EXHIBIT H

quinn emanuel **trial lawyers | san francisco**
50 California Street, 22nd Floor, San Francisco, California 94111-4788 | TEL: (415) 875-6600 FAX: (415) 875-6700

May 31, 2012

Charles Monterio
monterioc@dicksteinshapiro.com

Re: I/P Engine, Inc. v. AOL, Inc. et al.

Dear Charles:

I write to confirm the meet and confer of May 25, 2012 and in response to your May 29 letter.

During our meet and confer, we discussed Defendants' deposition notice for Alexander Berger; you agreed to provide dates of Mr. Berger's availability soon. We asked that Plaintiff get back to us on this issue by early this week. We have not received any response. Please provide no later than Friday proposed dates for Mr. Berger's deposition.

With respect to Plaintiff's deposition notice of Derek Cook, we reiterated the point made in my May 16 letter, specifically that the parties' draft agreement allows for depositions of 30(b)(6) liability and damages witnesses and of individuals listed in the Defendants' initial disclosures. Mr. Cook was not listed in Google's initial disclosures. You stated that the Federal Rules of Civil Procedure allow for 10 depositions for each side, and that you have only scheduled 7. We responded that you have noticed 10 depositions, and Mr. Cook's notice constitutes the eleventh. You stated that Plaintiff would like to take the individual depositions of 14 witnesses total from all Defendants, that these witnesses need not be listed in the initial disclosures, and that if Plaintiff ultimately wants more than 14 depositions, it would petition the Court. Plaintiff acknowledged that this meant that for every individual witness it took of one of the Defendants' employees not listed in the initial disclosures, Plaintiff would not be allowed to take one of the witnesses listed in the initial disclosures. We told you that we would discuss your proposal with our clients.

We also wanted to suggest a counter-proposal. Plaintiff would take up to 14 witnesses total from all Defendants, which would not need to be the individuals listed in the initial disclosures. But, Plaintiff would only be entitled to take from each Defendant an equivalent number of individual depositions as the number of witnesses listed in that Defendant's initial disclosures. For example, because Google listed three employees in its initial disclosures, Plaintiff would only be entitled to take three individual depositions of Google without leave of the Court, in addition to the 30(b)(6) depositions already noticed. If Plaintiff chooses to go forward with the deposition of Mr. Cook, then Plaintiff would be entitled to take the individual depositions of Mr. Cook, Mr. Alferness (as already scheduled), and one additional Google witness. We believe this would be a reasonable compromise to allow Plaintiff to take more depositions than provided under the Federal Rules of Civil Procedure, but limit the additional burden for each Defendant from these additional depositions. Please let us know if Plaintiff would be agreeable to this suggestion, and we will confer with our clients and with counsel for AOL.

We also discussed potential dates for Mr. Cook's deposition, assuming the parties are able to reach an agreement. We informed you that the week of June 4 would not work, but that Mr. Cook is available the week of July 9. You asked us to check if Mr. Cook had any earlier availability in June. We asked you to check to see if the week of July 9 would work for Plaintiff. We agreed to reconvene on this issue early this week, at the same time also discussing the deposition dates for Mr. Berger. In your letter of May 29, you instead demand a date for Mr. Cook's deposition prior to the week of July 9, or an explanation of why he is not available earlier. This is counterproductive and inefficient. As you know, we have been working diligently with Plaintiff to schedule multiple depositions throughout June, including finding alternate dates when those initially proposed to Plaintiff were not accepted. Nonetheless, we have determined that Mr. Cook is available for deposition on June 29 in Northern California. Please confirm that you will go forward with his deposition on June 29, or the week of July 9.

We also discussed the discovery issues raised in your May 24 letter. We explained that we can make the "Ads Tech Talk Series: SmartASS, 4/17/08" video available for your inspection, as previously offered. We asked Plaintiff to provide 24 hours notice that you will be coming to our San Francisco offices to inspect the video, which will give us sufficient time to set up a secure computer so you can inspect the video.

Plaintiff had previously requested organization charts. In our May 1 letter, we offered to produce a list of people who report to the Google employees listed in Google's initial disclosures, and a list of the people to whom those employees report. You accepted that offer in your May 24 letter. Accordingly, during our call we told you that these lists had been provided to the outside eDiscovery vendor, to be processed for production. We told you that they would be produced as soon as feasible, though our priority was the custodial production that was due by May 30. As you know, this custodial production was produced yesterday. We anticipate producing the lists no later than June 1.

