

EXHIBIT U

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

I/P ENGINE, INC.

Plaintiff,

v.

AOL, INC., *et al.*,

Defendants.

Civil Action No. 2:11-cv-512

**DEFENDANT TARGET CORPORATION'S OBJECTIONS AND RESPONSES TO
PLAINTIFF I/P ENGINE, INC.'S FIRST DAMAGES RULE 30(b)(6) NOTICE OF
DEPOSITION**

Pursuant to Federal Rules of Civil Procedure 26 and 30, Defendant Target Corporation ("Target") hereby objects and responds in writing to Plaintiff's First Liability Rule 30(b)(6) Notice of Deposition of Target.

GENERAL OBJECTIONS

Target makes the following general objections to each and every definition, instruction, and interrogatory made in Plaintiff I/P Engine, Inc.'s ("I/P Engine") First Liability Rule 30(b)(6) Notice of Deposition of Target, dated April 2, 2012. Each of these objections is incorporated into the Specific Objections set forth below, whether or not separately set forth therein. By responding to any of the topics or failing to specifically refer to or specify any particular General Objection in response to a particular topic, Target does not waive any of these

General Objections, nor admit or concede the appropriateness of any purported topic or any assumptions contained therein.

1. Target objects to the date and location set in the notice for the deposition. Plaintiff has acknowledged that the date and location set in the notice are placeholders only.

2. Nothing in these responses should be construed as waiving rights or objections that might otherwise be available to Target nor should Target's responses to any of these topics be deemed an admission of relevancy, materiality, or admissibility in evidence of the topic or the response thereto.

3. Target objects to each topic to the extent that it seeks the disclosure of information protected from disclosure by the attorney-client privilege, the attorney work product doctrine or any other applicable privilege or protection as provided by law. Target will not produce such privileged or protected information, and any inadvertent disclosure of any privileged or protected information shall not be deemed a waiver of any privilege. Target will not be including on its privilege log information created after the filing date of this action.

4. Target objects to each topic, and to the definitions and instructions included therewith, to the extent it purports to impose upon Target obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure or the Local Rules and Orders of this Court.

5. Target objects to each topic to the extent that it seeks information not relevant to this litigation nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, Target objects to each of the topics to the extent they seek information about products not accused of infringing the patents-in-issue.

6. Target objects to each topic to the extent that it is not reasonably limited in time or scope.

7. Target objects to each topic on the ground that it seeks information protected by privacy law and/or policy.

8. Target objects to each topic and to the definitions and instructions included therewith pursuant to Federal Rule of Civil Procedure 26(b)(2)(i) to the extent that they purport to require the disclosure of information that is more readily available and/or more appropriately obtainable through other means of discovery.

9. Target objects to each topic to the extent that such topic prematurely seeks the production of information and documents in advance of the dates set by the Federal Rules of Civil Procedure, the Local Rules, the Docket Control Order entered in this case, the Discovery Order entered in this case, and any other relevant discovery orders entered in this case.

10. Target objects to each topic as unduly burdensome to the extent it seeks information about aspects of the accused technology that are not related to this case. The burden and expense associated with producing such information grossly outweighs its benefit and relevance.

11. Target objects to I/P Engine's definition of "Defendant Target Corporation" as overly broad and unduly burdensome, to the extent that includes related entities or divisions of Target, directors, officers, present and former employees, agents, representatives, and attorneys of such entities. Target will not respond concerning any defendant other than Target.

12. Target objects to each topic to the extent that the words and phrases used therein are vague, ambiguous, misleading and/or overbroad. Target specifically objects to the definitions of the terms "Ad Coverage," "Ad Depth," and "other search advertising systems."

13. Target responds to these topics based upon its current understanding and reserves the right to supplement its responses if any additional information is identified at a later time and to make any additional objections that may become apparent.

14. By responding to these topics, Target does not waive or intend to waive, but expressly reserves, all of its statements, reservations, and objections, both general and specific, set forth in these responses, even though Target may in some instances disclose information over the statements, reservations, and objections contained herein.

STATEMENT ON SUPPLEMENTATION

Target's investigation in this action is ongoing, and Target reserves the right to rely on and introduce information in addition to any information provided in response to this notice at the trial of this matter or in other related proceedings. Responses to Plaintiff's topics are also limited by the vagueness and insufficiency of Plaintiff's infringement contentions.

TOPIC 1:

The amount and percentage of Target's gross and net search advertising revenue derived from:

- a. Google AdWords;
- b. Google AdSense for Search;
- c. systems Target intends to rely upon as non-infringing alternatives; and
- d. other search advertising systems.

RESPONSE TO TOPIC 1:

Target objects to this topic on the grounds that: (i) it is overly broad, unduly burdensome and oppressive on its face, including to the extent that it is not limited to the accused products; (ii) it seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, including to the extent that it seeks information about "other search advertising systems"; (iii) it seeks information that is properly the subject of a contention interrogatory, not the subject of a request for a 30(b)(6) witness topic; and (iv) it is vague and

ambiguous, particularly with respect to the terms "derived from" and "other search advertising systems."

Subject to its objections, Target will produce a corporate designee to testify generally regarding the revenues, costs and profits of its use of the accused aspects of Google AdSense for Search, to the extent that Target understands what is accused based on Plaintiff's infringement contentions, and to the extent tracked by Target.

TOPIC 2:

The actual, budgeted and projected sales/revenues (gross and net), profits and losses, incremental and marginal profits, and direct and overhead/allocated costs of Target's use of Google AdWords and Google AdSense for Search including, but not limited to, revenue per search calculations accounting for Ad Coverage, Ad Depth, click through rate, and cost per click.

