting the operations of pirates and counterfeiters. In addition to the ACTA effort described above, key initiatives have gained endorsement and are undergoing implementation in the G-8, the U.S.-EU Summit, the Security and Prosperity Partnership (SPP) with Canada and Mexico, the Organization for Economic Cooperation and Development (OECD), and the Asia-Pacific Economic Cooperation (APEC) forum.

Implementation of the U.S.-EU Action Strategy for IPR Enforcement has focused on addressing concerns in key countries such as China and Russia through closer coordination and information exchange, in addition to increasing customs cooperation and providing technical assistance to third countries. Through a bilateral working group, the two sides have established regular information exchanges on efforts to improve China's intellectual property climate, and have deepened their IPR-related cooperation in the context of Russia's WTO accession. The Parties have expanded this cooperative dynamic to other regions of the world including Southeast Asia and Latin America.

The Leaders of Canada, Mexico, and the United States launched the Security and Prosperity Partnership of North America (SPP) in 2005 to address issues related to economic competition resulting from shifting patterns of trade and investment worldwide. The governments subsequently established an Intellectual Property Working Group under the SPP. USTR, together with the Department of Commerce, jointly leads the U.S. delegation to the SPP IP Working Group. The SPP IP Working Group developed a trilateral Intellectual Property Rights Action Plan, which leaders announced at the SPP Summit in Montebello, Canada, in August 2007. The Action Plan constitutes a strategy for governments and the private sector to combat piracy and counterfeiting in North America. The governments of Canada, Mexico, and the United States have agreed to take action in three areas: (1) detecting and deterring trade in counterfeit and pirated goods; (2) increasing consumer awareness of the adverse effects of counterfeiting and piracy; and (3) measuring the depth and scope of counterfeiting and piracy.

Through efforts by the United States, APEC endorsed the "Anti-Counterfeiting and Piracy Initiative" in 2005, which paved the way for the adoption of a number of U.S. led proposals. Some of these initiatives include Model Guidelines on reducing trade in counterfeit and pirated goods by protecting against unauthorized copies, preventing the sale of counterfeit goods over the Internet, raising public awareness on IP protection and enforcement efforts, and securing supply chains. Other initiatives include a paper on innovative techniques for IPR border enforcement and commitments made by the APEC leadership on combating signal theft, and addressing markets that knowingly sell counterfeit and pirated goods. The United States will continue to introduce initiatives that build on past accomplishments.

Global Scope of Counterfeiting and Piracy

The continuing growth of IPR theft and trade in fakes and pirated materials threatens innovative and creative economies worldwide. Counterfeiting has evolved in recent years from a localized industry concentrated on copying high-end designer goods to a sophisticated global business involving the mass production and sale of a vast array of fake goods, including items such as soaps, shampoos, razors, electronics, batteries, cigarettes, alcoholic beverages, sporting goods, automobile parts, motorcycles, medicines, and health care products, among others. Not only is there greater diversification in the types of goods that are being counterfeited, but industry reports a growing trend in the production of labels and components for these fake products. Exploiting free trade zones, counterfeiters are establishing a global trade in these items, shipping them separately to be assembled and distributed in another country.

Counterfeiting not only affects the profits of legitimate producers, but also impacts consumers who waste money and sometimes risk their safety by purchasing fake goods. It also damages the economies of the countries in which it occurs by decreasing tax revenue and deterring investment. Counterfeiters generally pay no taxes or duties, and they often disregard basic standards for worker health and safety, and product quality and performance. Piracy of copyrighted products in virtually all formats, as well as counterfeiting of trademarked goods, has grown rapidly because these criminal enterprises offer enormous profits and little risk. Counterfeiters and pirates require little up-front capital investment, and even if caught and charged with a crime, the penalties imposed on convictions in many countries are so low that they offer little or no deterrence.

Stronger and more effective criminal and border enforcement is required to stop the manufacture, import, export, transit, and distribution of pirated and counterfeit goods. Through bilateral consultations, FTAs, and international organizations, USTR is working to maximize the deterrent effects of remedies, including stronger penalties and requirements for the seizure and destruction of pirated and counterfeit goods, and the equipment used in their production.

Counterfeit Pharmaceuticals

The manufacture and distribution of counterfeit pharmaceuticals is a growing problem that poses special concerns for consumer health and safety. The United States notes its concern with the proliferation of the manufacture of counterfeit pharmaceuticals in Brazil, China, India, Mexico, and Russia, and the sale and distribution of counterfeit pharmaceuticals in many countries. A significant contributing factor in this problem is the unauthorized use of bulk active pharmaceutical ingredients (APIs) to manufacture counterfeit pharmaceuticals. Countries must do more to provide their relevant agencies with the authority to regulate and enforce against the unauthorized use of APIs domestically and to ensure that they are not exported for unauthorized use abroad. Also, countries must do more to enforce vigilantly against the manufacture and distribution of counterfeit pharmaceuticals.

Consumer Safety

While counterfeit pharmaceuticals and medical devices pose the most obvious health and safety hazards to consumers, many industries are affected by counterfeit goods that can put consumers at risk. Substandard products in the automotive, chemical, wine and spirits, tobacco, food, and consumer goods/personal care product sectors could have considerable adverse effects on consumer health and safety. This issue is of particular concern in China and Russia, but also affects consumers in the United States. Weaknesses in the distribution and supply chains must be addressed in order to prevent injury to consumers who believe that they are purchasing or using a legitimate product.

Notorious Markets

Global piracy and counterfeiting continue to thrive, due in part to large marketplaces that deal in infringing goods. This year's Special 301 Report notes the following virtual and physical markets as examples of marketplaces that have been the subject of enforcement action, or may merit further investigation for possible IPR infringements, or both. The list represents a selective summary of information reviewed during the Special 301 process; it is not a finding of violations of law. The United States encourages the responsible authorities to step up efforts to combat piracy and counterfeiting in these and similar markets.

Virtual Markets

Allofmp3 (Russia). Industry reports that allofmp3 was formerly the world's largest server-based pirate music website. Although the site's commercial operations appear to have been disabled in 2007 and a criminal prosecution is pending, other Russian-based websites are reportedly continuing operations with similar infringing content.

Baidu (China). Industry has identified Baidu as the largest China-based "MP3 search engine" offering deep links to copyright-protected music files for unauthorized downloads or streaming. Baidu is the target of ongoing infringement actions.

Business-to-business (B2B) and business-to-consumer (B2C) websites (China). A large number of these Chinese websites, such as Alibaba and Taobao, have been cited by industry as offering infringing products to consumers and businesses. The Internet traders who use these online markets to offer counterfeit goods are difficult to investigate, and contribute to the growth of global counterfeiting.

PirateBay (Sweden). Industry reports that PirateBay is one of the world's largest BitTorrent tracker sites and a major global conduit for the unauthorized exchange of copyright-protected film and music files. PirateBay was raided by Swedish police in 2006, and the government initiated the prosecution of four Swedes associated with the site in January 2008, but the site has continued to operate, reportedly relying on servers located outside of Sweden.

PRIORITY WATCH LIST

CHINA

China remains a top intellectual property enforcement and TRIPS compliance priority for the United States. China will remain on the Priority Watch List, and remain subject to Section 306 monitoring. The United States is seeking to resolve its concerns with respect to three IPR protection and enforcement issues through WTO dispute settlement with China. (See the "Dispute Settlement" section above).

The United States recognizes and appreciates the efforts of the many officials in China who continue to give voice to China's commitment to protecting intellectual property rights and are working hard to make it a reality. In spite of these efforts, the shared goal of significantly reducing IPR infringement throughout China has not yet been achieved.

China has made welcome progress in some areas. Notable IPR improvements included completion of China's accession to the WIPO Internet Treaties and its ongoing implementation of rules that require computers to be pre-installed with licensed operating system software. The United States believes that continued bilateral dialogue and cooperation can lead to further progress in these and other areas. The United States will continue to put serious efforts into its joint work with China on intellectual property enforcement and protection strategies, innovation policies, and the range of other important IPR-related matters in our bilateral economic relationship, including through the U.S. – China Strategic Economic Dialogue (SED), the Joint Commission on Commerce and Trade (JCCT), and other fora.

At the December 2007 JCCT meeting, China reported on steps it has taken since the previous JCCT meeting in April 2006 to improve protection of IPR in China, including accession to the World Intellectual Property Organization (WIPO) Internet Treaties, a crackdown on the sale of computers not pre-loaded with legitimate software, enforcement efforts against counterfeit textbooks and teaching materials, and joint enforcement raids conducted by the U.S. Federal Bureau of Investigation (FBI) and Chinese security agencies. China and the United States agreed to exchange information on customs seizures of counterfeit goods in order to further focus China's enforcement resources on companies exporting such goods. China agreed to strengthen enforcement of laws against company name misuse, a practice in which some Chinese companies have registered legitimate U.S. trademarks and trade names without legal authority to do so. The two sides also agreed to cooperate on case-by-case enforcement against such company name misuse. In addition, China agreed to eliminate the requirement to submit viable biotech seeds for testing, a policy change which reduces the possibility of illegal copying of patented agricultural materials.

At the SED meeting in May 2007, the United States and China agreed to Principles and Outcomes for Strengthening Innovation Cooperation (SED Principles and Outcomes), including a decision to "jointly host a seminar on the innovation ecosystem in 2007 that would gather experts to discuss and share experiences on both sides regarding the critical elements of developing an environment conducive to technological innovation." To realize this commitment, the two governments co-hosted an Innovation Conference on December 10, 2007 in Beijing. At this meeting, both sides reaffirmed that innovation is best fostered where there is effective rule of

law, and where governments pursue market-oriented policies that encourage merit-based competition, entrepreneurship, commercialization of new technologies, and flexibility for users and producers in choosing among competing technologies. Both sides also confirmed the essential role of a robust intellectual property protection and enforcement regime in supporting an innovation ecosystem.

Despite anti-piracy campaigns in China and an increasing number of IPR cases in Chinese courts, overall piracy and counterfeiting levels in China remained unacceptably high in 2007. The U.S. copyright industries estimate that 85 percent to 95 percent of all of their members' copyrighted works sold in China was pirated, indicating no improvement over 2006. Internet piracy is increasing, as is piracy over closed networks such as those of universities, in addition to concerns over webcasting of various kinds. The rapid increase in the Internet to over 210 million users suggests that this challenge is likely to continue to grow, with many industry groups focused predominantly on Internet piracy. Notwithstanding these new challenges, trade in pirated optical discs continues to thrive, supplied by both licensed and unlicensed factories and by smugglers. A crackdown in Beijing and certain other cities by municipal management authorities appears to have reduced the incidence of "backpack" vendors. However, small retail shops continue to be the major commercial outlets for pirated movies and music and a wide variety of counterfeit goods. Piracy of books and journals and end-user piracy of business software also remain key concerns. In addition, the share of IPR infringing product seizures of Chinese origin at the U.S. border was 80 percent in 2007, virtually unchanged from 81 percent in 2006. Chinese counterfeits include many products, such as pharmaceuticals, electronics, batteries, auto parts, industrial equipment, toys, and many other products, that pose a direct threat to the health and safety of consumers in the United States, China and elsewhere.

Inadequate IPR enforcement is a key factor contributing to these shortcomings, with high criminal thresholds as well as difficulties in initiating or transferring cases for criminal prosecution resulting in limited deterrence. Civil damages are also low.

There have been some successful enforcement actions, most notably the joint "Summer Solstice" investigation between the FBI and China's Ministry of Public Security (MPS). In 2007, MPS engaged with U.S. law enforcement on IP law enforcement initiatives as part of the Intellectual Property Criminal Enforcement Working Group (IPCEWG) of the U.S.-China Joint Liaison Group for Law Enforcement Cooperation (JLG). The IPCEWG includes participation by Chinese law enforcement officials from the MPS as well as officials from the Justice Department, the FBI, and U.S. Immigration and Customs Enforcement. The IPCEWG focuses on the development of more U.S.-China joint operations to combat transnational IP crime, in particular crimes committed by organized criminal groups and crimes that threaten public health and safety. In July 2007, this collaboration resulted in the largest ever joint FBI-MPS piracy investigation and prosecution, code-named "Operation Summer Solstice," which involved seizures of more than 290,000 counterfeit software discs worth more than a half billion dollars and arrests of over 25 Chinese nationals, and eliminated numerous manufacturing plants in China. This joint operation is believed to have dismantled the largest piracy syndicate of its kind in the world, estimated to have distributed more than 2 billion copies of counterfeit Microsoft software. U.S. law enforcement authorities look forward to continuing this cooperative relationship as this and other investigations continue.

However, right holders report that enforcement efforts, particularly at the local level, are hampered by poor coordination among Chinese Government ministries and agencies, local protectionism and corruption, high thresholds for initiating investigations and prosecuting criminal cases, lack of training, and inadequate and non-transparent processes.

Several factors contribute to China's poor IPR enforcement record. One major factor is China's chronic underutilization of deterrent criminal remedies. China channels the vast majority of enforcement to administrative authorities. The trademark and copyright industries continue to point out that administrative fines are too low to provide a deterrent, and as a result, infringers continue to consider administrative seizures and fines as a cost of doing business. Rules designed to promote transfer of cases to criminal authorities do not appear to have solved the problem.

At the 2005 JCCT, China agreed to increase the number of criminal prosecutions for IPR violations relative to the total number of IPR administrative cases. Unfortunately, there has been no sign yet of a significant shift in emphasis toward criminal enforcement. The safe harbors from criminal liability created by China's high thresholds for criminal liability (*i.e.*, minimum values or volumes required to initiate criminal prosecution, normally calculated on the basis of the infringer's actual or marked price) continue to be a major reason for the lack of an effective criminal deterrent. These safe harbors are among the matters for which the United States has requested WTO dispute settlement with China.

In April 2007, China issued a new Judicial Interpretation that appears to clarify certain aspects of China's criminal thresholds. Although the 2007 Judicial Interpretation appears to have resolved the problem in China's *Criminal Law* that required unauthorized distribution in order to prosecute unauthorized reproduction, other legal obstacles in the area of criminal enforcement remain. They include, for example, the lack of criminal liability for certain acts of copyright infringement; the profit motive requirement in copyright cases, which hampers efforts to fight Internet piracy where there is no clear motive of financial gain; the requirement of identical trademarks in counterfeiting cases; and the absence of minimum, proportionate sentences and clear standards for initiation of police investigations in cases where there is a reasonable suspicion of criminal activity. The United States remains willing to work with China to achieve further progress in the area of criminal remedies.

At the same time, the United States has also been encouraging China to consider a variety of changes to its administrative and civil enforcement regimes, such as the restoration of minimum (and deterrent) fines in administrative trademark enforcement cases, increased referral of administrative enforcement actions for criminal prosecution, elimination of the need for legalization and consularization of foreign evidence, implementation of a discovery process with compulsory measures for evidence protection, provision of meaningful injunctive relief, and enforcement of judicial orders.

In addition, the United States calls upon China to take more aggressive action to prosecute manufacturers of counterfeit goods, producers of pirated optical discs, and entities engaged in commercial reproduction of pirated books, journals, and periodicals. Authorities should

investigate when right holders present evidence supporting a reasonable suspicion of illegal production, and should permanently close down, revoke the business licenses, and confiscate and destroy the machinery and materials of commercial pirates and counterfeiters, as well as criminally prosecute the persons responsible.

Trade in pirated optical discs continues to thrive, supplied by smugglers and by both licensed and unlicensed factories. China needs to do more to criminally prosecute the manufacturers of pirated optical discs. The United States also encourages China to facilitate cooperation in fighting optical disc piracy by sharing exemplar discs from Chinese factories with the international library and forensic facility maintained by right holder organizations.

Right holders report only moderate success in reducing piracy of pre-release titles. Lack of copyright protection for titles undergoing content review is another issue of concern. The United States has included this issue in its WTO dispute challenging apparent deficiencies in China's IPR enforcement regime. The United States also urges China to adopt and apply deterrent penalties for piracy of any title not yet authorized for distribution.

Strong action to curb counterfeiting and piracy on the Internet is critical to the future of IPR protection in China. China should significantly increase criminal prosecutions and other enforcement actions against Internet-based piracy and counterfeiting operations through a coordinated, national effort backed by appropriate resources.

