

EXHIBIT E

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STATES UNITED DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

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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

CONFIDENTIAL VIDEOTAPED DEPOSITION OF KEITH RAYMOND UGONE, Ph.D.
CONDUCTED ON FRIDAY, SEPTEMBER 14, 2012

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1	patent owner not to have a commercialized product,	02:46:41
2	right?	02:46:41
3	A. Correct.	02:46:49
4	Q. And they would still have the right to license	02:46:49
5	the patent?	02:46:52
6	A. They have the right to, my understanding as a	02:46:52
7	layperson, to exclude others from using the claim	02:46:55
8	teachings of the patent or to license or to do -- it's	02:46:59
9	their property. They can do as they see fit.	02:47:02
10	Q. So they can enforce it; they can stick it on a	02:47:04
11	shelf and ignore it?	02:47:07
12	A. Yes.	02:47:08
13	Q. In your report, you don't attempt to compare --	02:47:09
14	strike that.	02:47:27
15	In your report, you don't attempt to	02:47:27
16	recalculate the [REDACTED] lump sum into a running royalty,	02:47:29
17	do you?	02:47:35
18	A. I haven't done what I'll -- I haven't done the	02:47:35
19	reverse of a present value calculation.	02:47:42
20	Q. Now, based on my reading of your report, so	02:47:44
21	there were two licenses that you use to get to your	02:47:57
22	range. If that's inaccurate, you can tell me, but it's	02:48:08
23	[REDACTED], right?	02:48:15
24	A. Where I need to quibble just a little bit if,	02:48:18
25	you don't mind, is that there were many, many different	02:48:20

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1	inputs. Two of them happen to be license agreements.	02:48:24
2	There were some offers to sell or offers to purchase.	02:48:29
3	There was the bidding process. There was the actual	02:48:32
4	sale. There's everything else in my report, so I would	02:48:34
5	never describe it as I've answered previously that those	02:48:37
6	two licenses in and of themselves don't give the	02:48:41
7	bookends to the range.	02:48:45
8	Q. You're not --	02:48:45
9	A. But factually, I believe two of those inputs	02:48:46
10	were license agreements.	02:48:49
11	Q. Okay. You're not relying on any of the other	02:48:50
12	Google licenses or acquisition agreements as comparable,	02:48:55
13	are you?	02:48:58
14	MR. NELSON: Objection, vague.	02:48:59
15	A. And I don't think you meant this, but I need to	02:49:00
16	preserve something I said earlier that a lot of those	02:49:07
17	agreements helped also in combination with deposition	02:49:09
18	testimony and formed my opinion with respect to Google's	02:49:13
19	strong preference for a lump sum.	02:49:16
20	Q. (BY MS. ALBERT) Right.	02:49:18
21	A. But with respect to some of the values and the	02:49:19
22	indicators of value, I'm not using those in the same	02:49:22
23	way.	02:49:24
24	Q. Right. Okay. So let's talk about the [REDACTED]	02:49:24
25	patent for a moment. It's not your opinion that the	02:49:31

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1	A. Those are the ones that I've been talking	02:51:09
2	about. I mean, we can talk about everything that's in	02:51:11
3	my report.	02:51:13
4	Q. Oh, you're not talking about with respect to	02:51:13
5	the [REDACTED] agreement?	02:51:16
6	A. I missed your question.	02:51:17
7	Q. You're not referring to other indicators of	02:51:20
8	value that you found in the [REDACTED] agreement --	02:51:22
9	A. Correct.	02:51:24
10	Q. -- you're talking about --	02:51:24
11	A. In my report. The things I've been saying over	02:51:25
12	in the --	02:51:25
13	Q. Okay.	02:51:25
14	A. So it was that sense that I used it, that there	02:51:29
15	was sort of almost a -- I hate to say a triangulation	02:51:32
16	because it was more than three, but if you take all the	02:51:36
17	inputs and you look at the other indicators of value I	02:51:38
18	have that that was consistent with it. It was not	02:51:38
19	inconsistent with those other indicators of value. So	02:51:38
20	that's the subtlety of how I'm using that is a little	02:51:38
21	bit different than the -- [REDACTED]. There could have	02:51:49
22	been a situation where if one wanted a point estimate	02:51:50
23	and one wanted to look at the indicators of value, I	02:51:54
24	think one could have said the answer's roughly in the	02:51:59
25	[REDACTED] [REDACTED],	02:52:01

