

EXHIBIT B

Jim Grossell

From: Monterio, Charles [MonterioC@dicksteinshapiro.com]
Sent: Monday, August 27, 2012 5:29 PM
To: QE-IP Engine; Stephen E. Noona (senoona@kaufcan.com)
Cc: zz-IP Engine; W. Ryan Snow (wrsnow@cwm-law.com); Donald C. Schultz (dschultz@cwm-law.com)
Subject: I/P Engine v. AOL et al.: Discovery Issues

Emily,

The below proposal is not workable. I am not sure where to go from here. Mr. Becker's schedule for the other trial is not the issue. The schedule allows for expert discovery to be completed by September 11. The dates that he is available are within that time period. Nevertheless, his trial was originally scheduled for August 13 through 24, with him testifying the second week of trial. He represents the Defendants; Plaintiff is still putting on its case. Mr. Becker allotted for an additional week cushion when we scheduled his deposition for Sept. 5, but could not anticipate this current delay. He is scheduled to testify the week of September 3; his counsel believes likely September 5, but it could also be September 6. There is no realistic way that he can be made available at that time; unless the court moves the dates again.

While we do not believe that this is an issue that should be taken to the Court, expert discovery after the deadline would be too prejudicial to the pretrial schedule. We are amenable to talking through alternative pretrial dates, but September 14 is too far out and would cause significant burden to the rest of the schedule; thus, we cannot agree to depositions after the expert deadline, particularly as Mr. Ugone is available on Sept. 7.

Let's plan on meeting and conferring tomorrow to finalize (all) expert deposition dates and the proposed pretrial dates or deem this issue at an impasse. We are willing to move dates around, but again they must be before the deadline. So, for example, we will agree to schedule the deposition of all experts with the initial burdens of proof to go first, followed by rebuttal experts.

One other possibility, but which I have not talked with Mr. Becker about yet, is perhaps scheduling Mr. Becker's deposition on September 9 (Sunday). Let me know if that date might work with counsel's schedule. Then Mr. Ugone could be deposed either September 10 or 11.

Let us know whether you are available at 6:15 ET tomorrow to meet and confer. If not, please provide alternative times tomorrow to do so.

Regarding the willfulness issue, as counsel has pointed out, I/P Engine has not plead willfulness. We are not exactly sure why this is an issue at this point. To the extent that I/P Engine made any future determination to add willfulness, Google of course, would be entitled to oppose based on whatever legal grounds it felt were applicable.

Regarding the issue of reducing the number of asserted claims, we will respond to this issue after we receive Defendants' non-infringement expert report. I/P Engine cannot make a reasoned evaluation of which claims, or how many claims, it may or may not agree to litigate without knowing Defendants' positions on the claims.

Regarding the issue of reducing the prior art witnesses identified in Google's Initial Disclosures, we are not sure how this issue and the willfulness/claim identification issues are related. As you are aware, fact discovery

closes in this case on September 4. Google has identified 40-prior art witnesses. We are simply asking whether Google would be willing to identify those witnesses that it intends to use at trial. If Google refuses to do so, please let us know whether Google would agree to not oppose the deposition notices of those 40 witnesses, as the number will far exceed the five third-party depositions permitted by both sides. If Google will not so agree, we would like to meet and confer on this issue tomorrow as well.

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