The United States welcomes China's recent accession to the WIPO Internet Treaties. A number of gaps remain to be filled for China to meet the challenges of Internet piracy and fully implement the WIPO Internet Treaties. In May 2006, the State Council adopted an important Internet-related measure, the Regulations on the Protection of Copyright Over Information Networks, which went into effect in July 2006. Although it does not appear to fully implement the WIPO Internet Treaties, this measure represents a welcome step, demonstrating China's determination to improve protection of the Internet-based right of communication to the public. Several aspects still require further clarification. For example, China could benefit from further clarification that certain Internet "deep linking" and other services that effectively encourage or induce infringement are unlawful.

China should also provide strong administrative supervision, backed by penalties, to ensure that Internet service providers take down infringing content and/or links immediately upon receipt of a notice from internationally recognized right holders' representatives; take steps to suspend or terminate the accounts of serious or repeat infringers when they become aware of such infringers; and provide information about the identity of direct infringers to right holders (or to groups representing right holders) when requested.

China also maintains market access barriers, such as import restrictions and restrictions on wholesale and retail distribution, which discourage and delay the introduction of a number of legitimate foreign products into China's market. These barriers create additional incentives for infringement of products like movies, video games, and books, and inevitably lead consumers to the black market, again compounding the severe problems already faced by China's enforcement

authorities. The United States has requested WTO dispute settlement on several market access barriers affecting U.S. copyright industries.

Right holders report that in the seven years since China's current Copyright Law was adopted, China has yet to set a rate under Article 42 of that law for the remuneration of right holders for the use of their works by radio or television broadcasters. This has resulted in the unauthorized and, thus far, uncompensated broadcasting of musical works, prejudicing right holders in China and the United States. The United States urges China to set a fair rate for compensation under Article 42 of its Copyright Law without further delay, and to apply that rate to all of the broadcasts of works that have occurred since 2001.

Retail and wholesale counterfeiting in China is a major source of frustration for international brand owners. In spite of significant attention and resources from brand owners, administrative supervision, civil lawsuits, agreements with landlords, and attention from China's central government and foreign governments, counterfeiting remains pervasive in many retail and wholesale markets. It appears that further measures, including criminal sanctions, will be necessary to bring this problem under control.

In addition to stepping up administrative and criminal action against trademark counterfeiting at the manufacturing, wholesale, and retail levels, the United States calls on China to launch and publicize significant administrative and criminal enforcement actions against optical media piracy, Internet piracy, software end-user piracy, and other forms of piracy affecting U.S. copyright owners.

The United States recognizes that China recently announced a 2008 Action Plan laying out detailed strategies for improving IPR protection. China has the opportunity to achieve real and transparent results for U.S. right holders through implementation of the Action Plan. The United States has worked with China in the past few years on many legislative and policy efforts, including the National IPR Strategy, Internet Regulations, antimonopoly law and patent and trademark law reform. We welcome continued engagement on these issues including transparency and fair opportunities for the public and foreign governments to comment on proposed laws and policies.

The United States also looks forward to working with China to examine a variety of other reforms that would contribute to improving IPR enforcement. In addition to reforming China's criminal laws as discussed above, other areas that China should explore include the positive results that could be achieved through specialized national IPR courts and prosecutors (expanding a practice that already exists in some areas); reducing pendency and backlog in trademark opposition and cancellation proceedings; introducing regulatory mechanisms to ensure that active pharmaceutical ingredients produced in China are not used in counterfeit medicines; implementing effective, detailed plans and strategies for reducing the use of infringing materials by students, staff, and lecturers on school and university campuses; and ensuring that the resources available to local administrative, police, and judicial authorities charged with protecting and enforcing IPR are adequate to the task.

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Customs Enforcement: The export of infringing products from China is of grave concern worldwide. Right holders have praised the achievements of China Customs over the past year in increasing seizures, starting to refer criminal cases to police and prosecutors, and cooperating with U.S. right holders. The United States is encouraged by the 2007 Memorandum of Agreement between China's Customs Administration and U.S. customs authorities to cooperate on preventing the exportation of counterfeit and pirated goods. Nonetheless, the statistics on seizures of Chinese-origin goods at the U.S. border, cited above, indicate that additional efforts are needed to stop outbound infringing products at China's borders. The United States calls on China to begin an aggressive campaign to prosecute exporters of infringing products and to expand enforcement cooperation as agreed at successive JCCT meetings. Also, the United States remains concerned about China's rules for disposal of IPR-infringing goods, seized by Chinese customs authorities, which among other things, appear in some circumstances to mandate auction of seized goods following removal of infringing features, rather than destruction or disposal outside of the channels of commerce. The United States has included these customs border enforcement measures as part of its WTO dispute challenging apparent deficiencies in China's IPR enforcement regime.

Civil Enforcement: U.S. right holders won several victories in civil IPR litigation in China in 2007. However, the United States continues to hear complaints of a lack of consistent, uniform, and fair enforcement of China's IPR laws and regulations in the civil courts. Litigants have found that most judges lack necessary technical training; that court rules regarding evidence, expert witnesses, and protection of confidential information are vague or ineffective; and that costs of investigation and bringing cases are prohibitively high. In the patent area, where civil enforcement is of particular importance, the process is inefficient and unpredictable. Concerns have also been raised that some Chinese companies may be inviting local protectionism, for example by bringing civil cases in their home areas against foreign companies in order to obtain disproportionately high damages, compelling detention of foreign nationals, and obtaining litigation or patent filing subsidies, among other things.

Patents and Data Protection: While China's patent laws are largely compliant with the TRIPS Agreement, right holders have noted that the narrow scope of patentable subject matter under Chinese law makes patents for transgenic plants and animals and methods of treatment or diagnosis virtually unobtainable. Concerns have been raised regarding draft amendments to the Patent Law that were recently made available for public comment on issues such as: the role of compulsory licensing; introduction of a two-year period of "laches" after the expiration of the two year statute of limitation; continuing challenges with low quality utility model and design patents; the introduction of disclosure of origins of genetic resources used in the completion of an invention and the concern that that claims in a patent application may be rejected on the basis that this disclosure requirement is not met. A lack of clarity in laws involving generic drug patent infringement is contributing to the continued growth of drug counterfeiting, with corresponding health and safety problems. In that regard, the United States welcomes proposals in the 2008 Action Plan to more closely link patent grants to pharmaceutical marketing approval. In addition, the United States has concerns about the extent to which China provides adequate protection against unfair commercial use for data generated to obtain marketing approval.

Emerging Developments: Apart from longstanding concerns over IPR enforcement, the United States is alert to U.S. industry concerns about the possibility that laws or policies in a variety of fields might be used or misused to favor domestic over foreign IPR. Such concerns are especially acute in light of Chinese government policies establishing a procurement preference for domestically innovated products, statements and consideration of legal and/or policy changes regarding such areas as the scope of compulsory licensing, the use of IPR in setting standards, and other emerging developments that have the potential to affect IPR protection and market access for IPR-bearing goods and services. The United States will monitor these developments closely to ensure fair treatment for U.S. right holders.

The treatment of intellectual property in standards-setting processes has garnered recent attention in China and elsewhere. In China, standards for third generation (3G) wireless technology are an example. China has committed to accord technology-neutral treatment to different 3G standards. To date, China has not licensed any 3G wireless technology. However, Chinese operators have taken steps to procure equipment and services for the installation of a network that appears will be dedicated to support wireless communications based on the TD-SCDMA standard. China Mobile, the world's largest mobile operator, began rolling out a massive "test" TD-SCDMA network in nine coastal cities in late 2007. As China Mobile's webpage attested in mid-April 2008, this service is now commercially available. No other operator has been permitted to deploy alternative 3G technology, even on the kind of "test" basis authorized to China Mobile. Such steps to advance the standard containing Chinese technology raise questions about China's commitment to accord technology neutrality to the different 3G standards.

More generally, the Chinese Electronics Standardization Institute (CESI) is in the process of drafting IPR rules for standards-setting organizations (SSOs). These draft rules provide for SSOs to report to government authorities on the possible relevance of patent claims in draft standards submitted for examination and approval by the authorities. It is unclear what purpose is envisaged for this governmental review, including whether such a review of the possible relevance of patent claims could involve governmental authorities in the determination of the terms and conditions for licensing essential patents.

Provincial and Local Issues

Regional Coordination of IPR protection and enforcement. To promote greater coordination, most municipal authorities in China have established a working group on IPR, appointed a vice mayor, adopted action plans, and opened IPR complaint centers. The widespread use of databases by provincial and local authorities, as well as information provided through www.ipr.gov.cn, has provided greater access to information regarding regional IPR protection and enforcement activities. The United States encourages coordinating authorities to regularly publish white papers, summaries of regional enforcement cooperation, and English language complaint forms, and establish English language complaint call centers. We also encourage publication of information on relevant local laws and regulations

Beijing City is both the nation's capital and one of its most visible centers for retail counterfeiting and piracy. IPR enforcement in Beijing varies between different districts and

authorities. Beijing courts enjoy a generally good reputation, which contributes to Beijing having the nation's highest number of civil IPR cases.

Hot spots. According to industry reports:

- Retail and wholesale markets such as the Silk Market, Tianyi Market, and Yaxiu Market are associated with trade in counterfeit fashion, jewelry, sports, and apparel products.
- Chaoyang District authorities have agreed to enhance their cooperation with copyright owners.
- Local protectionism remains strong in Chaoyang District.
- Much of this counterfeiting and piracy is occurring notwithstanding an apparent lower incidence in the infringement of Olympic-related merchandise. We look forward to China addressing these additional areas at the time of the Olympics, as mentioned in the Action Plan, and on an ongoing basis thereafter.

Retail and wholesale markets. Retail piracy and counterfeiting remain widespread in Beijing; progress in getting the problem under control has been very limited.

- In spite of increasing attention from foreign governments, the media, and China's central and local governments, the Silk Market in Beijing remains possibly the world's most notorious market for counterfeit goods. Landlords at the market have signed agreements to oust counterfeiters, and Chaoyang District officials believe the situation at the market has improved.
- In September 2007, the Silk Street Market was found to bear civil liability for infringement based on the failure to provide evidence that it had implemented the required "trademark authorization systems" established by the Beijing City and Chaoyang District Administrations in March 2006. However, right holders' surveys show no real change in the level of sales of counterfeit goods.

Internet. Beijing authorities have been among the most proactive in China in recognizing and moving to address the serious challenges of Internet piracy that are emerging throughout China.

- Internet cases have successfully been transferred from the copyright bureau to the Public Security Bureau (PSB), and suspects have been tried and convicted. However, suspects who violate copyrights are often convicted for illegal business operations rather than copyright infringement.
- Beijing authorities have been proactive in looking for ways to make Internet enforcement procedures more effective and to address new technological challenges, such as retransmission via the Internet of sporting events.
- Beijing's courts are considering significant copyright cases regarding provision by Internet service providers of "deep links" directly to unlicensed music downloads.

Universities. Beijing's university campuses have also been cited by right holders as magnets for textbook piracy, and they offer a broadband environment that can support copyright infringement. Beijing authorities state that universities receive no safe harbor from IPR laws. Industry praised authorities for enforcement actions involving a Tsinghua University textbook center, and called for investigations to be repeated at the beginning of the school term and at other peak copying times.

Fujian Province is home to large-scale manufacturing, including athletic footwear companies that have repeatedly been the target of infringement allegations by U.S. right holders.

Hot spots. According to industry reports the cities of Jinjiang, Putian, and Quanzhou are particularly associated with counterfeiting in the footwear sector. Local protectionism appears to be a problem.

Criminal enforcement. Right holders in the footwear sector praised the willingness of provincial public security authorities to take the lead in a number of cases where other approaches proved ineffective. However, there is a continuing need for more criminal enforcement in other sectors, including copyright cases.

Administrative enforcement. Right holders in both trademark and copyright industries have noted that in Fujian, like other parts of China, low administrative penalties often have little or no deterrent effect.

Export. Xiamen is one of China's major ports of lading for infringing goods seized at U.S. borders. Xiamen Customs has jurisdiction over approximately half of Fujian province, including the port cities of Quanzhou and Zhangzhou, and has a special division that handles IPR enforcement. Xiamen Customs has worked closely with foreign right holders, and has won praise for its work. Reports in early 2008 indicate that due to better enforcement of IPR by Customs authorities in Xiamen, shippers of pirated and counterfeit goods now seek to avoid using the port of Xiamen.

Guangdong Province is the center of large-scale counterfeit and pirate manufacturing in China for a variety of goods, ranging from low-cost consumer goods, such as household items, clothing and optical media, to high-technology products, such as computer equipment, video game consoles (and game discs/cartridges), and other electronics. A leading industry group calls Guangdong "the biggest problem spot for counterfeiting in China." Right holders have also complained of patent infringement by Guangdong-based companies.

Last year, Provincial officials in Guangdong acknowledged the need to improve deterrence against IPR violations, and expressed a welcome openness to closer engagement with U.S. and other foreign right holders. However, law enforcement cooperation with U.S. right holders appears to have deteriorated since last year's Special 301 Report.

Hot spots. Provincial officials stated that specific cities targeted for enforcement during the past five years included Guangzhou, Shenzhen, Shantou, Jieyang, and Chaozhou. According to industry reports:

- The cities of Guangzhou and Dongguan are particularly associated with counterfeiting in the fashion and sports equipment sectors.
- Internet based vendors trafficking in counterfeit apparel are increasing at alarming rates.
- Guangzhou and Shantou are associated with counterfeiting of health, beauty, and household care products.
- Shenzhen is associated with counterfeiting in the information technology, fashion, and cosmetics sectors, as well as e-commerce in all products.

- Chaozhou and Jieyang are associated with counterfeiting of pharmaceuticals and cigarettes.
- Local protectionism remains strong in the Baiyun and Huadu Districts of Guangzhou.

Criminal enforcement. Availability of criminal remedies is a continuing problem in Guangdong. Statistics for 2006 showed that Guangdong referred only 36 copyright infringement cases for criminal prosecution. Viewed in light of the size of Guangdong's economy and its role as a center of manufacturing, this number was surprisingly low.

In the sector of health, beauty, and household care products, Guangdong has been identified as a relatively difficult place to criminally prosecute counterfeiters. Industry has called for particular attention to intensifying criminal enforcement in hot spots, such as Shenzhen, Guangzhou, and Dongguan. Guangdong Province reported that police handled 396 cases of criminal IPR infringement in 2006, solving 288 cases. Criminal fines and prison sentences were criticized by right holders as being relatively light in Guangdong province.

Administrative enforcement. According to official statistics, trademark infringement cases in Guangdong Province increased by about 30% in 2007, and 31 cases were transferred for criminal investigation, down from 38 in 2006. Guangdong IP officials report that since 2004 they have participated in a Pan-Pearl River Delta group to improve regional cooperation on IPR protection and enforcement.

In spite of being a manufacturing hub and center for counterfeiting, Guangdong in 2006 had fewer copyright infringement cases, relative to its economic size, than other jurisdictions. Provincial authorities recognize that administrative enforcement at trade fairs is especially important given Guangdong's role as host of the Canton Trade Fair and other major fairs; the U.S. Government looks forward to continuing to work closely with local officials and trade fair organizers to improve enforcement at these fairs.

Export. Guangdong's role as an export engine creates a need for more deterrent customs remedies. Despite Guangdong Customs reportedly solving 636 IPR cases in 2006, its ports remain significant sources for infringing goods seized at U.S. borders. Reports in early 2008 indicate that shippers of pirated and counterfeit are seeking to avoid using the port of Shenzhen due to better enforcement of IPR by its Customs authorities.

Optical disc production. The 2007 Special 301 Report highlighted the need for criminal prosecutions to address optical media piracy in Guangdong. The use of online distribution and on-site OD burning facilities is increasing the challenges of addressing OD piracy.

Retail and wholesale markets. Local authorities in Guangdong have achieved mixed results in their efforts to address piracy and counterfeiting in retail and wholesale markets.

- Among other problem areas, right holders cited Ziyuangang Market in Guangzhou and Lowu market in Shenzhen.