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1 but I was also looking at some of those other -- the 02:52:05
2 offers to purchase the Lycos portfolio that included the 02:52:10
3 patents-in-suit, the actual purchase of the patent 02:52:17
4 family associated with the patents-in-suit, and then 02:52:19
5 there was the [REDACTED] -- I'm sorry, the 02:52:22
6 [REDACTED] that was consistent with 02:52:26
7 those ranges of those other indicators of value. 02:52:29
8 So that upper end was really a combination 02:52:33
9 of all of those rather than just saying here's the 02:52:35
10 [REDACTED] as a -- as an anchor for that upper 02:52:37
11 range. So I did not just take that [REDACTED] is the anchor 02:52:43
12 for the upper range. 02:52:47
13 Q. Well, the fact that a purchase agreement that 02:52:48
14 concerns noncomparable technology is sold in a range 02:52:55
15 that you say is comparable to other indicators does not 02:53:08
16 make that sale relevant to the patents-in-suit, does it? 02:53:14
17 A. It does as an indicator of -- we know that -- I 02:53:17
18 don't want to keep repeating myself, but there was the 02:53:31
19 Lycos, that bidding process and everything that led up 02:53:33
20 to that. There was the agreements that -- the patent 02:53:38
21 purchase and patent licensing agreements that Google 02:53:42
22 provided. I believe this -- [REDACTED] 02:53:45
23 [REDACTED]. I'm not a technical 02:53:49
24 person, so I'm not going to opine as to the technology, 02:53:54
25 whether it's comparable or not. 02:53:57

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1	Q. Well, let's stop there for a second. You do	02:53:58
2	not assert in your report that it's a comparable	02:54:00
3	technology, right?	02:54:02
4	A. Right. [REDACTED]	02:54:02
5	[REDACTED]	02:54:04
6	[REDACTED]	02:54:05
7	Q. Okay.	02:54:07
8	A. So I did not go beyond what the testimony in	02:54:07
9	the record was.	02:54:10
10	Q. And Dr. Ungar is not in his report asserting	02:54:10
11	that the technology in [REDACTED] is comparable to the	02:54:14
12	patents-in-suit, right?	02:54:17
13	A. That's correct. He did not assert that.	02:54:17
14	Q. Okay. I just want to make sure that's clear.	02:54:19
15	So then other than the fact that there are other ex post	02:54:23
16	indicators of price or an amount, how is [REDACTED] relevant	02:54:32
17	in your analysis to determine the value of the	02:54:42
18	patents-in-suit?	02:54:45
19	A. Well, a couple of things. [REDACTED]	02:54:46
20	[REDACTED]	02:54:49
21	[REDACTED]	02:54:52
22	[REDACTED] [REDACTED]	02:54:56
23	[REDACTED]	02:55:02
24	[REDACTED] [REDACTED]	02:55:05
25	[REDACTED]	02:55:09

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1	[REDACTED].	02:55:13
2	[REDACTED]	02:55:15
3	[REDACTED]	02:55:19
4	[REDACTED]	02:55:23
5	[REDACTED] [REDACTED]	02:55:26
6	[REDACTED].	02:55:29
7	Q. The number of patents that are licensed is not	02:55:31
8	necessarily an indicator of the value as reflected in	02:57:02
9	the purchase price, is it?	02:57:10
10	A. Just ask the question again.	02:57:11
11	Q. Well, the number of patents that somebody is	02:57:20
12	purchasing is not necessarily reflective of the value?	02:57:23
13	A. And let me tell you where I need the	02:57:32
14	clarification. Are we just talking generally right now,	02:57:36
15	or are we talking in a hypothetical negotiation? I just	02:57:38
16	need a little --	02:57:40
17	Q. No, I'm talking generally.	02:57:42
18	A. Okay.	02:57:44
19	Q. I mean, the value of a patent isn't	02:57:44
20	necessarily in the number of patents you're purchasing	02:57:48
21	or licensing, right?	02:57:48
22	A. The best I can tell you is my thought processes	02:57:54
23	when you ask the question. To the extent that you have	02:57:57
24	more patents and maybe that gives broader coverage and	02:58:00
25	there's less opportunity for a noninfringing	02:58:04