

# EXHIBIT 5

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

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I/P ENGINE, INC.,

Plaintiff,

v.

C.A. No. 2:11-cv-512-RAJ

AOL, INC., GOOGLE, INC.,  
IAC SEARCH & MEDIA, INC.,  
TARGET CORP., and GANNETT CO.,  
INC.,

Defendants.  
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(PORTION OF TRANSCRIPT DESIGNATED CONFIDENTIAL  
SOURCE CODE)

Videotaped Deposition of OPHIR FRIEDER, Ph.D.

Washington, D.C.

Thursday, September 6, 2012

8:48 a.m.

Job No.: 416030

Pages: 1 - 313

Reported by: Amy E. Sikora, RPR, CRR, CSR-NY, CLR

1           Deposition of OPHIR FRIEDER, Ph.D.  
2 held at the offices of:  
3           Dickstein Shapiro LLP  
4           1825 Eye Street, N.W.  
5           Washington, D.C. 20006-5403  
6

7           Pursuant to notice, before Amy E. Sikora,  
8 Registered Professional Reporter, Certified  
9 Realtime Reporter, Certified Shorthand  
10 Reporter (NY), Certified LiveNote Reporter, and  
11 Notary Public for the District of Columbia.  
12  
13  
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25

1           A.        I would have to read the patent  
2 again for the exact statement, but -- but it  
3 generally deals with the bids.

4           Q.        Not relevance; right?

5           A.        Basically, it deals with the bid,  
6 yes.

7           Q.        And in -- in the system of the '361  
8 patent, it's the bids that determine what ads are  
9 returned; right?

10          A.        It's the bids that determine what  
11 ads are returned, right.

12          Q.        Right. So there is no notion of --  
13 of predicted clickthrough rate that is used in  
14 connection with determining which ads are  
15 returned; right?

16          A.        The predictive clickthrough rate is  
17 a Google -- is a Google specific item. So I  
18 didn't -- so the answer to your question is, it  
19 will not use productive clickthrough rates, no.  
20 That would be a Google terminology.

21          Q.        And it doesn't use any notions of  
22 quality of relevance in determining which ads to  
23 show; right?

24          A.        You asked me what it does. I said  
25 it's dealt with -- dealing with the bids that

1 it -- that it deals with.

2 Q. Instead of those things?

3 A. That's what it deals with, the bids.

4 Q. Instead of those things that I just  
5 identified?

6 A. I don't know if instead of but, yes,  
7 it's the one that deals with the bid.

8 Q. Okay. So do you think that -- does  
9 the -- does the '361 patent have any filtering  
10 for relevance?

11 A. We just discussed -- you asked me if  
12 it had -- if it was dealing with relevance, and I  
13 said it's not dealing with relevance, that's what  
14 you just asked me. So the answer to your  
15 question, does it deal with filtering for  
16 relevance, I would surmise the answer to be no.

17 Q. The patents -- the asserted patents  
18 in this case do not teach how to calculate a  
19 predictive clickthrough rate; correct?

20 A. I repeat the -- I repeat the notion  
21 that predictive clickthrough rate is a Google --  
22 to the best of my knowledge, a Google terminology  
23 or Google invention. But they -- so that I think  
24 I answered your question.

25 Q. So the patents in suit would not

1 says in here, and I have not spent time opining  
2 on or studying his to be able to answer your  
3 questions off the fly. I have studied my expert  
4 report. I have understood what I believe  
5 infringes, and I laid out an exact specification  
6 of what infringe is. If he doesn't agree, he  
7 doesn't agree. But I stand firmly on the facts  
8 that my statements are correct.

9 Q. But you're not prepared here  
10 specific today -- to specifically rebut this  
11 point that Dr. Ungar makes?

12 A. I've had this --

13 Q. I'm just asking for a yes or no,  
14 sir.

15 A. I'm not ready now to go and look at,  
16 when you point out to one chart in the middle of  
17 a 140-some-page report to give you an answer for  
18 that. No, I'm not ready to do it right now.

19 Q. Is the -- we referenced earlier the  
20 combination of -- that the claims required a  
21 combination of content data and feedback data.  
22 And I'm still not sure I fully understand what it  
23 is that -- how you're saying those things are  
24 combined.

25 What is it specifically that is the

1 content data that would be combined with feedback  
2 data?

3 MR. JACOBS: Objection as to form.

4 A. Could you repeat that one more --  
5 you basically started with a long --

6 Q. Right.

7 A. Could you ask -- repeat that,  
8 please.

9 Q. Sure. We've talked about how the  
10 claims require the combination of content data  
11 and feedback data and then filtering based on  
12 that combination; right?

13 A. Correct.

14 Q. What -- what I want to know, and I  
15 don't think we've gotten a clear picture, of what  
16 exactly the content data is that is combined with  
17 the feedback data. Can you explain?

18 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1

[REDACTED]



● [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED] [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED]

13 MR. PERLSON: How much time do I  
14 have left? What can I accomplish in two minutes?

15 THE WITNESS: Just say goodbye.

16 Q. Would you agree that ads that are  
17 not promoted can still appear among the ads that  
18 are shown to end users?

19 MR. JACOBS: Objection as to form.

20 A. Promotion is basically the -- the  
21 notion for promotion is to show in the top. And  
22 therefore, if you basically get promoted, you  
23 have a possibility, not necessarily, but you've  
24 got a possibility of showing up in the top of a  
25 screen. But if you don't get promoted, you still