Internet. Guangdong is increasingly a center for Internet piracy. It has taken some positive actions in this area, but, like the rest of China, faces serious challenges.

- In 2006, Guangdong ranked in the top five in China in the number of notices for alleged Internet infringement sent by a recording industry group.
- Industry commended Guangdong authorities for taking action in some cases, but awaited action on other sites that had been the subject of complaints.
- Trademark owners are increasingly concerned about use of the Internet, in connection with express delivery services, for direct marketing of counterfeit products to foreign consumers.

Universities. Right holders have expressed concern regarding a lack of transparency in the process of inspection and punishment decisions against university textbook centers.

Jiangsu Province is another large-scale manufacturing center in China. Jiangsu has been recognized for innovative and proactive IPR protection and enforcement efforts, including promulgation of local regulations and policies, and engagement with domestic and foreign institutions on IPR training and cooperation. In early 2007, Jiangsu officially entered into a cooperative IPR program with the U.S. Chamber of Commerce.

Despite high-level attention to IPR issues, industry reports local level discrepancies in IPR enforcement efforts with respect to case transfer practices, trade secret protection, and seized good valuations. As in many other Chinese provinces, Jiangsu IPR enforcement efforts continue to focus on administrative remedies, resulting in fewer criminal referrals.

Hot spots. According to industry reports:

- IP infringers are moving their operations to the less-developed northern part of Jiangsu province to escape raids and other IPR enforcement activities.
- The southern Jiangsu city of Wuxi is particularly associated with the manufacture of counterfeit auto parts.
- In 2006, Jiangsu was home to the largest share of China's Internet Service Providers (ISPs) receiving cease and desist notices for alleged Internet infringement by a recording industry group. The northern city of Yancheng has been referred to as the "home of pirate servers."

Administrative enforcement. In 2006, Jiangsu Administration of Industry and Commerce (AIC) reportedly handled 1,543 trademark cases.

- The Nanjing IPR Complaint Center reported that it handles mostly administrative cases but reported transferring one case to the PSB in 2007, which resulted in a 10 year prison term and a RMB 100,000 fine.
- Nanjing Customs reportedly investigated 92 cases of suspected IP infringement in 2006.
- Nanjing issued a rule that reverts the burden of proof in administrative copyright cases to the suspect to prove that the source of seized goods is legitimate.
- The Nanjing Copyright Bureau has also enlisted local computer repair shops to refuse to service computers that contain pirated software.
- Jiangsu IP administrative authorities report actively participating in the Yangtze River Delta Protection Network to coordinate with other administrative and enforcement officials on cases where right holders and infringers are located in different provinces.

Criminal enforcement. Increasing criminal prosecutions and case transfers should remain a priority for Jiangsu authorities.

- Distinctions in methodologies for valuation of infringing goods continue to impede criminal prosecutions for trademark and copyright infringement in Jiangsu. The courts should accept criminal cases based on thresholds met by combined sales volume and seized inventory.
- Despite positive steps, criminal fines and prison sentences in Jiangsu remain relatively light, as in many other Chinese localities.

Retail and wholesale markets. Local authorities in Jiangsu continue to expand efforts to prevent the sale of infringing goods in retail and wholesale markets.

- Local Nanjing officials reported that, after recognizing Nanjing was becoming a transit center for retailers and wholesalers of counterfeit optical discs, they formed an interagency anti-piracy task force to better monitor areas known for selling pirated audio-visual (AV) products.
- Jiangsu promulgated Provincial Rules on AV Market Management, which require that AV business operators carry proof of relevant licenses of the publishers and distributors of the AV product and proof of the legality of the AV product.
- Jiangsu has established landlord liability rules, but IP authorities report difficulty pursuing cases because of the need to establish proof that the landlord is aware of IP-infringing business.

Internet. Piracy on the Internet remains a problem for Jiangsu province, along with many other localities around China. Officials in Jiangsu and elsewhere noted the difficulty for enforcement officials to collect evidence and establish a profit motive, in accordance with Chinese law. A recording industry survey found Jiangsu as the top Chinese location of ISPs allegedly hosting infringing products in March 2007.

Shanghai City has been praised by industry observers as a relatively bright spot in China's IPR protection environment. Shanghai IPR officials are generally well-trained and responsive to industry requests for IPR actions, welcome cooperation with foreign industry and governments, and have instituted creative programs to improve coordination among relevant IPR agencies. Shanghai is also increasingly becoming the venue of choice for foreign companies filing IP-related cases because of the expertise and competency of Shanghai judicial officials. However, the continued widespread availability of counterfeit and pirated products through retail venues in Shanghai demonstrates the limited effectiveness of administrative remedies and need for Shanghai to pursue more deterrent criminal enforcement.

Hot spots. According to industry reports:

- Despite the welcome July 1, 2006 closing of the notorious Xiangyang Market, infringing products in retail markets and through mobile vendors remain widely available in Shanghai.
- Industry reported that most vendors from Xiangyang relocated to other markets, including nearby Yatai, Fengxiang, Longhua, and Qipu Road markets.

Retail and wholesale markets. Government officials have responded to concerns over widespread retail piracy and counterfeiting rates through increased actions.

- Shanghai administrative authorities have devised a strategy to proactively visit retail outlets (conducting 20,000 visits in the first half of 2006).
- Throughout anti-piracy and anti-counterfeiting campaigns, industry surveys show that infringing goods remain widely available in Shanghai.

Administrative Enforcement.

- In 2006, Shanghai reportedly handled 2,217 trademark cases, among which, foreign related cases accounted for 75.6 percent. In 2007, Shanghai handled 2,946 trademark cases, among which, foreign related cases accounted for 72.5 percent.
- In 2006, Shanghai Culture Task Force launched a special action on audio-video markets and in total handled 2,232 cases.
- In 2007, the Shanghai IP Administration set up IPR information desks in 16 exhibitions and handled over 80 IPR infringement cases involving exhibitions.
- In early 2008, Shanghai established an IPR Aid Center to give legal advice and counseling to both foreign and Chinese businesses with IPR-related issues.
- From January to November 2007, Shanghai Customs reportedly investigated 241 IPR cases, increasing by 91.1% over the same period in 2006.
- Shanghai has drafted special regulations and plans regarding IPR protection during the World Expo in 2010. According to Shanghai IP officials an "experts group" will be established to handle complex IPR issues.
- The Shanghai IP Coordinating Office created the Yangtze River Delta Protection Network in 2003, which includes 26 cities in the area, to facilitate communication among administrative and enforcement officials on cases where right holders and infringers are located in different provinces. The IP Coordinating Office reports that cooperation is increasing under this network and plans to expand its coverage to other areas. The IPR Complaint Centers throughout the region also cooperate by transferring cases.

Internet.

- In 2007, Shanghai courts reportedly handled 207 cases involving infringement on the Internet, an increase of 91.7% compared with 2006.
- In 2007, Shanghai reportedly referred one Internet piracy case for criminal prosecution.
- Local authorities have worked closely with the telecommunications industry to close down over 1,000 Internet sites to date that facilitated illegal downloads.
- In 2007, Shanghai established the Leading Group of Anti-Infringement on Internet, a working group of Internet and IP officials and experts working on ways to combat Internet piracy.

Criminal Enforcement. The number of IPR criminal case transfers in Shanghai remains much too low relative to the size of the local economy. The Shanghai government should be commended for initiating a number of pilot programs to assist in better administrative-criminal coordination on IPR.

- Shanghai PSB launched a pilot program whereby it initiates criminal investigations based on "suspicious leads" rather than evidence of illegal activity. Industry continues to

commend Shanghai for this initiative and would like to see it copied in other jurisdictions.

- Shanghai has also instituted a cross-agency, horizontal Case Monitoring System digital database that tracks IPR cases from initial raids to the transfer of information to the police and prosecutors, to judicial adjudication of a case.

Courts.

- Industry commends the efficiency of many Shanghai courts. Cases there typically move quickly, usually within 6 months for the first trial, with the courts awarding statutory damages if they find infringement.

Universities. Shanghai authorities recognize that illegal copying of textbooks is an issue at Shanghai universities, particularly in small-scale student-run facilities.

- Well-known Shanghai universities have reportedly allowed wholesale book copying in on-campus textbook centers. Shanghai authorities should proactively continue to monitor campuses to prevent continuation of this illegal activity.
- The Shanghai Copyright Bureau reports coordinating with universities to train students on IPR awareness.

Zhejiang Province, a manufacturing hub in eastern China with a large proportion of privately owned production facilities and the major Ningbo port, has been identified over the years as a major distribution center for infringing goods to overseas markets. Right holders have repeatedly drawn attention to the city of Yiwu as an important distribution center for small commercial goods.

Hot Spots. According to industry reports:

- The cities of Ningbo, Cixi, Yiwu and Wenzhou have been particularly associated with counterfeiting manufacturing and distribution (including export).
- Industry representatives have noted that counterfeiters have been moving to the smaller cities of Yuhuan and Taizhou in response to increased enforcement efforts in Yiwu, Cixi and Ningbo.

Retail and Wholesale Markets. Zhejiang is home of the China Small Commodities Market in Yiwu, reportedly the world's largest wholesale market.

- Yiwu officials have set up a coordination body to improve enforcement. They are pursuing closer coordination between industries and the Yiwu government, training for officials on IPR issues, a policy of revoking business licenses for repeat IPR offenders, and employment of undercover Consumer Protection Office investigators to root out underground sales of pirated and counterfeit goods.
- Industry reports that local enforcement authorities are increasingly responsive to right holders' complaints.

Administrative Enforcement.

- Industry reports that Zhejiang AIC is one of the most active in helping right holders investigate trademark infringement.
- The Zhejiang AIC handled 8,403 trademark cases in 2006.

- In comparison to trademark issues, the Copyright Bureau handled 61 copyright cases in 2006.
- To improve coordination and oversight of cultural product markets, Zhejiang State Administration of Radio Film and Television, Culture and Copyright Bureau offices are now co-located.

Criminal Enforcement.

- In 2006, Zhejiang transferred 119 cases of trademark infringement for criminal investigation. There were no reported transfers of copyright cases.
- Criminal remedies continue to be largely non-deterrent, as in other parts of China.
- Zhejiang authorities have confirmed that facilitating more criminal transfers of copyright, patent and trademark cases remains a top priority.
- Local court officials in Yiwu and Ningbo described efforts to increase IPR training for judges and expedite the handling of IPR cases, and industry sources have reported that, in recent years, it has become easier to file criminal IPR complaints in Yiwu.
- Valuation of seized goods remains a key problem..
- Industry reports continued resistance by local administrative officials to transfer cases for criminal investigation and prosecution, a problem in many localities around China.

Exports. The Ningbo port is a significant port of lading for infringing goods seized at U.S. borders. In 2006, Ningbo Customs handled 235 IPR infringement cases valued at RMB 27.51 million, and Hangzhou Customs investigated 123 cases valued at RMB 12 million.

The excerpt below is from the 2010 "Special 301" Report of the office of the United States Trade Representative. As discussed in the Report's introduction Trade Act of 1974 requires the United States Trade Representative to publicly identify those countries which do not sufficiently protect U.S. intellectual property under what's known as the "Special 301" provision. Under that that authority USTR conducts investigations and creates watch-lists.

This 2008 Report details the infringements ascribed to both Baidu and Alibaba/Taobao. It also discusses in some detail the major problems with China regarding the enforcement of Intellectual Property Rights (IPR).

The 2010 report is available in full at http://www.ustr.gov/webfm_send/1906

2010 Special 301 Report

April 30, 2010

Prepared by the Office of the United States Trade Representative

Ambassador Ron Kirk
United States Trade Representative



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EXECUTIVE SUMMARY

The "Special 301" Report is an annual review of the global state of intellectual property rights (IPR) protection and enforcement, conducted by the Office of the United States Trade Representative (USTR) pursuant to Section 182 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988 and the Uruguay Round Agreements Act (enacted in 1994).

This Report reflects the Administration's resolve to encourage and maintain effective IPR protection and enforcement worldwide. It identifies a wide range of serious concerns, ranging from troubling "indigenous innovation" policies that may unfairly disadvantage U.S. rights holders in China, to the continuing challenges of Internet piracy in countries such as Canada and Spain, to the ongoing systemic IPR enforcement challenges in many countries around the world. Positive accomplishments recognized in this year's Report include improved efforts by trading partners the Czech Republic, Hungary, and Poland, all of whom have been removed from the Watch List. Additionally, after successful Out-of-Cycle Reviews in 2009, Saudi Arabia was removed from the Watch List, and Israel has entered into an understanding with the United States whereby it will address key outstanding IPR issues.

In the year ahead, USTR looks forward to working with our trading partners to address emerging and continuing concerns, and building on the positive results achieved thus far.

Public Engagement

Consistent with the goals articulated in the President's 2010 Trade Policy Agenda, USTR has enhanced its public engagement activities in this year's Special 301 process. These activities are designed to ensure that Special 301 decisions are based on a robust understanding of complicated issues involving intellectual property and to help facilitate sound, well-balanced assessments of developments in particular countries.

USTR requested written submissions from the public through a notice published in the *Federal Register* on January 15, 2010. This year's review yielded 571 comments from interested parties, a significant increase from 2009. The submissions received by USTR were made available to the public online at www.regulations.gov, docket number USTR-2010-0003. Further, on March 3, 2010, USTR conducted a public hearing that permitted interested persons to testify before the interagency Special 301 subcommittee about issues relevant to the review. The hearing included testimony from 23 witnesses, ranging from foreign governments to industry representatives to non-governmental organizations. A transcript of the hearing is available at www.ustr.gov.

2010 Special 301 List

The 2010 Special 301 review process examined IPR protection and enforcement in 77 countries. Following extensive research and analysis, USTR designates the 42 countries below as follows:

Priority Watch List: Algeria, Argentina, Canada, Chile, China, India, Indonesia, Pakistan, Russia, Thailand, Venezuela.

Watch List: Belarus, Bolivia, Brazil, Brunei, Colombia, Costa Rica, Dominican Republic, Ecuador, Egypt, Finland, Greece, Guatemala, Italy, Jamaica, Kuwait, Lebanon, Malaysia, Mexico, Norway, Peru, Philippines, Romania, Spain, Tajikistan, Turkey, Turkmenistan, Ukraine, Uzbekistan, Vietnam.

Section 306 Monitoring: Paraguay.

Status Pending: Israel.

2010 Out-of-Cycle Reviews

An Out-of-Cycle Review (OCR) is a tool that USTR uses to encourage progress on IPR issues of concern. It provides an opportunity for heightened engagement with the trading partner on those issues. Successful resolution of specific IPR issues may in some circumstances lead to a change in a country's status on the Special 301 list outside of the typical time frame for the annual Special 301 Report. In 2010, USTR will conduct OCRs of the Philippines and Thailand to monitor progress on IPR protection and enforcement in those countries, and to consider again their Special 301 status.

Format of the Special 301 Report

The Special 301 Report is divided into the following three main sections and two Annexes:

- **Section I: Developments in Intellectual Property Rights Protection and Enforcement** discusses broad global trends and issues in IPR protection and enforcement that USTR works to address on a daily basis.
- **Section II: Country Reports** includes descriptions of issues of concern in particular countries.
- **Section III: Notorious Markets** is a listing of Internet markets and physical markets of concern.
- **Annex 1** provides the statutory background for the Special 301 Report.

SECTION II. COUNTRY REPORTS

PRIORITY WATCH LIST

China

China will remain on the Priority Watch List in 2010 and will remain subject to Section 306 monitoring. China's enforcement of IPR and implementation of its TRIPS Agreement obligations remain top priorities for the United States. The United States is heartened by many positive steps the Chinese government took in 2009 with respect to these issues, including the largest software piracy prosecution in Chinese history, and an increase in the numbers of civil IP cases in the courts. The U.S. Government welcomes the continued and constructive discussions of these matters in the Joint Commission on Commerce and Trade (JCCT) and the JCCT Intellectual Property Rights Working Group. However, the overall level of IPR theft in China remains unacceptable.

The United States is also deeply troubled by the development of policies that may unfairly disadvantage U.S. rights holders by promoting "indigenous innovation" including through, among other things, preferential government procurement and other measures that could severely restrict market access for foreign technology and products.

