

Exhibit 2

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

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

CONFIDENTIAL - OUTSIDE ATTORNEYS' EYES ONLY
Videotaped Deposition of LYLE UNGAR, Ph.D.
Philadelphia, Pennsylvania
Saturday, September 22, 2012
1:03 p.m.

Job No.: 26365
Pages: 1 - 266
Reported by: Debra A. Whitehead

CONFIDENTIAL VIDEOTAPED DEPOSITION OF LYLE UNGAR, Ph.D.
CONDUCTED ON SATURDAY, SEPTEMBER 22, 2012

232

1	Q	You haven't formed any opinions as to	18:37:49
2		whether there's an alternate implementation of	18:37:51
3		scanning a network that would not require a spider?	18:37:54
4	A	I have not. I didn't feel any need to.	18:37:57
5	Q	You didn't form -- you didn't consider	18:37:59
6		forming such an opinion in connection with your	18:38:04
7		noninfringement report?	18:38:07
8	A	Did I consider forming such? I'm sorry,	18:38:13
9		I'm trying to distinguish two questions.	18:38:20
10		Did I form such an opinion, no.	18:38:22
11	Q	Let me ask it --	18:38:24
12	A	Did I consider it and then reject it, the	18:38:25
13		idea of forming it? I'm sorry. Try your question	18:38:27
14		again.	18:38:30
15	Q	So it's true that you did not form an	18:38:30
16		opinion, when performing your noninfringement	18:38:32
17		analysis, as to whether there's an alternate	18:38:35
18		implementation of scanning a network that would not	18:38:38
19		require a spider.	18:38:40
20	A	That's correct.	18:38:41
21	Q	Are there -- is it possible to use a spider	18:38:42
22		in an office LAN?	18:39:02

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VOLUME 2

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CONTAINS SOURCE-CODE PROTECTED PORTION,

PURSUANT TO PROTECTIVE ORDER

Videotaped Deposition of LYLE UNGAR, Ph.D.

Philadelphia, Pennsylvania

Sunday, September 23, 2012

8:44 a.m.

Job No.: 26363

Pages: 267 - 532

Reported by: Debra A. Whitehead

1	A	Yes. I recognize it. Is that --	14:17:50
2	Q	That's your report?	14:17:51
3	A	It is my report.	14:17:53
4	Q	Does your report contain a complete and	14:17:54
5		accurate statement of your opinions concerning	14:18:00
6		invalidity?	14:18:02
7	A	It's accurate. I'm not sure it's fully	14:18:03
8		complete.	14:18:06
9	Q	Are you referring to your supplemental	14:18:09
10		invalidity report?	14:18:11
11	A	No; even beyond that.	14:18:13
12	Q	Oh. Why do you believe it's not complete?	14:18:14
13	A	Well, in looking at Carbonell's report,	14:18:18
14		which I saw after I sent the supplemental, it struck	14:18:24
15		me that there was maybe some argument over filtering,	14:18:30
16		whether Culliss, one of the prior art references, did	14:18:39
17		filtering.	14:18:42
18		And when I looked back at Culliss I	14:18:42
19		discovered that -- or discovered, found there was	14:18:45
20		something I might want to present, which is that	14:18:47
21		Culliss actually has a very explicit section which	14:18:53
22		does filtering which I had not described in either --	14:18:57

1	either this -- by "this" I mean the origin validity	14:18:59
2	report or the supplemental. So that was a recent	14:19:05
3	finding of mine.	14:19:08
4	Q Did you make that finding independently of	14:19:09
5	counsel?	14:19:13
6	A It came from discussions with counsel.	14:19:19
7	Q So no?	14:19:21
8	A Jointly, not independently.	14:19:24
9	MR. CIMINO: Let me mark for completeness,	14:19:31
10	Dr. Ungar, your supplemental report of defendants'	14:19:34
11	expert Lyle Ungar concerning invalidity of the '420	14:19:36
12	and '664 patents.	14:19:39
13	(Plaintiff's Ungar Exhibit 10 marked for	14:19:41
14	identification, to be attached to the transcript.)	14:19:52
15	(Discussion off the record.)	14:19:53
16	BY MR. CIMINO:	14:19:53
17	Q Okay. But for the argument that you would	14:19:54
18	like to make about filtering in Culliss, do Ungar	14:20:05
19	Exhibit 9 and Ungar Exhibit 10 contain a complete and	14:20:10
20	accurate statement of your opinions with respect to	14:20:15
21	invalidity?	14:20:17
22	A Yes.	14:20:19

