

# **EXHIBIT 1**

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1 IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
2 MARSHALL DIVISION

3  
4 PERFORMANCE PRICING, INC.,  
5 Plaintiff,

6 vs. No. 2:07-CV-432(LED)

7 GOOGLE, INC., AOL LLC,  
MICROSOFT CORPORATION,  
8 YAHOO! INC., IAC SEARCH  
& MEDIA, INC., and A9.COM,  
9 INC.,  
10 Defendants.

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15 DEPOSITION OF NEAL M. COHEN

16 Irvine, California

17 Wednesday, February 11, 2009

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19

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21 Reported by:

DENISE BARDSLEY

22 CSR No. 11241

23 JOB No. 105088

24

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1 Q Let me just ask you globally, and if you need  
2 me to ask more specifically, for any of the entries in  
3 your privilege log, if I was to ask you whether there  
4 were any specific targets of litigation -- of  
5 anticipated litigation, would you be able to identify  
6 any for any of these documents?

7 A Not without reading them all and -- no, I  
8 don't know that there were any.

9 Q Can you think of any litigation targets that  
10 Mr. Lin ever had?

11 MS. CHO: Objection; form.

12 THE WITNESS: I can state the obvious. There  
13 is a lawsuit going on right now, but --

14 BY MR. PERLSON:

15 Q Do you understand that Mr. Lin is prosecuting  
16 that lawsuit?

17 A I don't understand that, actually.

18 Q Okay. So my question is: Do you have  
19 knowledge of any specific litigation -- let me back up  
20 here.

21 Do you have knowledge of any specific target  
22 of anticipated litigation by PricePlay?

23 A For example, if PricePlay said, "I'm going to  
24 go sue Google"?

25 Q Right.

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1 A At some point I did, yes.

2 Q When did you first have that knowledge?

3 A I'm wondering if that's relevant information.  
4 I'm thinking that through my head right now.

5 I believe that would be privileged  
6 information.

7 Q So you're saying --

8 A I believe the only way I would know about it  
9 is communication with the client.

10 Q So you're refusing to answer that question?

11 A Yes, on the basis of that privilege.

12 (Refusal to answer.)

13 BY MR. PERLSON:

14 Q Let me ask you this. Before the '253 patent  
15 issued in December of '05 --

16 A Okay.

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17 Q -- were you aware of any specific targets of  
18 any anticipated litigation involving PricePlay or  
19 Mr. Lin?

20 A I believe that the answer is privileged,  
21 again.

22 Q So you're refusing to answer that question?

23 A Based on the privilege, yes, because the only  
24 way I would know that is from my client.

25 (Refusal to answer.)

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1 I, the undersigned, a Certified Shorthand  
2 Reporter of the State of California, do hereby  
3 certify:  
4 That the foregoing proceedings were taken  
5 before me at the time and place herein set forth; that  
6 any witnesses in the foregoing proceedings, prior to  
7 testifying, were duly sworn; that a record of the  
8 proceedings was made by me using machine shorthand  
9 which was thereafter transcribed under my direction;  
10 that the foregoing transcript is a true record of the  
11 testimony given.  
12 Further, that if the foregoing pertains to  
13 the original transcript of a deposition in a Federal  
14 Case, before completion of the proceedings, review of  
15 the transcript [ x ] was [ ] was not required.  
16 I further certify I am neither financially  
17 interested in the action nor a relative or employee of  
18 any attorney or party to this action.  
19 IN WITNESS WHEREOF, I have this date . . .  
20 subscribed my name.

21

22 Dated: \_\_\_\_\_

23

24 \_\_\_\_\_  
DENISE BARDSLEY  
CSR No. 11241

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