Your May 24 letter also requested the status of production of certain documents from the prior Google AdWords litigations that Google had agreed to produce. As we noted during the meet

and confer, the vast majority of those documents had been collected and sent to the eDiscovery vendor for processing and production. We also noted that there are some of these prior litigation documents that are still being tracked down or redacted for third party confidential information, pursuant to the objections of third parties in accordance with the protective orders in the underlying cases. We also explained that some of the requested exhibits from prior litigations are simply print-outs of source code; we will make these documents available for your inspection rather than producing them. We will continue to work diligently to provide these documents as soon as we can; however, we do not anticipate producing all of these documents by June 1 as you demanded in your May 29 letter. We will agree to continue to keep you updated on the status of the rolling productions, as we have done throughout this litigation.

You also agreed that you would check and provide written confirmation that you destroyed the documents containing third party confidential material that were inadvertently produced, as requested in my May 4 email. You still have not done so. Please provide this confirmation.

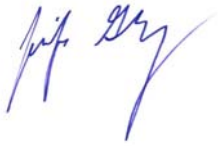
You also raised a few outstanding issues related to Plaintiff's 30(b)(6) deposition topics to Defendants. With respect to the contention topics, we agreed that we would review the case law you sent regarding contention topics in deposition notices. We have reviewed your case law, but do not agree that contention deposition topics are appropriate at this stage in the litigation. Courts have generally held that contention topics are more appropriate for interrogatories than for 30(b)(6) depositions. *See, e.g., Kinetic Concepts, Inc. v. Convatec Inc.*, 268 F.R.D. 255, 260-61 (granting motion for protective order barring contention topics); *Lance, Inc. v. Ginsburg*, 32 F.R.D. 51, 53 (E.D. Pa. 1962) ("We think the cause of justice and the fruitful advancement of discovery will be better served by refusing plaintiff's motion to compel answers on depositions to inquiries on the factual basis of conclusionary allegations . . . we think [such information] could be more expeditiously and more intelligently obtained by written interrogatories."); *McCormick-Morgan, Inc. v. Teledyne Industries, Inc.*, 134 F.R.D. 275, 287 (N.D. Cal. 1991) (holding that in patent cases, contention topics are appropriate for interrogatories, not depositions, because these topics involve "complex judgments" about the relationship between facts, claims, and principles of intellectual property law), *overruled on other grounds*. In addition, Defendants are not obligated to provide witnesses to testify as to the contention topics that are duplicative of the contention interrogatories you have already served, including for example contentions that Defendants are not direct infringers and that the patents-in-suit are invalid (Interrogatory Nos. 5 and 7 to IAC, Interrogatory Nos. 2 and 4 to Target and Gannett; Liability Topic Nos. 14 and 17 to IAC, Gannett, and Target). *See, e.g., Kinetic Concepts*, 168 F.R.D. 255 at 263 (where Plaintiff propounded contention interrogatories concerning laches and estoppel, allowing 30(b)(6) depositions on this topic "would contravene the limitations in Rule 26(b)(2)(c) in that . . . the discovery sought is unreasonably cumulative or duplicative"). Defendants will not be providing witnesses to testify as to the contention portions of Liability Topic Nos. 14-17 to IAC, Target, and Gannett; Liability Topic Nos. 17-19 to Google; Damages Topic Nos. 10-11 to IAC, Target, and Gannett; and Damages Topic Nos. 17-18 to Google at this time. Please let us know if you would like to discuss this issue further.

You also raised Damages Topic No. 2 to Google. Google had previously agreed to provide a witness to testify generally regarding the revenues, costs and profits of the accused aspects of AdWords and AdSense for Search. You stated that Plaintiff wants a witness who will testify as to the percentage of total search advertising results for which AdWords and AdSense for Search, rather than other search advertising systems, were used by end users. We agreed to discuss your request with Google. We have discussed this request with our client, and do not believe it is reasonable, for all of the reasons outlined in Google's objections. Google will only provide a witness on Topic No. 2 as previously agreed.

We noted during our call that we are still awaiting case law from you supporting your claim that defendants are required to produce witnesses to testify on the topic of indemnification. In your May 29 letter you stated that you would respond under separate cover. We continue to await this case law.

As always, we remain willing to meet and confer to resolve any discovery issues, and hope that you similarly remain willing to work together on these issues in a timely and efficient manner.

Sincerely,



Jen Ghaussy

cc: IPEngine@dicksteinshapiro.com
QE-IPEngine@quinnemanuel.com