China's IPR enforcement regime remains largely ineffective and non-deterrent. Widespread IPR infringement continues to affect products, brands and technologies from a wide range of industries, including movies, music, publishing, entertainment software, apparel, athletic footwear, textile fabrics and floor coverings, consumer goods, chemicals, electrical equipment, and information technology, among many others. The share of IPR-infringing product seizures at the U.S. border that were of Chinese origin was 79 percent in 2009, a small decrease from 81 percent in 2008.

The U.S. copyright industries report severe losses due to piracy in China. Trade in pirated optical discs continues to thrive, supplied by both licensed and unlicensed factories as well as by smugglers. These pirated optical discs are exported to markets across the region, impacting legitimate sales outside of China as well. Small retail shops continue to be the major commercial outlets for pirated movies and music. The theft of software, books and journals also remain key concerns. Business software theft by enterprises is particularly troubling as it not only results in lost revenues to software companies but also lowers the business costs of offending enterprises, and may give these firms an unfair advantage against their law-abiding competitors.

Strong action to curb trademark counterfeiting and copyright piracy on the Internet is critical to the future of IPR enforcement in China. China should significantly increase criminal

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prosecutions and other enforcement actions against Internet-based piracy and counterfeiting operations through a sustained national effort backed by appropriate resources. A recent internet enforcement campaign in which 558 cases were investigated and 375 websites were shut down demonstrates that when the Chinese government chooses to utilize its enforcement resources and personnel to deal with an IPR problem, it can produce results. The United States notes that at times particular enforcement actions are directed not only at copyright or trademark infringement, but also include infringement activities that may be considered more serious under the Chinese legal system. There is a concern that such actions lead to the public perception that the enforcement authorities are not focused on enforcing intellectual property specifically. This perception can be reinforced when effective enforcement measures are not taken against well-known infringers. The United States urges the Chinese government to demonstrate consistent resolve when fighting piracy and counterfeiting on the Internet by taking firm action against such infringers, so that they will adjust their business models to respect intellectual property laws, and thereby send a strong signal throughout the country.

Additionally, in October 2009, in response to allegations that some state-run libraries were providing unauthorized electronic copies of scientific and medical journal articles to for-profit entities, the NCAC, the Ministry of Education, the Ministry of Culture, and the National Anti-Pornography Office issued the *Notice on Strengthening Library Protection of Copyright*, which directs libraries to strictly adhere to the disciplines of the *Copyright Law*. This was a welcome step, and the United States will monitor implementation of this directive in 2010. In particular, the United States will look to the Chinese authorities to implement this directive through unannounced audits and inspections. Emphasis should be placed on preventing the unauthorized commercial sale of journals, either directly to consumers or through online intermediaries. Counterfeiting remains pervasive in many retail and wholesale markets. This problem continues in spite of significant attention and resources from brand owners, administrative supervision, civil lawsuits, agreements with landlords, and attention from China's central government and from foreign governments. There have been some improvements, including judicial enforcement related to infringing activities in retail markets in Beijing and Shanghai. Other welcome steps include judicial authorities sentencing wholesalers to prison terms, and holding retail market landlords liable for failing to take appropriate measures to prevent infringement. Unfortunately, outside Beijing and Shanghai, there have been limited efforts to hold landlords liable for infringement that occurs on their premises. Even in Beijing and Shanghai, the relatively minor penalties levied by courts, and examples of landlords and infringers ignoring applicable court rulings, indicate that additional measures, including criminal sanctions, will be necessary to bring this problem under control.

There are a number of other obstacles to effective enforcement. These include high value and volume thresholds that must be met in order to initiate criminal prosecution of IPR infringement. U.S. trademark and copyright industries report that administrative fines are too low, and imposed

too infrequently, to provide deterrence. Consequently, infringers view administrative seizures and fines merely as a cost of doing business. Civil damages for infringement are likewise inadequate.

Exacerbating its enforcement difficulties, China maintains market access barriers, such as import restrictions and restrictions on wholesale and retail distribution, which can discourage and delay the introduction into China's market of a number of legitimate foreign products that rely on IPR. The United States challenged certain restrictions in connection with a WTO dispute filed in April 2007. (See Section I above for further information.)

China's market access barriers create additional incentives to infringe products such as movies, video games, and books, and lead consumers to the black market, thereby compounding the severe problems already faced by China's enforcement authorities. An example of such a barrier is a Ministry of Culture circular regarding digital music was issued in September 2009. That circular bars providers of imported – but not domestic – digital music from distributing their content online unless they obtain content approval, and meet unrealistic obligations, such as entering into mandatory exclusive licensing arrangement with a wholly Chinese-owned entity. The United States is also very concerned about a troubling trend whereby China adopts policies that unfairly advantage domestic or “indigenous” innovation over foreign innovation and technologies. In November 2009, Chinese government agencies issued the Circular on *Launching the 2009 National Indigenous Innovation Product Accreditation Work*, requiring companies to file applications by December 2009 for their products to be considered for accreditation as “indigenous innovation products.” This Circular, and revisions to it issued in April 2010, provides for subsequent catalogs to be issued that provide preferential treatment in government procurement to any products that are granted this accreditation. Provinces and municipal governments have also reportedly issued their own “indigenous innovation” catalogs related to government procurement. The Circular, and the April 2010 revisions, contain provisions that allow Chinese authorities to require that R&D on products receiving accreditation be conducted, at least partially, in China. The United States has raised concerns regarding this and other problematic criteria with Chinese authorities.

Draft Regulations for the Administration of the Formulation and Revision of Patent-Involving National Standards, released for public comment in November 2009 by the Standardization Administration of China (SAC), raise concerns regarding their expansive scope, the feasibility of certain patent disclosure requirements, and the possible use of compulsory licensing for essential patents included in national standards. If adopted in their current form, these provisions may have the unintended effect of undermining the incentives for innovation and, by discouraging foreign rights holders from participating in the development of standards in China, depriving the standard setting process of potentially superior technology.

With respect to patents, on October 1, 2009, the *Third Amendment to China's Patent Law*, passed in December 2008, went into effect. While many provisions of the Patent Law were clarified and improved, rights holders have raised a number of concerns about the new law and implementing regulations, including the effect of disclosure of origin requirements on patent validity, inventor remuneration, and the scope of and procedures related to compulsory licensing, among other matters. The United States will closely follow the implementation of these measures in 2010.

The United States encourages China to provide an effective system to expeditiously address patent issues in connection with applications to market pharmaceutical products. Additionally, the United States continues to have concerns about the extent to which China provides effective protection against unfair commercial use, as well as unauthorized disclosure, of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products.

The United States believes that continued bilateral dialogue and cooperation can lead to further progress in these and other areas. The United States will continue to work with China on IPR enforcement and protection strategies, innovation policies, and the range of other important IPR-related matters in our bilateral economic relationship, including through the Joint Commission on Commerce and Trade (JCCT) and other fora.

Provincial and local issues

Progress, or lack thereof, in protecting and enforcing IPR in China can vary greatly by region. For example, industry stakeholders continue to identify Shanghai municipality as a bright spot in China's IPR landscape. Stakeholders hope that additional improvements may result from Shanghai's hosting of the 2010 World Expo. Neighboring Zhejiang province has also shown progress. Zhejiang courts have set an example of transparency by publishing IPR decisions on the Internet. In 2009, Zhejiang undertook more trademark infringement investigations than any other Chinese province, thereby highlighting both the increasing responsiveness of officials to industry requests for enforcement, and the scale of the problem in the province.

Jiangsu province, with its focus on promoting high technology, has demonstrated its recognition of the importance of IPR protection, including through a Suzhou court's criminal sentences in a high-profile software piracy case. However, right holders continue to express frustration at the level and scale of counterfeit manufacturing in Guangzhou province, one of China's largest manufacturing hubs. Enforcement is undermined by inconsistencies with respect to matters such as the valuation methodologies for calculating damages, fines, and penalties. Moreover, fines and penalties are not deterrent and the numbers of criminal IPR cases that are initiated is too low to bring about measurable improvements in the region.

SECTION III. NOTORIOUS MARKETS

Global piracy and counterfeiting continue to thrive due in part to marketplaces that deal in infringing goods. The 2010 Special 301 Report notes the following markets, including those on the Internet, as examples of marketplaces that have been the subject of enforcement action or that may merit further investigation for possible IPR infringements, or both. The list represents a selective summary of information reviewed during the Special 301 process; it is not a finding of violations of law. The United States encourages the responsible authorities to step up efforts to combat piracy and counterfeiting in these and similar markets.

Internet Markets

- **Baidu (China)**. The U.S. music industry reports that the vast majority of all illegal downloads of music in China are associated with Baidu. Baidu is the target of ongoing infringement actions by both domestic and foreign rights holders. Baidu executives continue to deny responsibility for content hosted by other websites. Several rights holders are pursuing legal action in Chinese courts.
- **Business-to-business (B2B) and business-to-consumer (B2C) websites (China)**. A large number of Chinese websites, such as TaoBao and Alibaba, the top two online marketplaces selling game copiers, have been cited by industry as offering infringing products to consumers and businesses.
- **TV Ants (China)**. Industry reports that this website is a notorious hub of online piracy with respect to sporting event telecasts.
- **Allofmp3.com clones (Russia)**. Although allofmp3 (formerly the world's largest server-based pirate music website) was shut down in 2007, a nearly identical site has taken its place and continues illegally distribute copyrighted materials. Several other sites provide similar services. In addition, Russia is host to several major BitTorrent indexing sites that are popular channels for illegal peer-to-peer downloading.
- **Webhards (Korea)**. Webhards are web-based storage services that offer high-volume storage space, some up to a terabyte, for sharing of pirated material. While two well-known webhards now provide legal content and the Korean government has prosecuted some webhard operators, there remain numerous webhards operating in Korean webspace that provide illegal content.

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EXHIBIT QQ

Roche's work with USTR Advisory Committee on Trade Partnerships and Negotiations (ACTPN) and the significance of the ACTPN's role to Intellectual Property Rights (IPR) Enforcement

Robert Roche was officially appointed to ACTPN on September 15th, 2010. See <http://www.whitehouse.gov/the-press-office/2010/09/15/president-obama-announces-more-key-administration-posts-0>:

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The White House
Office of the Press Secretary

For Immediate Release

September 15, 2010

President Obama Announces More Key Administration Posts

WASHINGTON – Today, President Barack Obama announced his intent to appoint the following individuals to key administration posts:

- Jill Appell, Member, Advisory Committee for Trade Policy and Negotiations
- Pamela G. Bailey, Member, Advisory Committee for Trade Policy and Negotiations
- C. Fred Bergsten, Member, Advisory Committee for Trade Policy and Negotiations
- Bobbi Brown, Member, Advisory Committee for Trade Policy and Negotiations
- Michael E. Campbell, Member, Advisory Committee for Trade Policy and Negotiations
- Lisa Carty, Member, Advisory Committee for Trade Policy and Negotiations
- Governor Chris Christie, Member, Advisory Committee for Trade Policy and Negotiations
- Michael Ducker, Member, Advisory Committee for Trade Policy and Negotiations
- Mayor Buddy Dyer, Member, Advisory Committee for Trade Policy and Negotiations
- John B. Emerson, Member, Advisory Committee for Trade Policy and Negotiations
- Bill Frenzel, Member, Advisory Committee for Trade Policy and Negotiations
- Dean Garfield, Member, Advisory Committee for Trade Policy and Negotiations
- Leo W. Gerard, Member, Advisory Committee for Trade Policy and Negotiations
- Joseph T. Hansen, Member, Advisory Committee for Trade Policy and Negotiations
- James P. Hoffa, Member, Advisory Committee for Trade Policy and Negotiations
- Robert Holleyman, Member, Advisory Committee for Trade Policy and Negotiations
- Sandra Kennedy, Member, Advisory Committee for Trade Policy and Negotiations
- Jim Kolbe, Member, Advisory Committee for Trade Policy and Negotiations
- Fred Krupp, Member, Advisory Committee for Trade Policy and Negotiations
- David Lane, Member, Advisory Committee for Trade Policy and Negotiations
- Kase Lawal, Member, Advisory Committee for Trade Policy and Negotiations
- Robert A. McDonald, Member, Advisory Committee for Trade Policy and Negotiations
- Harold McGraw III, Member, Advisory Committee for Trade Policy and Negotiations
- Wade Randlett, Member, Advisory Committee for Trade Policy and Negotiations
- Robert W. Roche, Member, Advisory Committee for Trade Policy and Negotiations
- Matthew Rubel, Member, Advisory Committee for Trade Policy and Negotiations
- David H. Segura, Member, Advisory Committee for Trade Policy and Negotiations
- Bob Stallman, Member, Advisory Committee for Trade Policy and Negotiations
- John Surma, Member, Advisory Committee for Trade Policy and Negotiations
- Luis Ubiñas, Member, Advisory Committee for Trade Policy and Negotiations

President Obama said, "I am grateful that these highly qualified men and women have agreed to lend their talents to this administration as we work to boost our nation's exports over the next five years. When ninety-five percent of the world's customers are beyond our borders, it is crucial that we compete for that business and those jobs. And we need to do so in a way that is responsible and fair, and that levels the playing field for American workers. I look forward to the wise counsel these individuals will provide on these issues as we work together in the coming months

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BLOG POSTS ON THIS ISSUE

September 04, 2013 3:21 PM EDT

President Obama Visits Sweden

President Obama arrives in Stockholm for a brief visit ahead of the G-20 meeting in St. Petersburg. His trip marks the first-ever bilateral visit by a U.S. President to Sweden.

September 03, 2013 5:53 PM EDT

Former President Bill Clinton Explains the Affordable Care Act

Watch former President Bill Clinton speak about the benefits of the Affordable Care Act from Little Rock, Arkansas.

September 03, 2013 2:30 PM EDT

Innovating to Improve Disaster Response and Recovery

The White House Office of Science and Technology Policy (OSTP) and the Federal Emergency Management Agency (FEMA) jointly challenge a group of over 80 top innovators from around the country to come up with ways to improve disaster response and recovery efforts.

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and years."

The Advisory Committee for Trade Policy and Negotiations is tasked with providing policy advice on trade matters, and is made up of members who broadly represent key sectors and groups of the economy. The President will announce additional members to this Committee at a later date.

President Obama announced his intent to appoint the following individuals to key administration posts:

Jill Appell, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

Jill Appell is a past President of the National Pork Producers Council and the Illinois Pork Producers Association. Ms. Appell is a member of Illinois Attorney General Lisa Madigan's Advisory Committee and has served on task forces for the Illinois Farm Bureau. In addition, she was a member of the Illinois Governor's Task Force that helped to write the Livestock Management Facilities Act, which regulates livestock facilities in Illinois. She served as Illinois State Director of USDA Rural Development during the Clinton administration. Ms. Appell is currently a member of the USDA Farm Service Agency Illinois State Technical Committee and the USDA Agricultural Technical Advisory Committee for Trade of Animals and Animal Products.

Pamela G. Bailey, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

Pamela G. Bailey is President and CEO of the Grocery Manufacturers Association. She is the former President and CEO of the Personal Care Products Council, the Advanced Medical Technology Association, and the Healthcare Leadership Council. In 1981, President Reagan appointed Ms. Bailey to serve as Assistant Secretary for Public Affairs at HHS, and in 1983, she was appointed as Special Assistant to the President and Deputy Director of the White House Office of Public Affairs. Ms. Bailey is currently a Director of Greatbatch Technologies, Inc., and MedCath Corporation. She also serves on the board of GS1 US and is a trustee of Franklin and Marshall College.

C. Fred Bergsten, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

C. Fred Bergsten has been Director of the Peterson Institute for International Economics since its creation in 1981. He was Assistant Secretary for International Affairs of the US Treasury from 1977 until 1981 and Assistant for International Economic Affairs to the National Security Council from 1969 to 1971. Mr. Bergsten is co-Chairman of the Private Sector Advisory Group to the US-India Trade Policy Forum, and was Chairman of the Competitiveness Policy Council created by Congress and Chairman of the APEC Eminent Persons Group. He is the author, coauthor or editor of 40 books on a wide range of international economic issues.

