

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

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I/P ENGINE, INC.,)	
	Plaintiff,)	
	v.)	Civ. Action No. 2:11-cv-512
)	
AOL, INC. et al.,)	
	Defendants.)	
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PLAINTIFF I/P ENGINE, INC.’S DAUBERT MOTION, AND FOURTH MOTION IN LIMINE, TO EXCLUDE LYLE UNGAR’S NEW THEORY OF INVALIDITY AND OPINIONS REGARDING CLAIM CONSTRUCTION

Pursuant to Federal Rules of Evidence 401 through 403, and 702, Plaintiff I/P Engine, Inc. (“I/P Engine”) moves to preclude any evidence of, reference to, or suggestion of Dr. Ungar’s late disclosed new invalidity theory based on Culliss, as it was not rightfully or timely disclosed in his expert report. I/P Engine additionally moves to preclude any arguments, opinions or evidence at trial by Dr. Ungar (or any other witness) regarding any claim constructions proposed during the Markman process that were rejected by this Court.

For the reasons set forth in the accompanying Memorandum in Support of Plaintiff I/P Engine, Inc.’s *Daubert* Motion and Fourth Motion *in Limine*, precluding any evidence of, reference to, or suggestion of this invalidity theory and any arguments, opinions or evidence

regarding rejected claim construction arguments is the most effective way to ensure that this irrelevant and prejudicial information is not considered at trial and does not confuse the jury.

Dated: September 24, 2012

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CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of September, 2012, the foregoing **PLAINTIFF I/P ENGINE, INC.'S DAUBERT MOTION, AND FOURTH MOTION *IN LIMINE*, TO EXCLUDE LYLE UNGAR'S NEW THEORY OF INVALIDITY AND OPINIONS REGARDING CLAIM CONSTRUCTION**, was served via the Court's CM/ECF system, on the following:

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