RESPONSE TO TOPIC 2:

Target objects to this topic on the grounds that: (i) it is overly broad, unduly burdensome and oppressive on its face, including to the extent that it is not limited to the accused aspects of AdWords and AdSense for Search; (ii) it seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence; and (iii) it is vague and ambiguous, particularly with respect to the terms "Ad Coverage," "Ad Depth," "click through rate," and "cost per click."

Subject to its objections, Target will produce a corporate designee to testify generally regarding the revenues, costs and profits of its use of the accused aspects of Google AdSense for Search, to the extent that Target understands what is accused based on Plaintiff's infringement contentions, and to the extent tracked by Target.

TOPIC 3:

Target's revenue sharing and profit sharing arrangements related to Google AdSense for Search or Google AdWords with co-defendant Google, Inc.

RESPONSE TO TOPIC 3:

Subject to its objections, Target will produce a corporate designee to testify generally on the topic of the revenue Target receives as an AdSense partner, to the extent known.

TOPIC 4:

The actual, budgeted and projected sales/revenues (gross and net), profits and losses, incremental and marginal profits, and direct and overhead/allocated costs of any non-infringing alternatives Target intends to rely upon to support a claim or defense.

RESPONSE TO TOPIC 4:

Target objects to this topic on the grounds that: (i) it is overly broad, unduly burdensome and oppressive on its face; (ii) it seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence; and (iii) it seeks information that is properly the subject of a contention interrogatory, not the subject of a request for a 30(b)(6) witness topic. Target also objects to this topic to the extent it seeks information protected by the attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or protection.

TOPIC 5:

Target's awareness of Google's pricing (including without limitation revenue sharing) strategies, Target's evaluations of competitor's prices and pricing strategies, and Target's

understanding of Google's determination of prices to charge for allowing Target to use Google AdWords and Google AdSense for Search.

RESPONSE TO TOPIC 5:

Target objects to this topic on the grounds that: (i) it is overly broad, unduly burdensome and oppressive on its face; (ii) it seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence; (iii) it is vague and ambiguous, particularly with respect to the terms "strategies," "determination of prices," and "competitors"; and (iv) it seeks information outside the scope of Target's knowledge. Furthermore, this topic is based on the false premise that Google charges Target to use AdWords and AdSense for Search.

TOPIC 6:

Target's awareness of any comparisons and evaluations directed to the differences between the average revenue per search, gross and net revenue, ad search results quality, and conversion rates of Google AdWords and Google AdSense for Search, and of the non-infringing alternatives on which Target intends to rely upon to support a claim and defense.

RESPONSE TO TOPIC 6:

Target objects to this topic on the grounds that: (i) it is overly broad, unduly burdensome and oppressive on its face; (ii) it seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence; (iii) it is unintelligible, particularly as to the phrase "the differences between the average revenue per search, gross and net revenue, ad search results quality, and conversion rates"; (iv) it seeks information that is properly the subject of a contention interrogatory, not the subject of a request for a 30(b)(6) witness topic; and (v) it seeks information outside the scope of Target's knowledge. Target also objects to this topic to the

extent it seeks information protected by the attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or protection.

TOPIC 7:

Any license agreements and/or covenants not to sue known by Target that are related to Google AdWords or Google AdSense for Search including, but not limited to, Google's licensing policies and strategies for Google AdWords and Google AdSense for Search.

RESPONSE TO TOPIC 7:

Target objects to this topic on the grounds that: (i) it is overly broad, unduly burdensome and oppressive on its face; (ii) it seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence; (iii) it is vague and ambiguous, particularly with respect to the term "licensing policies and strategies"; and (iv) it seeks information outside the scope of Target's knowledge.

TOPIC 8:

Agreements to which Target is a party relating to search advertising patents or in which rights in search advertising technologies are granted.

RESPONSE TO TOPIC 8:

Target objects to this topic on the grounds that: (i) it is overly broad, unduly burdensome and oppressive on its face, particularly to the extent that it is not limited to the accused products; (ii) it seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence; (iii) it is vague and ambiguous, particularly with respect to the terms "search advertising patents" and "search advertising technologies."

TOPIC 9:

Google's indemnification of Target in this action, including all communications relating to indemnification, related to Google AdWords and Google AdSense for Search.

RESPONSE TO TOPIC 9:

Target objects to this topic on the grounds that: (i) it is overly broad, unduly burdensome and oppressive on its face; and (ii) it seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Target also objects to this topic to the extent it seeks information protected by the attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or protection.

TOPIC 10:

The complete and full factual basis for Target's assertion of paragraph 140 of its First Amended Answer asserting "Plaintiff's claims are barred, in whole or in part, by the equitable doctrines of laches and estoppel."

RESPONSE TO TOPIC 10:

Target objects to this topic on the grounds that: (i) it is overly broad, unduly burdensome and oppressive on its face; and (ii) it seeks information that is properly the subject of a contention interrogatory, not the subject of a request for a 30(b)(6) witness topic. Target also objects to this topic to the extent it seeks information protected by the attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or protection.

TOPIC 11:

The complete and full factual basis for Target's assertion of paragraph 141 of its First Amended Answer asserting "Plaintiff's ability to recover damages is limited by the provisions of 35 U.S.C. §§ 286-287."

RESPONSE TO TOPIC 11:

Target objects to this topic on the grounds that: (i) it is overly broad, unduly burdensome and oppressive on its face; and (ii) it seeks information that is properly the subject of a contention interrogatory, not the subject of a request for a 30(b)(6) witness topic. Target also objects to this topic to the extent it seeks information protected by the attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or protection.

Dated: April 23, 2012

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CERTIFICATE OF SERVICE

I hereby certify that April 23, 2012, I will serve the foregoing by electronic mail to the following:

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