

EXHIBIT J

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STATES UNITED DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

-----x
I/P ENGINE, INC., :
Plaintiff, : Civ. Action No.
v. : 2:11-cv-512
AOL, INC., et al., :
Defendants. :
-----x

CONFIDENTIAL - OUTSIDE COUNSEL ONLY
Videotaped Deposition of KEITH RAYMOND UGONE, Ph.D.
Dallas, Texas
Friday, September 14, 2012
9:02 a.m.

Job No. 26021
Pages: 1 - 237
Reported by: Tami Lewis, RMR, CRR, CSR

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CONDUCTED ON FRIDAY, SEPTEMBER 14, 2012

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1	A. Maccoun, okay.	09:46:09
2	■ [REDACTED] d	09:46:13
■	■ [REDACTED]	■
■	■ [REDACTED]	■
5	A. I -- actually, I need to say one more thing.	09:46:21
6	I'm sorry.	09:46:27
7	Q. Sure.	09:46:27
8	A. If I could go back. So there was the license	09:46:27
9	agreements, patent license agreements. There is Mr.	09:46:30
10	Maccoun's deposition testimony, and then I also spoke	09:46:34
11	with him directly. And I think we tried to always	09:46:36
12	indicate for you, you know, when those took place, so	09:46:40
13	hopefully we footnoted everything appropriately and you	09:46:44
14	can tell that. But never in my wildest dreams would I	09:46:47
15	have thought that that word "strong" was inappropriate.	09:46:51
16	Q. So it's your understanding that based on your	09:46:55
17	communications with Mr. Maccoun, you're paraphrasing	09:47:02
18	what he said?	09:47:07
19	A. And deposition testimony and then observed	09:47:08
20	preference in marketplace with the license agreements.	09:47:12
21	Q. Okay. And you've stated that an indicator of	09:47:12
22	that is the inbound licenses and acquisitions of Google,	09:47:16
23	right?	09:47:16
24	A. That's one of those three, yes.	09:47:21
25	Q. Did you review all of Google's inbound	09:47:22

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1	licenses?	09:47:27
2	A. That were produced in this case, yes.	09:47:28
3	Q. What about that weren't produced in this case?	09:47:30
4	A. I haven't seen -- let's try it this way.	09:47:32
5	Here's the best answer I can give you. I have reviewed	09:47:37
6	what was produced in this case. I did not go back and	09:48:06
7	look at any other cases that I might have -- we talked	09:48:06
8	about the other case. I didn't go back and look at	09:48:06
9	those license agreements, but I would be very surprised	09:48:06
10	if I reached a different conclusion. If I had done	09:48:06
11	that, but with respect to the materials produced in this	09:48:06
12	case that I'm aware of at least, I did review those, if	09:48:06
13	that answers your question.	09:48:06
14	Q. Sure. You didn't go back and ask Google to	09:48:06
15	look at all of its inbound licenses before you made that	09:48:09
16	opinion, right?	09:48:12
17	A. I did not ask that question, and just to make	09:48:14
18	sure it's clear, I think when I was talking about	09:48:18
19	various ranges and describing those licenses, I was	09:48:22
20	always very careful, I believe, to say produced in this	09:48:28
21	case.	09:48:30
22	Q. Okay.	09:48:30
23	A. So I do recognize that there might be some	09:48:30
24	licenses I haven't seen that for whatever reason aren't	09:48:32
25	relevant to this case that haven't been produced.	09:48:35

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1	Q. Right.	09:48:37
2	A. So I suppose one could say, you know, looking	09:48:38
3	at the license agreements that were produced that were	09:48:40
4	deemed relevant in this case by however that process	09:48:42
5	happens, okay, that I drew the conclusions that I did.	09:48:46
6	Q. Okay. Did you look at any of Google's outbound	09:48:49
7	licenses?	09:48:53
8	A. We looked at -- everything we looked at that	09:48:54
9	was in -- was in the report, so there were all those	09:48:58
10	inbound license agreements. There was also, you know --	09:49:02
11	I think there were some technology agreements and so	09:49:04
12	forth. I would have to look, but as I'm sitting here	09:49:07
13	right now, I don't remember any outbound, perhaps with	09:49:10
14	an asterisk.	09:49:20
15	Q. Right. You didn't ask to see any of their	09:49:21
16	outbound licenses other than if they were produced in	09:49:25
17	this case?	09:49:27
18	A. Correct.	09:49:27
19	Q. Okay. Do you know what I mean when I say the	09:49:28
20	Georgia-Pacific factor number 2?	09:49:32
21	A. Yes.	09:49:35
22	Q. Okay. Would you agree that -- if I say GP,	09:49:35
23	will you understand that I mean Georgia-Pacific?	09:49:41
24	A. I can handle that.	09:49:42
25	Q. Okay. Good. Would you agree that GP 2	09:49:43


















