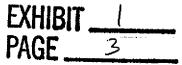
EXHIBIT 1

Page 1 **1 IN THE UNITED STATES DISTRICT COURT** FOR THE EASTERN DISTRICT OF TEXAS **2 MARSHALL DIVISION** 3 4 PERFORMANCE PRICING, INC., 5 Plaintiff, 6 No. 2:07-CV-432(LED) vs. 7 GOOGLE, INC., AOL LLC, MICROSOFT CORPORATION, 8 YAHOO! INC., IAC SEARCH & MEDIA, INC., and A9.COM, 9 INC., 10 Defendants. 11 12 13 14 15 **DEPOSITION OF NEAL M. COHEN** 16 Irvine, California Wednesday, February 11, 2009 17 18 19 20 21 Reported by: DENISE BARDSLEY 22 CSR No. 11241 23 JOB No. 105088 24 25

1.6



Page 196

N 1

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, [

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 up20 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.

Page 197

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 it9 is communication with the client.

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

11 A Yes, on the basis of that privilege.

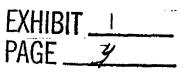
12 (Refusal to answer.)

13 BY MR. PERLSON:

14 Q Let me ask you this. Before the '253 patent

15 issued in December of '05 --

16 A Okay.



17 Q -- were you aware of any specific targets of18 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.)

EXHIBIT __ PAGE _____

· ---- -

Page 238

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

÷

EXHIBIT ____ PAGE _____

.. ..

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

25