Bobbi Brown, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

Bobbi Brown is the founder of Bobbi Brown Cosmetics. Founded in 1991 and acquired by Estée Lauder Companies in 1995, Bobbi Brown Cosmetics has evolved into a full range of color cosmetics, fragrance, skincare, tools and accessories with a global presence in 56 countries. A New York Times bestselling author, Ms. Brown has written six beauty and lifestyle books, and is the exclusive beauty editor of NBC's Today Show and the Contributing Beauty & Lifestyle Editor of Health magazine. She sits on the boards of Dress for Success and her alma mater, Emerson College.

Michael E. Campbell, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

Michael E. Campbell is the Chairman, President and CEO of Arch Chemicals, Inc. and the Chairman of the Board of the National Association of Manufacturers. Prior to the creation of Arch Chemicals, Mr. Campbell served as the Executive Vice President of the Olin Corporation. Mr. Campbell was first appointed to the Advisory Committee for Trade Policy and Negotiations in July 2005 and currently serves on the Boards of Directors of MeadWestvaco Corporation and Milliken & Company. He is the former Chairman of the Board of Directors and current Board member of the American Chemistry Council, and the former Chairman of the Society of Chemical Industry.

Lisa Carty, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

Lisa Carty is Deputy Director and Senior Advisor of the Global Health Policy Center at the Center for Strategic and International Studies. Prior to joining CSIS she served as Country Programme Coordinator for the Russian Federation for UNAIDS, the Joint United Nations Programme on HIV/AIDS. From 2002 to 2007 she worked for the Bill & Melinda Gates Foundation's Global Health Program as Deputy Director for Public Policy. Ms. Carty served for more than twenty years as a Foreign Service Officer with the United States Department of State. Overseas, she has worked for the U.S. Agency for International Development in Russia, the UN Relief Works Agency for Palestinian Refugees, and as the U.S. Government's Regional Coordinator for Refugee Affairs in the Middle East.

Governor Chris Christie, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

Christopher Christie serves as New Jersey's 55th Governor. Governor Christie was also recently named to the National Governors Association's nine-person Executive Committee. Prior to his election as governor in 2009, he served as United States Attorney for the District of New Jersey from 2002 to 2008. From 2004 to 2005, Christie served as a member of the seventeen-person Attorney General's Advisory Committee of United States Attorneys.

Michael Ducker, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

Michael L. Ducker is the Chief Operating Officer for FedEx Express and President of its International Division. He also oversees FedEx Trade Networks and FedEx SupplyChain. Mr. Ducker serves as Chairman of the International

Policy Committee and Executive Board Member of the U. S. Chamber of Commerce, as well as a Board Member of the U.S.-China Business Council and Junior Achievement Worldwide. He was also appointed by President Bush to serve on the APEC Business Advisory Council representing U.S. business interests in the Asia-Pacific Region from 2003 to 2007.

Mayor Buddy Dyer, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

John "Buddy" Dyer is currently serving his second full term as the Mayor of Orlando, Florida. In this capacity, he serves as the City's chief executive and also helps govern and oversee the operations and growth of its city-owned utility and the Orlando International and Executive Airports. Prior to becoming Mayor, he served for a decade in the Florida Senate, where his colleagues elected him as their Democratic Senate Leader, a position he held for three years. Mayor Dyer has also worked as an environmental engineer and practiced law for more than 20 years.

John B. Emerson, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

John B. Emerson is President of Private Client Services of the Capital Group Companies, one of the world's largest privately held global investment management firms. He previously served as Deputy Assistant to the President and Deputy Director of Intergovernmental Affairs at the White House, coordinating GATT implementing legislation and China MFN renewal. He was the coordinator of the Clinton-Gore Transition Team's Economic Conference in 1992. Mr. Emerson is a member of the Los Angeles Mayor's Trade Advisory Commission, Chairman of the Board of the Performing Arts Center of Los Angeles County, and is a member of the Council on Foreign Relations and the Pacific Council on International Policy.

Bill Frenzel, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

Bill Frenzel is a Guest Scholar at the Brookings Institution, and previously served for 20 years as a U.S. Representative from Minnesota. While in Congress, he served as the ranking Republican on the House Budget Committee and a member of the Ways and Means committee. In 1993 Mr. Frenzel was appointed to serve as a Special Advisor to President Clinton, and then appointed to the President's Social Security Commission in 2001. He was first appointed to the Advisory Committee on Trade Policy and Negotiations in 2002, and to the President's Tax Reform Commission in 2005. He is Co-Chairman of the Center for Strategic Tax Reform, the Bretton Woods Committee, and the Committee for a Responsible Federal Budget. Mr. Frenzel is Vice Chairman of the Eurasia Foundation, Chairman Emeritus of the Ripon Society, and a member of the Commission in the Office of Congressional Ethics of the U.S. House of Representatives.

Dean Garfield, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

Dean C. Garfield is the President and CEO of the Information Technology Industry Council (ITI), a trade group representing the information and communications sector. Prior to ITI, he served as Executive Vice President and Chief Strategic Officer for the Motion Picture Association of America. Mr. Garfield is a board member of the SEED School, Aidan Montessori School, and College for Every Student.

Leo W. Gerard, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

Leo W. Gerard is the International President of United Steelworkers. He is a member of the AFL-CIO's Executive Committee and chairs its Public Policy Committee. Mr. Gerard is co-chairman of the BlueGreen Alliance, and a board member of the Apollo Alliance, Campaign for America's Future, and Economic Policy Institute. In addition, he is a member of the executive committees of the IMF and ILO global labor federations. In conjunction with Unite the Union, Mr. Gerard was instrumental in creating Workers Uniting, the first global union.

Joseph T. Hansen, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

Joseph T. Hansen is the President of the United Food and Commercial Workers Union (UFCW) which represents more than 1.3 million workers in the U.S. and Canada. He was elected to serve as UFCW Secretary-Treasurer in 1997 and President in 2004. In 2003 he took office as President of Union Network International and was reelected as President in 2005. Mr. Hansen is also a founding architect of the Change to Win Federation.

James P. Hoffa, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

James Phillip Hoffa is the General President of the International Brotherhood of Teamsters. Mr. Hoffa was first elected General President in December 1998 and took office on March 19, 1999. He was re-elected in 2001 and 2006 to five-year terms. Mr. Hoffa served as an attorney for the Teamsters from 1968 to 1993. He also served on the President's Council on the 21st Century Workforce and sat on the Secretary of Energy's Advisory Board, both of which he was appointed to in 2002.

Robert Holleyman, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

Robert Holleyman is President and CEO of the Business Software Alliance, a software industry trade association, overseeing operations in more than 80 countries. Previously, he served as Counsel for the U.S. Senate Committee on Commerce, Science and Transportation, and as Legislative Director for former U.S. Senator Russell B. Long. He was named one of the 50 most influential people in the intellectual property world by Managing Intellectual Property Magazine in 2003.

Sandra Kennedy, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

Sandra Kennedy was named President of the Retail Industry Leaders Association (RILA) in December 2002. Prior

to joining RILA. Ms. Kennedy served as Director of the Leadership Dialogue Series for Accenture, a global management consulting and technology services company. From 1993 to 2000, she was Senior Vice President of membership services for the National Retail Federation (NRF). In that position Ms. Kennedy directed NRF's revenue-generating businesses, including membership, conferences and the annual convention, as well as the activities of retail operational committees.

Jim Kolbe, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

Jim Kolbe is the Senior Transatlantic Fellow at the German Marshall Fund. He is an adjunct Professor in the College of Business at the University of Arizona and a consultant with McLarty Associates. He currently serves on the Advisory Board for the Export-Import Bank and is co-chair of the Transatlantic Taskforce. He formerly served in Congress representing southeastern Arizona, from 1985 to 2007. Mr. Kolbe has received numerous awards and tributes, including the George Marshall Award for Distinguished Service from USAID, and the Order of the Aztec from the President of Mexico.

Fred Krupp, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

Fred Krupp is the President of the Environmental Defense Fund (EDF). The EDF is dedicated to protecting biodiversity, stabilizing climate change, reducing environmental risks to human health and safeguarding the world's oceans. Mr. Krupp also helped launch a corporate coalition, the U.S. Climate Action Partnership, whose Fortune 500 members - Alcoa, GE, DuPont and dozens more - have called for strict limits on global warming pollution. Mr. Krupp is coauthor, with Miriam Horn, of New York Times Best Seller, *Earth: The Sequel*. He was among 18 people named as America's Best Leaders by U.S. News and World Report in 2007.

David Lane, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

David Lane is President and Chief Executive Officer of ONE, an advocacy and campaigning organization focused on combating global poverty and preventable disease. Prior to joining ONE, Mr. Lane was the Director of Public Policy and External Affairs and Director of the East Coast Office for the Bill & Melinda Gates Foundation. From 1993 through 2000, he served in a number of senior positions in the federal government, including Executive Director of the National Economic Council at the White House and Chief of Staff of the US Department of Commerce. Mr. Lane is a member of the Council on Foreign Relations and Vice-Chair of the Board of Transparency International USA.

Kase Lawal, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

Kase Lawal is currently serving his 6th term on the Port Commission of the Port of Houston Authority. Mr. Lawal is Chairman and CEO of CAMAC International Corporation, an integrated oil and gas company. He is also the Vice Chairman of the Houston Airport System Development Corporation and Vice Chairman of Unity National Bank. Mr. Lawal was a member of the United States Presidential Trade Advisory Committee on Africa during the Bush and Clinton Administrations. In addition, Mr. Lawal serves as a member of the National Urban League Board of Directors, and a member of the Board of Trustees for Fisk University.

Robert A. McDonald, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

Robert A. McDonald is Chairman of the Board, President and Chief Executive Officer of The Procter & Gamble Company. Mr. McDonald serves on the Board of Directors of Xerox Corporation, chairs the Fuqua Global Partnerships Committee at Duke University, is Vice Chair of the U.S.-China Business Council, and is a member of the Executive Committee of the Business Roundtable.

Harold McGraw III, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

Harold McGraw III is Chairman, President and CEO of The McGraw-Hill Companies, a global information and education company providing knowledge, insights and analysis through Standard & Poor's, McGraw-Hill Education, Platts, and J.D. Power and Associates. Mr. McGraw serves on the Boards of United Technologies and ConocoPhillips. He is past chairman of Business Roundtable, and chairman of the Emergency Committee for American Trade, the U.S. Council for International Business and the U.S.-India Business Council. In 2009, he participated in the US-India CEO Forum. He chairs the Committee Encouraging Corporate Philanthropy and serves on the Boards of Carnegie Hall, the Council for Economic Education, New York Public Library, National Organization on Disability, Prep for Prep and the Council for Industry and Higher Education in London.

Wade Randlett, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

Wade Randlett is the Chairman and co-founder of Enegra, LLC, a holding company for renewable energy projects worldwide, with offices in San Francisco and Kuala Lumpur. He also co-founded Technology Network, a bi-partisan political advocacy committee based in Silicon Valley. Mr. Randlett is the President of the governing council for Alice Fong Yu elementary in San Francisco, the country's first Chinese immersion public school.

Robert W. Roche, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

Robert W. Roche is an entrepreneur and investor working in China, Japan, and the US. Mr. Roche is a Co-founder and Director of Acom International, one of China's largest TV shopping companies, and Co-founder and Chairman of Oak Lawn Marketing, Inc., the largest infomercial company in Japan, which is now part of NTT Docomo Group. He is the founder of URBN Hotels, China's first carbon-neutral hotel. Mr. Roche has been Chairman of The American Chamber of Commerce/Shanghai since January 2010, and is Director of the USA Pavilion at the Shanghai World Expo, and Member of the Advisory Board of the Harvard Public Diplomacy Collaborative Initiative.

Matthew Rubel, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

Matthew Rubel is the Chairman of Collective Brands, Inc. Previously, Mr. Rubel served as Chairman and CEO of Payless ShoeSource and Cole Haan. He was also Executive Vice President of J. Crew Group and CEO of Popular Club Plan. Mr. Rubel is active in several industry and civic organizations, including the Jay H. Baker Initiative at the Wharton School; Young Presidents' Organization; and serves as Chairman of the Footwear Distributors and Retailers of America. He is a member of the Board of Trustees of the International Council of Shopping Centers and the University of Miami and serves on the Board of Directors of Supervalu.

David H. Segura, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

David H. Segura is Chief Executive Officer and founder of VisionIT, a global IT solutions firm with headquarters in Detroit, Michigan. Mr. Segura is also a founding architect and current Vice Chair of the nation's first Hispanic senior-level IT executive organization, the Hispanic IT Executive Council, as well as a long-standing member of the Information Technology Senior Management Forum which is focused on advancing African-American IT leadership. Most recently he was selected by President Obama as one of the 50 CEOs to participate in the White House Forum on Modernizing U.S. Government.

Bob Stallman, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

Bob Stallman, a rice and cattle producer from Columbus, Texas, is President of the American Farm Bureau Federation (AFBF). Prior to becoming AFBF President, Mr. Stallman was President of the Texas Farm Bureau and a member of AFBF's board of directors. Mr. Stallman was first appointed to the Advisory Committee on Trade Policy and Negotiations in 2007, and was also selected to serve on the Agricultural Policy Advisory Committee for Trade and the Advisory Committee on International Economic Policy. In addition, Mr. Stallman serves on the board of trustees for the Farm Foundation and the Advisory Board of the World Agricultural Forum.

John Surma, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

John P. Surma is the Chairman and CEO of United States Steel Corporation and previously served as Vice Chairman, CFO, COO, and President. Prior to joining U. S. Steel, Mr. Surma was President of Marathon Ashland Petroleum LLC, Senior Vice President of Supply & Transportation of Marathon Ashland Petroleum LLC, and President of Speedway Super America LLC. He serves on the Board and Executive Committee of the World Steel Association and the Board of Directors of the American Iron and Steel Institute. Mr. Surma is also a member of The Business Council. Additionally, he is the Chairman of the Allegheny Conference on Community Development.

Luis Ubiñas, Appointee for Member, Advisory Committee for Trade Policy and Negotiations

Luis A. Ubiñas serves as President of the Ford Foundation. Prior to joining the Foundation, Mr. Ubiñas was a Director at McKinsey & Company where he led its West Coast Media Practice, advising Fortune 100 media, telecommunications and technology companies on major strategic and operating challenges. He currently serves on the UN Permanent Advisory Memorial Committee and the Board of the New York Public Library. He is a trustee of the Collegiate School for Boys and a member of the American Academy of Arts and Sciences.

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Background and relevance of ACTPN¹ to this complaint – A thorough non-partisan discussion of ACTPN's work in relationship to Intellectual Property Rights enforcement can be found in this study published by the Centre for the Study of Globalisation and Regionalisation at the University of Warwick in Great Britain: <http://www2.warwick.ac.uk/fac/soc/csgr/research/workingpapers/2002/wp9902.pdf/>. (see pp. 4-15 included)

¹ ACTPN operates under the authority of the United States Trade Representative, and was established under the authority of the U.S. Trade Act of 1974 which also created the "Special 301" review process under which Baidu and Taobao were placed in the "Notorious Markets" List (see Exhibit PP).

