

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

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I/P ENGINE, INC.,)	
)	
	Plaintiff,)	
	v.)	Civ. Action No. 2:11-cv-512
)	
AOL, INC. et al.,)	
)	
	Defendants.)	
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DECLARATION OF DR. STEPHEN L. BECKER, PH.D.

I, Dr. Stephen L. Becker, Ph.D., declare as follows:

1. I have been retained by I/P Engine, Inc. in the above-captioned case. I testified at trial in this case, and have been asked to render an opinion on the appropriate ongoing royalty rate.

2. It is my opinion that the appropriate ongoing royalty rate should be 5%, applied to an apportioned base of 20.9% of Google’s U.S. AdWords revenues (as ordered by this Court).

3. I have updated the Georgia-Pacific analysis I presented at trial. Based on this updated analysis, the following four changed circumstances justify an upward adjustment of the jury’s determined 3.5% royalty rate to an ongoing royalty rate of 5%.

4. First, the parties’ changed legal status. Because the 2012 hypothetical negotiation would occur after the jury determined Defendants infringed the patents-in-suit and that those patents were not invalid, I/P Engine’s bargaining position is stronger.

5. Second, the negotiating parties are different. In 2012, I/P Engine owned the patents-in-suit and, unlike Lycos, enforces and licenses its patents. I/P Engine is also financially sound giving it a much stronger bargaining position. This supports an upward adjustment.

6. Third, the negotiation date is different. In 2012, unlike in 2004, AdWords' revenue impact was not an expectation; it was known and well documented. See PX-228; PX-32; PX-34; PX-337; PX-64, slide 38. That impact was actually significant and considered "mission critical," which warrants an upward adjustment to the jury's determined rate.

7. And fourth, the applicable comparable rates are different. At trial, I presented "discounted" rates from the Overture license agreements because a business relationship existed between Lycos and Google during the 2004 hypothetical negotiation. No such business relationship would exist in a 2012 hypothetical negotiation between I/P Engine and Google. So the applicable comparable rates in 2012 would be [REDACTED]. This too supports an upward adjustment to the rate.

8. My analysis and opinions are set forth in more detail in my expert report regarding ongoing royalties, dated September 25, 2013, hereby incorporated in its entirety.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Dated: October 30, 2013

By: /s/ Dr. Stephen L. Becker
Dr. Stephen L. Becker, Ph.D.