1	Q	So in your initial report and your	15:36:03
2		supplemental report, you did not identify any	15:37:03
3		disclosure of filtering in Culliss. Is that correct?	15:37:08
4	MR. BILSKER:	Objection.	15:37:13
5		Mischaracterization.	15:37:14
6	A	I don't remember.	15:37:21
7	Q	Well, feel free to take a look.	15:37:22
8	A	Oh. Actually, I now remember. Because, in	15:37:42
9		fact, that was precisely the point I raised earlier.	15:37:47
10	Q	Yes. That's why I was asking.	15:37:49
11	A	That I hadn't -- well, filtering at least	15:37:53
12		in the way that we seem to be settled on using it now,	15:37:55
13		was not identified before. And in light of -- of	15:37:59
14		Carbonell, I then went back to look to see, given how	15:38:03
15		filtering was being defined there, how Culliss was	15:38:09
16		using it.	15:38:17
17	Q	Okay.	15:38:18
18	A	So I guess -- yeah. Let me stop there. I	15:38:19
19		think that answers the question.	15:38:21
20	Q	Okay. So filtering, at least in the way,	15:38:22
21		as you said, we seem to be settling on it now, your	15:38:25
22		initial report and your supplemental report did not	15:38:28

1 disclose any portion of Culliss that had filtering. 15:38:31

2 Is that right? 15:38:36

3 A Filtering in the sense of comparing, say, 15:38:37

4 some value to a threshold, and keeping only those 15:38:41

5 items who was -- whose value was bigger than that 15:38:44

6 threshold. 15:38:48

7 Q Okay. 15:38:49

8 A Filtering in that precise sense was not 15:38:49

9 addressed in my initial report. So that was the one 15:38:53

10 piece which I decided, after Carbonell, was something 15:38:55

11 that actually was relevant to the case. 15:39:00

12 Q Can you take a look at Paragraph 129? 15:39:03

13 A Yes. 15:39:24

14 Q I was wondering if you could explain how 15:39:49

15 Culliss -- how Culliss discloses content-based 15:39:52

16 analysis. So the part of the paragraph up to the 15:40:00

17 quote in Footnote 19? 15:40:06

18 A Yes. 15:40:12

19 Q Isn't that just initialization? 15:40:13

20 MR. BILSKER: Objection. Vague and 15:40:19

21 ambiguous. 15:40:20

22 A No. So that is initialization, but it's 15:40:29

CONFIDENTIAL VIDEOTAPED DEPOSITION OF LYLE UNGAR, Ph.D., VOLUME 2
CONDUCTED ON SUNDAY, SEPTEMBER 23, 2012

522

1	left on the tape.	16:26:35
2	THE WITNESS: Ah. Sorry.	16:26:35
3	MR. BILSKER: We might as well go off, and	16:26:45
4	you might as well switch the tape since they have to	16:26:46
5	go get it.	16:26:48
6	VIDEO SPECIALIST: Off record. The time is	16:26:49
7	4:26 p.m.	16:26:50
8	(Short recess.)	16:28:36
9	VIDEO SPECIALIST: Here marks the beginning	16:30:32
10	of Tape Number 6. Back on record. The time is 4:30	16:30:47
11	p.m.	16:30:51
12	EXAMINATION BY COUNSEL FOR DEFENDANTS AND	16:30:51
13	THE WITNESS	16:30:51
14	BY MR. BILSKER:	16:30:51
15	Q Hello, Dr. Ungar.	16:30:52
16	You in your questioning earlier today	16:30:54
17	mentioned that you wanted to fill out your opinion	16:30:55
18	with respect to the Culliss reference and filtering in	16:30:59
19	response to Dr. Carbonell's report or testimony.	16:31:02
20	What is it that you wanted to add?	16:31:08
21	MR. CIMINO: I object as beyond the scope	16:31:11
22	of my direct and outside the scope of his reports.	16:31:13