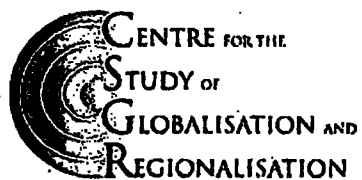
**"Trade-Related Aspects Of Intellectual Property Rights:
Will The Uruguay Round Consensus Hold?"**

Duncan Matthews

CSGR Working Paper No. 99/02

June 2002

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COUNCIL

Centre for the Study of Globalisation and Regionalisation (CSGR), University of Warwick, Coventry,
CV4 7AL, United Kingdom. URL: <http://www.csgr.org>

BUSINESS SUPPORT FOR THE TRIPS AGREEMENT

The TRIPs Agreement was made possible by the unprecedented support of business, which not only promoted the agreement but also contributed to its content (Evans 1994: 165). In truth, at the beginning of the GATT Uruguay Round of multilateral trade negotiations in 1986 few people in the Office of the United States Trade Representative (USTR) knew much about intellectual property (a view corroborated by Ryan 1998: 1). Instead, it was intense lobbying activity from industry, particularly in the US (Sell 1998: 137), that laid the foundations of linking intellectual property protection to trade in the multilateral context. As James R. Enyart, Director of International Affairs at Monsanto, put it: 'the rules of international commerce are far too important to leave up to government bureaucrats and their academic advisers. But governments, not businessmen, make rules and they only listen when the chorus gets big enough and the singing loud enough' (Enyart 1990: 53). So it was that patent and copyright business groups drove trade-related intellectual property policy in the 1980s and 1990s, although the diplomacy was conducted on their behalf by the USTR (Ryan 1998: 8). Pharmaceutical companies and copyright industries were amongst the most active of these groups because these sectors had relatively low entry barriers and consequently high exposure to piracy. High-level executives from activist companies representing these two industry groups - Ed Pratt, CEO of Pfizer and John Opel, CEO of IBM - were members of the US President's Advisory Committee on Trade Policy and Negotiations (ACTPN). The ACTPN was designed to provide direct input by the US business sector into US trade policy (Drahos 1995: 8).

THE IPC AND IIPA

The ACTPN was not only crucial to the development of a business strategy for international intellectual property protection on its own account. It was also significant because it served to focus attention on the fact that developing a new international code on intellectual property required the support of a nucleus of committed US companies with sufficient international business at stake to be willing to spend time and effort on the issue (Enyart 1990: 54). But while John Opel of IBM and Ed Pratt of Pfizer wanted to raise intellectual property as a trade issue through the work of the ACTPN, they did not immediately know how to articulate those concerns. It was here that the emergence of single-issue business groups proved so important in the history of the TRIPs Agreement.¹

By the mid-1980s, US business was engaging in a strategic reorganisation of the way it articulated its complaints about piracy and counterfeiting abroad. In addition to organising themselves through the traditional route of sector-specific interest group representation, a further sphere of influence was sought through the formation of representative groups that represented a number of industries, bound together by the common goal of seeking to strengthen intellectual property protection in foreign markets. In effect, this new breed of representative group was an amalgamation of previously disparate industry groups. The most prominent of these were the Intellectual Property Committee (IPC), representing patent-reliant industries in particular in the United States and the proprietary pharmaceutical industry in particular, and the International Intellectual Property Alliance (IIPA), representing the main copyright-reliant industries, including those operating in the film, music and publishing sectors.

The IPC grew out of the ACTPN (Braithwaite and Drahos 2000: 71) in the sense that it was Pratt and Opel, ACTPN members, who conceived the idea of an Intellectual Property Committee with a membership of Chief Executive Officers (CEOs) and funded directly from their companies (see also Enyart 1990: 54; Sell 1998: 137). The IPC comprised thirteen founding members: Pfizer; IBM; Merck; General Electric; DuPont; Warner Communications; Hewlett-Packard; Bristol-Meyers; FMC Corporation; General Motors; Johnson and Johnson; Monsanto; and Rockwell International. For the US film and pharmaceutical industries in particular, intellectual property was the backbone of their industries (Braithwaite and Drahos, 2000: 61). The IPC, run by Jacques Gorlin (a former Washington policy maker, consulting economist to IBM and later head of the Gorlin Group which continues to provide the secretariat for the IPC to this day), was (according to Ryan 1998: 9) well managed, well staffed, well funded and effective, with a single issue agenda that allowed it to be more focused, more flexible and responsive than traditional sector-specific trade associations (Enyart 1990: 54).

Unlike the IPC, the IIPA did not initially advocate a multilateral GATT-based approach to copyright protection, but instead favoured bilateral negotiations as the most effective means of strengthening enforcement of copyright protection in developing countries (Ryan 1998: 70). The IIPA, run by Eric Smith (a lawyer and Washington lobbyist), at that time represented the interests of eight trade associations: the Association of American Publishers; the Film Marketing Association; the Association of Data Processing Service Organisations;

the Computer and Business Equipment Manufacturers Association; the International Anti-Counterfeiting Coalition; the Motion Picture Association of America; the National Music Publishers' Association; and the Recording Industry Association of America.² These trade associations, in turn, represented over 1,350 individual companies. The IIPA adopted a strategy of educating US policy makers who, they believed, knew a great deal about trade in real property goods but little about trade in intellectual property (Ryan 1998: 70).

With the objective of conveying to US policy makers the scale of losses to US industry resulting from piracy of copyrighted works, in 1985 the IIPA submitted a report entitled 'Piracy of US Copyrighted Works in Ten Selected Countries' to the ITC complaining about the detrimental effect of copyright piracy in Brazil, Egypt, Indonesia, Malaysia, Nigeria, the Philippines, the Republic of Korea, Singapore, Thailand and Taiwan (IIPA, 1985; see also Stewart 1993: 2254; Sell 1995: 164; Blakeney 1995: 78, 1996: 545; Ryan 1998: 71). In its report to the ITC, the IIPA estimated that the industries it represented collectively lost nearly \$1.5 billion annually as a result of inadequate copyright protection in the ten countries. Using figures supplied by the industry associations in the US, the IIPA estimated that the music industry alone lost over \$600 million per year, that the publishing industry lost over \$400 million per year, while the movie industry lost over \$130 million per year and the software industry over \$125 million (see also Stewart 1993: 2254). The IIPA called on the US government to establish an international trading environment in which intellectual property was respected and protected. By the mid-1980s, business pressure had brought intellectual property onto the political agenda and raised the profile of arguments that the government could best assist business by linking defence of their intellectual property rights to trade. Given the unsuccessful attempts to strengthen international conventions on intellectual property protection, the US initially sought this linkage through domestic trade law and bilateral trade agreements (Stewart 1993: 2255).

But before the GATT strategy could be set in motion, US policy makers faced a problem. Although copyright-dependent industries had also raised the profile of intellectual property as a trade issue, this time by forming the IIPA to identify quantifiable indicators and present statistical evidence (Ryan 1998: 10, 69) to clearly send the message to policy makers that US copyright industries were losing out to piracy abroad, some copyright-based industries still adamantly opposed the idea of including copyright protection in GATT negotiations (Ryan 1998: 106). Since the problem for copyright-based industries was not with substantive

provisions of national laws, but rather with lack of enforcement, the music, film and book publishing industries expressed a preference for bilateral trade negotiations and sanctions under Section 301 as the most flexible and effective means of improving enforcement levels (Ryan 1998: 107). Over a series of meetings with representatives with copyright-based industries, the USTR policy makers put the case for a multilateral negotiating strategy at the GATT, arguing the long-term benefits of a TRIPs Agreement. The advantages of such a move were two-fold: first, the inclusion of intellectual property within a multilateral trade agreement would give protection of those rights wide international coverage; and, second, the enforcement mechanisms of any such multilateral agreement would also be available for dealing with infringement of intellectual property rights (see also Braithwaite and Drahos, 2000: 61). Reluctantly, the copyright-dependent industries agreed to support a multilateral negotiating strategy (Ryan 1998: 107) although, crucially, this was to be along side rather than a replacement for the proven route of bilateral Section 301 action.

The next task was to get intellectual property onto the Uruguay Round GATT negotiating agenda. Government largely left this task to industry and their issue-specific groups, particularly the IPC. In September 1985 Jacques Gorlin wrote, in response to a request from the USTR, a review of the major issues involved in placing intellectual property into the next round of the GATT (see also Drahos 1995: 13). Gorlin's paper set out a possible model for a GATT code on intellectual property and outlined the problems that would need to be overcome if such a code were ever to be adopted (Drahos 1995: 12).

Since US business, represented by Pratt and Opel on the ACTPN, knew that any multilateral initiative would require the support of other developed countries (Braithwaite and Drahos 2000: 71), the first task for the IPC was to form alliances with business groups in Europe, initially through the Confederation of British Industries (CBI) in the UK, the Federation of German Industries (the BDI) in Germany and the Patronat in France. Through these national groups, the IPC then met with the Union of Industrial and Employers' Confederation of Europe (UNICE), which represented 33 national business federations at a European level. The IPC and UNICE then met with officials of the Japanese Federation of Economic Organisations (Keidanren), which represents virtually all business sectors and has good relations with the powerful Japanese Ministry of International Trade and Industry (MITI), with a view to gather international business support for pursuing a multilateral agreement on intellectual property protection and trade.³ Adopting a similar strategy to their US

counterparts, UNICE and Keidanren were then able to use their contacts with policy makers in the European Communities and Japan to exert pressure aimed at building support for a multilateral agreement on intellectual property protection. This trilateral group of US, European and Japanese business interests was to prove crucial in distilling the fundamental principles of intellectual property contained in a practical code, written in the language of business (Enyart 1990: 55) that was to be so significant when submitted to the delegates to the GATT negotiations during the Uruguay Round. Without the support of European and Japanese business, the proposal for a TRIPs Agreement would never have been included in the Ministerial Declaration at Punta del Este that set the agenda for the Uruguay Round (see also Braithwaite and Drahos 2000: 87).

Despite claims by some scholars in the United States (see, for instance, Ryan 1998: 107) that European and Japanese trade associations were reluctant to support the initiative and that neither they nor their governments were as committed to supporting the initiative as were some groups in the United States, in reality this was far from the case. European accounts of the actual discussions that took place between the IPC, UNICE and Keidanren paint a rather different picture. According to business representatives in Europe who recall the formulation of joint US, European and Japanese proposals, the three industry groups worked well together, not least because strong business interests in Europe were to be found in the pharmaceutical and book publishing sectors, while in Japan intellectual property protection for consumer electronics and software was crucial, all groups with a powerful interest in improving international intellectual property protection.

The differences that arose between positions of the IPC, UNICE and Keidanren were much more to do with the culture of lobbying and engaging with government on intellectual property matters. In Japan, the Keidanren shared the concerns of the IPC in relation to the growing problem of infringement of intellectual property rights but had no experience of taking issue with MITI on this type of issue. Similarly, the US model of lobbying for improvements in intellectual property protection was very different from the tradition of influencing public policy in the European Communities. While in the United States industry tends to have a relatively open and direct dialogue with government, in the EC there has been a greater tendency for business to make its views known via representative groups. The result is that, once the views of national industry associations have been articulated by UNICE, there is a likelihood that the case presented to policy makers may lack coherence and

represent only a consensus view of the various national interests. As European Commission attempts to take into account the views of a far greater variety of national, industry and consumer interests in the EC face a much tougher task in influencing policy makers than do their counterparts dealing with the United States administration. But far from being reluctant to engage with their governments in support of an international agreement on intellectual property protection, during the early stages of formulating a coherent proposal for the TRIPs Agreement, the fact was that European and Japanese business interests simply behaved differently, though not necessarily with less enthusiasm, than their counterparts in the US business community.

Such is the under-representation of the role played by European business in accounts of the origins of the TRIPs Agreement emanating from the United States that, despite widespread acknowledgement that the initial drafting of the joint proposals was undertaken by Jacques Gorlin on behalf of the IPC and representing US business interests, the fact that John Beton, Chairman of the UNICE Intellectual Property Working Group, later re-wrote up to half of the original text on behalf of European business interests by the time a joint IPC, UNICE and Keidanren statement of views was ready for publication in 1988⁴ has been completely unrecognised.

In June 1988, nearly three years after Jacques Gorlin had drafted the initial paper on intellectual property at the GATT for IBM, the IPC, UNICE and Keidanren issued a joint statement of views on the 'Basic Framework of GATT Provisions on Intellectual Property' as a 'manifesto' (Draho 1995: 14) that, it was hoped, would form the basis of a GATT intellectual property code. The Basic Framework (which later became generally known as the 'White Book' proposals) was presented to the GATT Secretariat as representing the coordinated views of the US, European and Japanese business communities. A consensus amongst business groups in developed countries had been achieved with relative ease. The Group of Ten developing countries, namely Argentina, Brazil, Cuba, Egypt, India, Nicaragua, Nigeria, Peru, Tanzania and Yugoslavia, meanwhile denounced the Basic Framework in general and its patent provisions in particular. India argued that developing countries should be free to exclude pharmaceutical products, food and chemicals from patent protection, shorten patent life for other sectors, and licence foreign patents under preferential terms (Ryan 1998: 110). India argued that a patent conferred in the host country was an obligation to undertake local working, with the use of compulsory licensing being recognised as a

legitimate policy tool to prevent foreign companies from abusing their exclusive rights by relying on imports of patented goods. Despite these protestations, the demands of industry representatives made in the White Book proposals were clearly reflected in the final TRIPs Agreement (see Sell 1998: 138). The IPC claimed to have played a key advisory role, at the USTR's request, in developing the official US proposal on intellectual property that the US government tabled before the TRIPs Working groups in October 1987 (Weissman 1996: 1084).

While the ACTPN (and Ed Pratt, CEO of Pfizer, and John Opel, CEO of IBM, in particular) were working with Jacques Gorlin and the IPC to produce the legal ideas that underpinned the strategy of linking trade to intellectual property in the multilateral setting of GATT, Eric Smith and the IIPA continued to develop links between intellectual property and trade in the bilateral context (Braithwaite and Drahos 2000: 304). But despite complaints in 1986 from the USTR that other Quad members (the European Communities, Japan and Canada) were yet to be convinced about the need to include intellectual property in the Uruguay Round (Braithwaite and Drahos 2000: 204), that may have been the case with governments in the European Communities and Japan but it was certainly not the case with intellectual property-reliant industries in those countries. The pharmaceutical, publishing and drinks industries in Europe, together with the software and computer games sectors in Japan, were all well advanced and articulate in expressing their views on the need for inclusion of intellectual property protection in the Uruguay Round. The IPC initiative proved so successful precisely because it duplicated views that were already prevalent about piracy and counterfeiting amongst key European and Japanese business sectors. In effect, the most important factor in the IPC's approach to European and Japanese business groups was above all the act of presenting exactly what global business wanted (in the 1988 Framework Document on Intellectual Property) at the right time to articulate the anxieties of global business interests.

GLOBAL CORPORATE ACTORS AND IMPLEMENTATION OF THE TRIPs AGREEMENT

For WTO Members, having recourse to the Dispute Settlement Procedure as a means to ensure effective implementation of the TRIPs Agreement has considerable benefits. However, from the perspective of business, the Dispute Settlement Procedures have the drawback that if a company or individual is aggrieved because of a failure to enforce the

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TRIPs Agreement in a particular foreign market, that company does not have *locus standi*, namely a right to bring an action before the WTO. While it is corporate intellectual property rights that are likely to be infringed if inadequate national intellectual property arrangements are in place, disputes are 'mediated' at the WTO through 'the agency of inter-governmental diplomacy' (May 2000: 72). Crucially, to have their complaints heard before the WTO, corporate actors face the constraint that they must petition their own national governments, as Members of the WTO, to bring an action through the Dispute Settlement Procedure on their behalf (see also Bello 1997: 357; Grubb 1999: 39; Macdonald-Brown and Ferera 1998: 70).