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1	requires consideration of licenses that relate to	09:49:48
2	patents comparable to the patents-in-suit?	09:49:52
3	A. I do not disagree that that is the concept,	09:49:55
4	that obviously in Georgia-Pacific factor 2, you can't	09:50:08
5	have an exact match.	09:50:15
6	Q. Right.	09:50:16
7	A. Because if you did, that would be GP factor 1,	09:50:16
8	and that would be for the plaintiff. So I view GP	09:50:19
9	factor 2, as well as some other things, as kind of	09:50:23
10	falling into my house analogy that I gave you	09:50:27
11	previously. Now, the only reason why I'm giving a	09:50:32
12	little bit longer answer is that there's probably	09:50:34
13	degrees of comparability, and so that would go into the	09:50:36
14	mix a little bit because, you know, they're going to be	09:50:43
15	a first cousin or a second cousin. So, I think, you	09:50:48
16	know, the damage quantifier will, you know, have to be	09:50:51
17	cognizant of that.	09:50:54
18	Q. Well, would you consider -- strike that.	09:50:56
19	In determining a comparable license, you	09:51:03
20	generally have two considerations. First, it would be	09:51:08
21	whether it has a comparable technology. And I	09:51:16
22	understand the -- what -- your statement relating to	09:51:21
23	whether it's first cousin or second cousin, but it still	09:51:24
24	has to have comparable technology, right, at some level?	09:51:28
25	A. With -- with the caveat that you said, yes.	09:51:30

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1	Q. Okay. You haven't seen any documents?	03:06:05
2	A. I -- I think I even said that in my answer.	03:06:07
3	Q. Okay. And --	03:06:09
4	A. But -- but what I was saying is entirely	03:06:10
5	consistent with my understanding of how firms behave in	03:06:12
6	this high-tech world.	03:06:20
7	Q. Okay. And I think my question was in your --	03:06:21
8	your report, you don't state that Google believed at the	03:06:25
9	time of the negotiation that the patents were valid,	03:06:29
10	right?	03:06:29
11	A. That was a couple of questions ago, but I think	03:06:33
12	I answered that as correct.	03:06:36
		
		
		
16	A. Correct.	03:06:54
17		03:06:54
		
		
20	A. Correct.	03:07:15
21		03:07:03
		
		
24	A. Correct.	03:07:14
25		03:07:18

[REDACTED]

[REDACTED]

[REDACTED]

3 A. I have not said that in my report if that's
4 what you're asking.

[REDACTED]

[REDACTED]

[REDACTED]

8 A. Correct.

[REDACTED]

[REDACTED]

[REDACTED]

12 A. Of -- of those two buckets that I had
13 identified, yes.

14 Q. Okay. When --

15 A. As I said very early on this morning, I tacked
16 on that phrase of the licenses produced in this case.

17 Q. Okay. So you haven't looked at or asked to
18 look at all of Google's licenses outside those produced
19 in this case?

20 A. Correct.

21 Q. Okay.

22 THE WITNESS: We may be at an hour if it's
23 convenient.

24 MS. ALBERT: Oh, sure.

25 THE VIDEOGRAPHER: Off the record, 3:08.

[REDACTED]

[REDACTED]

03:07:32

03:07:34

[REDACTED]

[REDACTED]

[REDACTED]

03:07:44

[REDACTED]

[REDACTED]

[REDACTED]

03:08:03

03:08:06

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[REDACTED]

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1	(Recess taken.)	03:08:55
2	THE VIDEOGRAPHER: We are on the record.	03:28:55
3	The time is 3:28.	03:28:56
4	Q. (BY MS. ALBERT) Dr. Ugone, you're familiar	03:29:08
5	with the Ben Love presentation, right?	03:29:10
6	A. I'm -- I'm familiar with the?	03:29:13
7	Q. Ben Love presentation, the one that Dr. Becker	03:29:15
8	cites to and that you --	03:29:20
9	A. The one that I call the draft presen -- draft	03:29:22
10	presentation?	03:29:26
11	Q. No, the 20 to 40 percent.	03:29:26
12	A. Oh, okay. Yes.	03:29:29
13	Q. Okay. So I'm going to call it the Love	03:29:29
14	presentation --	03:29:32
15	A. Okay.	03:29:32
16	Q. -- just for efficiency's sake. Is it your	03:29:32
17	understanding that that presentation was an internal	03:29:35
18	presentation given to Google employees?	03:29:37
19	A. I believe so, yes.	03:29:41
20	Q. And is it your understanding that Google relies	03:29:43
21	on accurate data in creating presentations for its	03:29:54
22	employees?	03:29:56
23	A. That would have to be an assumption. I didn't	03:29:56
24	ask anybody, but I would assume that a professional	03:29:58
25	organization would do that.	03:30:01