1	BY MR. BILSKER:	16:31:17
2	Q Go ahead.	16:31:17
3	A So I wanted to note that there's an	16:31:19
4	extensive discussion in Culliss of filtering in	16:31:24
5	precisely the form that Carbonell talks about it. And	16:31:28
6	I will flip through so I can point you to that. It is	16:31:34
7	in Columns 11 and 12, under the heading of Ratings.	16:31:36
8	And in this the Culliss patent describes	16:31:44
9	filtering in the sense we're talking about, where one	16:31:50
10	has some number associated with each, say, web page,	16:31:54
11	compares each number to a threshold. And if it's	16:31:59
12	below that threshold, filters it, removes it.	16:32:02
13	And the way that Culliss does that, in the	16:32:06
14	context, is looking at X-rated versus G-rated	16:32:10
15	articles. There's a widespread concern that many	16:32:17
16	people don't want to see X-rated articles. Some	16:32:20
17	people do, so you can't always eliminate them. But	16:32:23
18	one wants to be able to filter them.	16:32:26
19	And so Culliss describes in detail -- and I	16:32:28
20	won't take time to walk through the whole of it -- a	16:32:31
21	process for developing rating scores, numbers	16:32:37
22	associated, based on labels G-rated or X-rated, a --	16:32:43

1 he develops a score for each rating term, for each 16:32:53
2 article, as he says, As described above for the key 16:32:55
3 terms. 16:33:00
4 And then perhaps jumping ahead to the very 16:33:01
5 end of that section, he says that the system screens 16:33:04
6 out those articles which have an X-rated key term 16:33:12
7 score above a predetermined threshold. 16:33:15
8 I think this is important because it shows 16:33:19
9 that Culliss is precisely teaching how to do filtering 16:33:20
10 in the sense I think both parties agree is some score 16:33:25
11 above some predetermined threshold. 16:33:28
12 Q What about the Culliss reference in light 16:33:33
13 of Bowman under Dr. Carbonell's definition of 16:33:35
14 filtering; do you have any opinion with respect to 16:33:38
15 that? 16:33:41
16 MR. CIMINO: Same objections. 16:33:42
17 A So it's also the case that in addition to 16:33:45
18 this explicit description of thresholding, that I 16:33:48
19 think it would have been obvious to one of skill in 16:33:54
20 the art at the time that filtering by using a 16:33:57
21 threshold based on a score, using, for example Bowman, 16:34:02
22 as described in Bowman, it's a very obvious extension 16:34:06

1	to -- to the Culliss system.	16:34:11
2	MR. BILSKER: Let me ask you to pass to the	16:34:15
3	court reporter the Bowman reference for the court	16:34:17
4	reporter to mark as the next in line.	16:34:19
5	(Plaintiff's Ungar Exhibits 12 and 13	16:34:21
6	marked for identification, to be attached to the	16:34:21
7	transcript.)	16:34:21
8	BY MR. BILSKER:	16:34:33
9	Q Dr. Ungar, you have in front of you Exhibit	16:34:33
10	Number 13, the '558 patent to Bowman.	16:34:35
11	Do you recognize that document?	16:34:39
12	A I do.	16:34:41
13	Q And when you were being asked questions	16:34:41
14	earlier today regarding matching of the query to the	16:34:44
15	item, you had mentioned that there were occurrences of	16:34:49
16	that same terminology in the specification. And I	16:34:52
17	just wanted to ask you where in the specification you	16:34:56
18	might have been referring to.	16:34:59
19	A So there are a number of mentions. I was	16:35:01
20	in particular thinking -- and here give me a second	16:35:04
21	while I flip through to find them. I haven't	16:35:06
22	memorized Bowman either.	16:35:10