In the United States, the relationship between business and government is symbiotic: the absence of any private right of corporate actors to be heard as parties in complaints raised under the WTO Dispute Settlement Procedure ensures that business interests rely on government sponsorship of their cause while, conversely, corporate actors play a key role in providing information and advice on implementation and enforcement of the TRIPs Agreement in the territories of other WTO Members to an under-resourced and over-stretched USTR. Companies with global interests continually feed information to organisations such as the IIPA, IPC about intellectual property infringements in foreign markets (see also Braithwaite and Drahos 2000: 87) which in turn present recommendations to the USTR. The USTR then undertakes an inter-agency review of the issues (see also Bello 1997: 357). Complaints raised by business interests are then articulated by the USTR through the Special 301 process, TRIPs Council scrutiny procedures and through the WTO Dispute Settlement Procedure. The role of corporate actors and their representative business groups in monitoring implementation of TRIPs provisions – and alerting the USTR as to the need to consider both Special 301 measures and complaints under the WTO Dispute Settlement Procedure against recalcitrant states – is therefore crucial to the whole implementation process.⁵

In the wake of their role in the formulation of the TRIPs Agreement, it is the single-issue groups representing corporate intellectual property interests, particularly the IPC and the IIPA, that have now re-invented themselves as guardians of TRIPs implementation. Despite the decision of some companies not to remain members of the IPC once the core objectives of securing the TRIPs Agreement had been achieved on the basis that this no longer represents good value for money,⁶ the redefinition of the roles played by the single-issue groups has proved generally successful in maintaining the momentum of membership involvement and

the USTR still values the work of these single-issue interest groups.⁷ In addition to the IPC and IIPA, which provide representation for the US patent and copyright industries respectively, the International Trademark Association (INTA) operates a 'TRIPs 2000 Subcommittee'. The INTA Subcommittee has, for example, produced a detailed assessment of the level of compliance with the TRIPs Agreement in over 60 countries (International Trademark Association 1999), finding that enforcement remains problematic in many developing countries

It is through their networks of local branches, agents and representatives worldwide that business interests represented by organisations such as the IPC, IIPA and INTA provide the USTR with a detailed accurate picture of intellectual property standards in their respective markets. Copyright-reliant industries such as the phonographic and video movie industries represented by the IIPA, where the cost of reproducing high quality pirated copies is relatively low, have been particularly 'aggressive' (Ryan 1998: 155) in enforcing their intellectual property rights through global networks of surveillance, public awareness campaigns and pressure exerted on the governments of recalcitrant WTO Members and via complaints to the USTR, with the associated threat of Special 301 actions.

Furthermore, once WTO Member countries have put in place the required measures to ensure effective enforcement, the 'unstated inference' (Reichman 1996: 369) is that private domestic enforcement actions, brought by rights holders under domestic law, will augment the top-down role of the TRIPs Council and reduce the need for Dispute Settlement actions. Civil litigation brought by businesses operating in local markets has the potential to assist in ensuring effective enforcement of intellectual property protection. Yet doubts remain as to whether this system will work effectively in practice given that, in the majority of countries, intellectual property actions are dealt with by non-specialist district courts that are often alleged to be unsympathetic to foreign owners of intellectual property rights (see Waters 1996: 767).

Global corporate actors, particularly proprietary pharmaceutical manufacturers, also operate an effective network of global surveillance through on-going relationships with local firms of patent attorneys. It is these local agents who are well placed to provide multinational companies with information about changes to domestic law. However, the value of this information resource should not be overstated. Information provided by local agents is of

variable quality and it is often the case that the patent attorneys who are best placed to know about changes to domestic intellectual property law are those attached to large legal firms that conduct general litigation work as opposed to those which concentrate simply upon patent application procedures locally.

Global surveillance of copyright infringement suffered by US owners is coordinated by the IIPA, which submits a detailed annual report on copyright infringement and piracy worldwide to the USTR by way of background information and recommendations prior to the USTR's decisions on initiating the Special 301 procedure or complaints to the WTO Dispute Settlement Body. As it did in the pre-TRIPs international legal landscape, the IIPA continues to highlight piracy losses on both a regional and global basis, emphasising industry variations and the economic impact of losses (see, for example, International Intellectual Property Alliance 1998 and Smith 1996: 559). The IIPA is assisted in the preparation of its reports by a network of US trade associations whose member companies, operating through branches, subsidiaries and agents in local markets, are the actors best placed to provide an accurate (if unverified) account of local trading conditions and intellectual property infringements. The motion picture, music, book and software industries are particularly active in this respect (see also Ryan 1998: 71). The IIPA collates information it receives from its member trade associations and undertakes lobbying activities on their behalf with the aid of estimates of losses to US industry abroad. In 1998 the IIPA estimated that losses to the US economy in the previous year as a result of copyright infringement amounted to almost \$10.8 billion,⁸ of which the motion picture industry estimated losses of \$1,584 million; the sound recordings and music industry \$1,321.8 million; computer programs and business applications \$3,964.4 million; games and entertainment software \$3,249.2 million; and book publishing \$664.1 million.⁹

A similar report is prepared annually by the Pharmaceutical Research and Manufacturers of America (PhRMA), which each year produces a country-by-country assessment for the USTR detailing intellectual property infringement abroad likely to lead to losses to the US proprietary pharmaceutical industry.¹⁰ In 1998, for example, the PhRMA estimated that annual losses in Argentina and India due to the absence of patent protection for pharmaceutical products amounted to approximately \$500 million in each country.¹¹

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On receipt of complaints relating to intellectual property infringement, the role that the USTR engages in to manage its relations with corporate actors is very much that of an institutional 'gatekeeper' (Bello 1997: 359). As in the case of the European Communities, US policy makers are often constrained by wider issues of political diplomacy when considering whether to act on complaints by private business interests regarding TRIPs Agreement implementation problems. Judith Bello, for instance, (who served as General Counsel and Deputy General Counsel at the USTR between 1985 and 1989) has acknowledged that security issues and foreign policy matters may well influence the United States administration's decision on whether or not to bring a complaint against another WTO Member under the Dispute Settlement Procedure (Bello 1997: 357). The significance of international politics in determining whether or not WTO Members will be the subject of US complaints under the Dispute Settlement Procedure was corroborated during the research for this paper.

US business representatives complained that US policy towards developing countries on compliance with the TRIPs Agreement is 'blunted' by the fact that the USTR is not the only agency in the US administration with an interest in, for example, South America and South Africa. The USTR has been slow to take action against Argentina¹² for inadequate patent protection of pharmaceutical products and against South Africa for measures allowing parallel imports. This reluctance to act on the part of the USTR has been attributed to the wider diplomatic significance of a US strategic ally in South American (in the case of Argentina) and the rebuilding of political institutions in South Africa following the ending of apartheid. Turkey is also described as being 'untouchable' by US business interests because its value as a member of NATO far outweighs the inadequacy of measures taken to achieve effective intellectual property protection.

Within the federal government administration, the formal mechanism for coordinating intellectual policy is a Sub-Committee of the Trade Policy Staff Committee (TPSC). This is chaired by the Director of Intellectual Property at the USTR and comprises representatives of the Treasury, Commerce, State and Labor Departments. In theory, tensions between competing departmental interests in relation to intellectual property protection are dealt with by the TPSC, the Trade Policy Review Group (TPRG), chaired by the Deputy USTR, or by the National Economic Council. However, the frustration of US business representatives is that, in practice, the USTR is perceived to be a relatively weak institutional actor in

comparison with the State Department and the Defense Department, lacking the political constituency to limit the intervention of other parts of the administration on trade issues. The overall result of this complex web of security issues, diplomatic imperatives and inter-departmental priorities is that the decision not to act on the basis of complaints from business relating to infringement of intellectual property rights will, on occasion, win out over US corporate interests.

If the US administration does agree to bring a case before the WTO Dispute Settlement Procedure, corporate interests and the USTR-led inter-agency government team (Bello 1997: 357) then co-operate closely in drafting the request for consultations with the WTO Member in question and, if those informal consultations do not adequately rectify the problem, in the formulation of the complaint made by the US delegation to the WTO at meetings of the Dispute Settlement Body. In practice, although the USTR will take the lead in representing the United States before a panel in the WTO Dispute Settlement Procedure, it will do so only after closely consulting with corporate interests at home, who in turn have generated the original complaint and are well placed to provide technical expertise and specialist knowledge throughout the course of a the WTO Dispute Settlement Panel's deliberations (see also Bello 1997: 361).

Although few disputes have so far been initiated in relation to the TRIPs Agreement, with only four panels so far concluding their deliberations in instances of complaints relating to non-compliance with TRIPs Agreement obligations, the significance of the dispute settlement mechanism as a means of ensuring that Members provide effective enforcement is already clear. It offers a far more effective mechanism than that available under the previous GATT 1947 provisions (see Gutowski 1999: 743).

SIGNS OF FRAGMENTATION OF THE GLOBAL CORPORATE CONSENSUS

Despite a trend for global corporate actors seeking to overcome institutional and political constraints by forming strategic alliances and engaging in a dual strategy of US and EC complaints, or even forum-shifting from the US to EC in relation to patent protection for pharmaceutical products, in the copyright sector, complaints raised by US companies in relation to standards of intellectual property protection in the EC have marked a move away from the dual strategy of global corporate actors utilising both US and EC routes to influence

EXHIBIT RR

Baidu and Alibaba-Taobao presence on Acorn International Board; subsequent removal from watchlist. Compare with Exhibits OO, PP, and QQ.

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The Following Information was taken from Acorn International's 2012 20-F filing with the Securities and Exchange Committee on pp 85-88.
<http://www.sec.gov/Archives/edgar/data/1365742/000119312513160232/d449436d20f.htm>.

This information shows Peng Lu is currently the President of the Company and that Jing Wang is an independent director on the board.

20-F | d449436d20f.htm FORM 20-F

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
 WASHINGTON, D.C. 20549

FORM 20-F

(Mark One)

... REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR (g) OF THE SECURITIES EXCHANGE ACT OF 1934

OR

x ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended December 31, 2012

OR

... TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

OR

... SHELL COMPANY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Date of event requiring this shell company report

For the transition period from

to

Commission file number: 001-33429

Acorn International, Inc.

(Exact name of Registrant as specified in its charter)

Not applicable

(Translation of Registrant's name into English)

Cayman Islands

(Jurisdiction of incorporation or organization)

18/F, 20th Building, 487 Tianlin Road, Shanghai 200233

(Address of principal executive offices)

Securities registered or to be registered pursuant to Section 12(b) of the Act.

Title of each class
 American Depositary Shares, each representing three
 ordinary shares, par value \$0.01 per share

Name of each exchange on which registered
 New York Stock Exchange

Securities registered or to be registered pursuant to Section 12(g) of the Act.

None

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act.

None

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report: 82,439,960

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

If this report is an annual or transaction report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and

Table of Contents**ITEM 6. DIRECTORS, SENIOR MANAGEMENT AND EMPLOYEES****A. Directors and Senior Management**

The following table sets forth certain information relating to our directors and executive officers as of the date of this annual report. The business address of each of our directors and executive officers is 18/F, 20th Building, 487 Tianlin Road, Shanghai 200233, People's Republic of China.

<u>Name</u>	<u>Age</u>	<u>Position/Title</u>
<u>Robert W. Roche</u>	50	Chairman of the Board of Directors
Don Dongjie Yang	45	Director, Chief Executive Officer
Andrew Y. Yan	55	Director
Gordon Xiaogang Wang	49	Independent Director
Jun Ye	37	Independent Director
<u>Jing Wang</u>	48	Independent Director
William Liang	55	Independent Director
Eric Zhenyu He	53	Independent Director
<u>Peng Lu</u>	57	President
Lifu Chen	50	Senior Vice President
Rong Wang	43	Senior Vice President
Yongqiang Zhu	40	Senior Vice President
Geoffrey Weiji Gao	40	Vice President
Tony Bin Gao	36	Vice President
Marcelo Kexun Zheng	43	Vice President

Mr. Robert W. Roche is a co-founder and the chairman of the board of directors of our company. He also serves as the chairman of Oak Lawn Marketing, a company incorporated in Japan. In addition, Mr. Roche conducts numerous business operations throughout Asia and the United States. President Obama named Mr. Roche to the United States Trade Representative's (USTR) Advisory Committee for Trade Policy and Negotiations. He is also on the President's 100,000 Strong Federal Advisory Committee. Mr. Roche's other civic contributions include serving as prior Chairman of the Board of Governors of the American Chamber of Commerce in Shanghai, member of the American Chamber of Commerce Japan Board of Governors, and a Board Member at the USA Pavilion, Expo 2010 Shanghai. In addition to funding his own foundation, Mr. Roche's philanthropic work includes endowing a chair at Nanzan University in Nagoya, Japan, and establishing a Masters of Laws (LLM) in International Business Transactions program at the University of Denver, Sturm College of Law. Mr. Roche received his bachelor's degree in Economics and Japanese Studies from Illinois State University in 1985 and a J.D. degree from the University of Denver in 1988.

Mr. Don Dongjie Yang is a co-founder and a director of our company, and was reappointed the chief executive officer of our company in 2010. Mr. Yang previously served as our chief executive officer before 1999. Prior to co-founding our company in 1998, Mr. Yang was a partner of J&J Partners from 1996 to 1997. He also acted as general manager of Bei Shang Printing Co., Ltd. from 1993 to 1995. Mr. Yang studied Law at Peking University from 1986 to 1989.

Mr. Andrew Y. Yan is a director of our company. He is also the managing partner of SAIF Partners III & IV, SB Asia Investment Fund II L.P., and president & executive managing director of Softbank Asia Infrastructure Fund. Before joining SAIF in 2001, Mr. Yan was a managing director and the head of the Hong Kong office of Emerging Markets Partnership from 1994 to 2001. From 1989 to 1994, he worked in the World Bank, the Hudson Institute and US Sprint Co. as an Economist, Research Fellow and Director for Asia respectively in Washington, DC. From 1982 to 1984, he was the Chief Engineer at the Jianghuai Airplane Corp. Mr. Yan is a recipient of 2012 China's National "Thousand Talents Program" and a member of its Selection Committee. He is a founding director of China Venture and Private Equity Association, and a director of Peking University Endowment Investment Committee. He was voted by the China Venture Capital Association as "The Venture

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Investor of the Year" in both 2004 and 2007. He was also selected as one of the "Fifty Finest Private Equity Investors in the World" by the Private Equity International in 2007; "No. 1 Venture Capitalist of the Year" by Forbes (China) in 2008 and 2009. He was the "Venture Capital Professional of the Year" by Asia Venture Capital Journal in 2009. Currently, Mr. Yan is also an Independent Non-executive Director of China Petroleum & Chemical Corporation, China Mengniu Dairy Company Limited, China Resources Land Limited, and Fosun International Limited; Non-executive Director of Guodian Technology & Environment Group Corporation Limited, Digital China Holdings Limited, MOBI Development Co., Ltd., eSun Holdings Limited and China Huiyuan Juice Group Limited. He is also an Independent Director of Giant Interactive Group Inc.; and a director of ATA Inc. and Eternal Asia Supply Chain Co. Ltd. (all 12 companies are listed in the Hong Kong Stock Exchange, NYSE, NASDAQ, London Stock Exchange, Shanghai Stock Exchange or Shenzhen Stock Exchange). He also holds directorship in several SAIF portfolio companies. Mr. Yan received a master of art's degree from Princeton University as well as a bachelor's degree in Engineering from the Nanjing Aeronautic Institute in the PRC.

Mr. Gordon Xiaogang Wang is an independent director of our company. He has over 15 years of experience in corporate finance and strategic business development. From April 2010 to present, Mr. Wang has worked as a partner with Boardroom Advisors Co., Limited, focusing on investments and advisories for China based companies on financing and strategic matters. Mr. Wang previously served as chief financial officer of our company from September 2005 to March 2010. Mr. Wang has also been an independent director for LeGaga Holding Limited, an agriculture company listed in Nasdaq since November 2010. Mr. Wang served as chief financial officer and executive vice president in Chaoda Modern Agriculture Limited from 2003 to 2005. Mr. Wang also served as the director of investor relations at Legend Group Limited from 2002 to 2003. Prior to that, Mr. Wang held positions in various organizations, including JingTai Securities (Hong Kong), MeetChina.com, Schroders Asia Limited and Morgan Stanley Asia Limited. Mr. Wang received a bachelor's degree in Mechanical Engineering from Tianjin University in 1985, a master's degree in Computer Aided Engineering from Rutgers University in 1989 and an MBA degree from the University of Chicago in 1994.

Mr. Jun Ye is an independent director of our company. Mr. Ye is the founder and executive director of Yi Star Investment Ltd since 2009, and chairman of Jiangsu Wing Star Investment and Development Co. Ltd from 2004 to 2009. In the past 6 years, his investment companies have been actively participating in the growth capital investment, pre-IPO investment, and reverse merger operation with many successful investments including Ambow Education, Accord Pharma, GCL-Poly Energy, China Energy Development and Inbank Media. Before founding of Wing Star, Mr. Ye was the sales director of Sanum—Kehlbeck Pharmaceutical Co. Ltd from 1999 until 2004, in charge of China mainland sales operation. Prior to that, Mr. Ye worked in Jiangsu Branch of China Construction Bank from 1995 to 1999. Mr. Ye holds a B.A. of Economics from School of Business Nanjing University and an MBA degree from Columbia Business School.

Mr. Jing Wang is an independent director of our company. Mr. Wang currently serves as the vice president of engineering at Baidu Inc., a leading Chinese language internet search provider, where he is responsible for engineering strategies in the areas of infrastructure, mobile and monetization. From 2006 to 2010, Mr. Wang served as site director of Google China in Shanghai where he was a key member of the cross-functional senior management team responsible for setting monetization strategies and priorities in China. Mr. Wang was general manager of eBay China Development Center from July 2004 until August 2006. Mr. Wang holds a master's degree in computer science from the University of Science and Technology of China and a master's degree in computer science from the University of Florida.

Mr. William Liang is an independent director of the board of our company. Holder of an MBA degree from University of Massachusetts, Mr. Liang is a seasoned business executive with over twenty years of financial industry and extensive China experience in business development, management, strategic planning and execution, and corporate governance, having held management and executive positions with multinational companies such as Alcoa, United Technologies and Thomson Reuters. Mr. Liang has also been serving as director of the boards of other companies including J.P. Morgan Futures Co. Ltd.

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Mr. Eric Zhenyu He is an independent director of our company. He is a Chartered Financial Analyst and Certified Public Accountant in the United States, and currently serves as chief financial officer at YY Inc. From March 2007 to August 2011, Mr. He served as chief financial officer of Giant Interactive Group, a China based company listed in New York Stock Exchanges (NYSE:GA). From 2004 to 2007, Mr. He served as chief strategy officer of Ninetowns Internet Technology Group, a China based company listed in NASDAQ (NASDAQ:NINE). Mr. He also served as a director of AIG Global Investment Corporation (Asia) Ltd from 2002 to 2004, the managing director of Softchina Venture Group from 1999 to 2002 and senior vice president of Capital Securities Corporation from 1996 to 1999. Prior to that, Mr. He held positions in various companies in the US. Mr. He received a bachelor's degree in Accounting from National Taipei University in 1983 and an MBA degree from the Wharton School, University of Pennsylvania in 1986.

Mr. Peng Lu joined our company as our president in March 2012. From June 2007 to February 2012, Mr. Lu served as group vice president of Alibaba Group and general manager of Wasu Taobao, Inc., vice president of Strategic BD and vice president of Engineering for Taobao.com. Mr. Lu is also a co-founder and served as the chief executive officer of Entena, Inc. from 2002 to 2006 and senior vice president of product and technology of Tonbu, Inc. from 2000 to 2002. Prior to that, Mr. Lu held the technical and management positions in various companies such as IBM and Oracle in the U.S. and Canada. Mr. Lu received his Ph.D. degree in engineering from McMaster University, Ontario, Canada.

Mr. Lifu Chen is a senior vice president of our company. Mr. Chen has served as our general counsel and corporate secretary since joining the company in 2006. Prior to joining our company, Mr. Chen was a senior attorney from 2004 to 2006 at Lee and Li. Mr. Chen has extensive experience in the Asian marketplace. Before Lee and Li, he served as senior legal counsel at Hon-Hai Precision Industry Co. Limited from 2000 to 2003. Prior to that, Mr. Chen was legal manager at Singapore Telecommunications Limited from 1999 to 2000. From 1995 to 1998, he also worked for Sullivan & Cromwell in both the Hong Kong and Washington, D.C. offices. Mr. Chen received his J.D. degree from Boston University as well as a bachelor's degree in law from National Taiwan University.

Mr. Rong Wang is a senior vice president of our company. Mr. Wang has extensive experience in product development, marketing planning and branding in IT products, consumer electronics and cultural collectables. Mr. Wang joined our company in October 2005. Prior to joining our company, Mr. Wang served in Founder Group (established by Peking University,) Beijing Huizheng Technology and Beijing Changhong IT. Mr. Wang received his bachelor's degree in Wireless Electronics from Peking University.

Mr. Yongqiang Zhu is a senior vice president of our company. Mr. Zhu has extensive experience in call centers and e-commerce management. He has been with our company since 1999 and has great contribution in data utilization and creating sales via all kinds of sales channels. Prior to joining our company, Mr. Zhu served in Meeting China, a branded clothing agent. Mr. Zhu received his bachelor's degree in Accounting and Statistics from Shanxi University of Finance & Economics.

Mr. Geoffrey Weiji Gao is a vice president of our company. Mr. Gao has extensive experience in financial control and planning, cash management, procurement & supplier chain management, process optimization, etc. Mr. Gao joined our company in February 2012. Prior to joining our company, Mr. Gao accumulated 16 years' experience in different MNCs (multi-national company), including Merck China & Hongkong, YUM! China and Societe Generale Shanghai Branch. Mr. Gao received his bachelor's degree in Economy from Shanghai University (International Business Institute).

Mr. Tony Bin Gao is a vice president of our company. Mr. Gao has extensive experience in FMCG (Fast Moving Consumer Goods) industry. He specializes in organization development, human resource management and consumer brand management. Mr. Gao joined our company in November 2011. Prior to joining our company, he accumulated 13 years' experience in different MNC, Swire Coca-Cola, L'Oreal China, Unilever China and GE China Corporate. Mr. Gao received his bachelor's degree from Henan institute of Finance and Economics.

Mr. Marcelo Kexun Zheng is a vice president of our company. Mr. Zheng has solid and extensive experience in marketing field, including product development, brand building, consumer research, customer

Jing Wang Chronology:

Jing Wang joins the board of Acorn International: announcement made April 7, 2012.
Text below.

CONFIDENTIAL

1 of 1 DOCUMENT

PR Newswire

April 7, 2011 Thursday 8:30 AM EST

Acorn International Announces Appointment of New Director

LENGTH: 684 words

DATELINE: SHANGHAI, April 7, 2011

SHANGHAI, April 7, 2011 /PRNewswire-Asia-FirstCall/ -- Acorn International, Inc. (NYSE: ATV) ("Acorn" or the "Company"), a leading integrated multi-platform marketing company in China engaged in developing, promoting and selling consumer products and services through its extensive distribution network, today announced that its board of directors has appointed Mr. Jing Wang as Director of the Company, effective immediately. Mr. Wang was also appointed as a member of the compensation committee. According to the Company's Articles of Association, Mr. Wang will hold office until the Company's next annual general meeting and will be eligible for re-election at such meeting.

"Mr. Wang's extensive experience in China's internet industry is crucial to our business, particularly after our recent repositioning of the Company," commented the Executive Chairman of the board, Mr. Robert Roche. "We welcome Mr. Wang to join the board of the Company and expect to leverage on his expertise to further enhance our business operations," said Mr. Don Yang, Chief Executive Officer and President of the Company.

Mr. Wang currently serves as VP of engineering at Baidu Inc., a leading Chinese language internet search provider, where he is responsible for engineering strategies in the areas of infrastructure, mobile and monetization. From 2006 to 2010, Mr. Wang served as site director of Google China in Shanghai where he was a key member of the cross-functional senior management team responsible for setting monetization strategies and priorities in China. Mr. Wang was general manager of eBay China Development Center from July 2004 until August 2006. Mr. Wang holds a master's degree in computer science from the University of Science and Technology of China and a master's degree in computer science from the University of Florida.

About Acorn International, Inc.

Acorn is a leading integrated multi-platform marketing company in China, operating one of China's largest TV direct sales businesses in terms of revenues and TV air time and a nationwide off-TV distribution network. Acorn's TV direct sales platform consists of airtime purchased from both national and local channels. In addition to marketing and selling through its TV direct sales programs and its off-TV nationwide distribution network, Acorn also offers consumer products and services through catalogs, third-party bank channels, outbound telemarketing center and an e-commerce website. Leveraging its integrated multiple sales and marketing platforms, Acorn has built a proven track record of developing and selling proprietary-branded consumer products, as

well as products and services from established third parties. For more information, please visit <http://www.chinadrtv.com>.

Safe Harbor Statement under the Private Securities Litigation Reform Act of 1995

This press release contains certain "forward-looking statements" within the meaning of federal securities laws. All statements, other than statements of historical facts, included herein are "forward-looking statements" including, among other things the Company's expectation to enhance its business operations after the appointment of the new director. The expectations reflected in these forward-looking statements involve significant assumptions, risks and uncertainties, and these expectations may prove to be incorrect. Investors should not place undue reliance on these forward-looking statements, which speak only as of the date of this press release. The Company's actual results could differ materially from those anticipated in these forward-looking statements. Other than as required under the securities laws, the Company does not assume a duty to update these forward-looking statements.

Contact:

Acorn International, Inc.

Ms. Irene Bian, Financial Controller

Phone: +86-21-51518888 Ext. 2148

Email: irenebian@chinadrtv.com

www.chinadrtv.com

CCG Investor Relations

Ms. Linda Salo, Account Manager

Phone: +1-646-922-0894

Email: linda.salo@ccgir.com

Mr. Crocker Coulson, President

Phone: +1-646-213-1915

Email: crocker.coulson@ccgir.com

www.ccgirasia.com

SOURCE Acorn International, Inc.

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Baidu was removed from the the USTR "Notorious Markets" List in late December.
See

[http://www.pcworld.com/article/246761/baidu removed but taobao stays in us
notorious markets list.html](http://www.pcworld.com/article/246761/baidu_removed_but_taobao_stays_in_us_notorious_markets_list.html). Text below.

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Baidu Removed but Taobao Stays in US "notorious Markets" List

By [Michael Kan \(/author/Michael-Kan/\)](#), IDG News Service

Dec 20, 2011 11:50 PM

A U.S. government office has removed China's largest search engine Baidu from its latest list of the world's "notorious markets", which identifies major offenders for supporting or selling pirated and counterfeit goods.

Chinese e-commerce sites under Alibaba Group, however, figured in the list.

The Office of the U.S. Trade Representative (USTR) [released \(http://www.ustr.gov/about-us/press-office/press-releases/2011/december/ustr-announces-results-special-301-review-notorio\)](#) the list on Tuesday, stating that Baidu was one of several previous offenders that took action to stop the illegal spread of pirated and counterfeit products. Earlier this year, the company entered into [agreements \(http://www.pcworld.com/article/235977/baidu_strikes_deal_to_pay_record_companies_for_music.html\)](#) to start paying U.S. record companies and copyright holders to legally distribute their music.

Although Baidu has maintained it has been in compliance with the relevant Chinese laws, it had previously been criticized for hosting download links to pirated songs via its search engine. After the agreements with the record companies were made, Baidu has been removing download links to unlicensed songs from its MP3 search service.

"We are pleased that the significance of the deal with the major record labels has been recognized," Baidu said.

Alibaba's Taobao Marketplace and Taobao Mall, two of China's largest online retailers, however, continue in the USTR list. The Taobao sites still sell pirated and counterfeit goods, even as the companies have made "significant efforts" to address the problem, according to the report. The USTR had also named Taobao as a notorious market in its [previous report \(http://www.ustr.gov/webfm_send/2595\)](#) issued in February.

In response, Alibaba Group spokesman John Spelich said in an email that the Taobao companies, "stand firmly in favor of protecting customers and sellers, as well as the (intellectual property) rights of brand owners, and providing a positive shopping environment."

He also noted that well-known brands such as Levis, Uniqlo and Proctor & Gamble have partnered with Taobao companies in the past few years. "Businesses of all sizes see the benefit of reaching the broadest number of customers with genuine products and services while at the same time understanding our commitment to fight counterfeiting," he said.

WE RECOMMEND

1 of 2



<http://www.pcworld.com/article/157720>

9/3/13 6:30 PM

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Peng Lu Chronology

Peng Lu became President of Acorn International in March 2012:

See Reuters:

<http://www.reuters.com/finance/stocks/officerProfile?symbol=ATV&officerId=17>

24851. Text below:



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ATV on New York Consolidated

2.06USD

29 Aug 2013

Price Change (% chg)

\$-0.13 (-5.94%)

Prev Close

\$2.19

Open

\$2.06

Day's High

\$2.06

Day's Low

\$2.06

Volume

1,000

Avg. Vol

3,403

52-wk High

\$3.24

52-wk Low

\$1.85

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Lu, Peng

BRIEF BIOGRAPHY

Mr. Peng Lu is President of Acorn International, Inc., since March 2012. From June 2007 to February 2012, Mr. Lu served as group vice president of Alibaba Group and general manager of Wasu Taobao, Inc., vice president of Strategic BD and vice president of Engineering for Taobao.com. Mr. Lu is also a co-founder and served as the chief executive officer of Entena, Inc. from 2002 to 2006 and senior vice president of product and technology of Tonbu, Inc. from 2000 to 2002. Prior to that, Mr. Lu held the technical and management positions in various companies such as IBM and Oracle in the U.S. and Canada. Mr. Lu received his Ph.D. degree in engineering from McMaster University, Ontario, Canada.

BASIC COMPENSATION

Total Annual Compensation, Long-Term Incentive Plans, All Other, Fiscal Year Total,

BASIC COMPENSATION

Name Fiscal Year Total

Robert Roche

Peng Lu

Dongjie Yang

Yongqiang Zhu

Lifu Chen

Bin Gao

As Of

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OPTIONS COMPENSATION

Quantity

Market Value

Exercisable

Unexercisable

Exercised

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In December 2012 Taobao was likewise removed from the USTR Notorious Markets List. See Reuters: <http://www.reuters.com/article/2012/12/13/net-us-usa-trade-piracy-idUSBRE8BC1IG20121213>. Partial text is below:

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U.S. drops China's Taobao website from "notorious" list

Thu, Dec 13 2012

By Doug Palmer

WASHINGTON (Reuters) - The United States on Thursday dropped a website owned by China's largest e-commerce company, Alibaba Group, from its annual list of the world's most "notorious markets" for sales of pirated and counterfeit goods.

Taobao Marketplace, an online shopping site similar to eBay and Amazon that brings together buyers and sellers, "has been removed from the 2012 List because it has undertaken notable efforts over the past year to work with rightholders directly or through their industry associations to clean up its site," the U.S. Trade Representative's office said in the report.

The move came just before an annual high-level U.S.-China trade meeting next week in Washington.

Taobao Marketplace is China's largest consumer-oriented e-commerce platform, with estimated market share of more than 70 percent. The website has nearly 500 million registered users, with more than 800 million product listings at any given time. Most of the users are in China, Hong Kong, Taiwan and Macao.

The U.S. Chamber of Commerce has called Taobao "one of the single largest online sources of counterfeits."

The Chinese Commerce Ministry strongly objected to Taobao's inclusion on the USTR's 2011 notorious markets list. A ministry spokesman said it did not appear to be based on any "conclusive evidence or detailed analysis."

Alibaba hired former USTR General Counsel James Mendenhall to help persuade USTR to remove Taobao from its list.

The Chinese company's bid to shed its "notorious" label won support from the Motion Picture Association of America, a former critic of Taobao, which praised its effort to reduce the availability of counterfeit goods on its website.

But U.S. software, clothing and shoe manufacturers urged USTR to keep Taobao on the list.

To stay off in the future, USTR urged "Taobao to further streamline procedures ... for taking down listings of counterfeit and pirated goods and to continue its efforts to work with and achieve a satisfactory outcome with U.S. rights holders and industry associations."

USTR said it also removed Chinese website Sogou from the notorious markets list, based on reports that it has made "notable efforts to work with rights holders to address the availability of infringing content on its site."

U.S. concerns about widespread piracy and counterfeiting of American goods in China are expected to be high on the agenda at next week's meeting in Washington of the U.S.-China Joint Commission on Commerce and Trade.

The 2012 notorious markets list includes Xunlei, which USTR described as a Chinese-based site that facilitates the downloading and distribution of pirated movies.

Baixe de Tudo, a website hosted in Sweden but targeted at the Brazilian market, was also put on the list along with the Chinese website Gougou.

Warez-bb, which USTR described as a hub for pre-release music, software and video games, was also included. The forum site is registered in Sweden but hosted by a Russian Internet service provider, USTR said.

The full report can be found on USTR's website at: [here%20Notorious%20Markets%20List.pdf](http://ustr.gov/Trade%20Policy/Notorious%20Markets%20List.pdf)

(Reporting by Doug Palmer; Editing by Will Dunham, Dan Grebler and Jim Marshall)

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