

# EXHIBIT M

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.  
-----x

(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 specific to individual ads?

2 MR. JACOBS: Objection as to form.

3 A. I have to see. [REDACTED]

4 [REDACTED]. We -- the various  
5 testimonies that I've heard -- I mean, sorry, the  
6 various testimonies that I've heard or read, as  
7 stated, [REDACTED] [REDACTED]

8 [REDACTED] [REDACTED]

9 [REDACTED]. But -- so that's the  
10 answer to my -- to your question.

11 Q. Okay. So you don't know whether  
12 there's -- [REDACTED]

13 [REDACTED]

14 [REDACTED]?

15 MR. JACOBS: Objection as to form.

16 A. I don't believe that I've seen them,  
17 so I don't think there are. But I don't know for  
18 sure.

19 Q. You certainly don't identify any in  
20 any of your reports; correct?

21 A. I do not identify any in any of my  
22 reports. But if you like -- I don't recall that  
23 I do, but if you show me the reports I can verify  
24 that but . . .

25 Q. Are you -- you would agree that

1 experience in the search area, but it wasn't  
2 until the actual depositions that I had that --  
3 sorry, the deposition, I only attended one, that  
4 I had, and the depositions -- transcripts that I  
5 read that I was actually 100 percent certain that  
6 my understanding matched what I thought it was.

7 Q. Okay. So you had -- before you  
8 served your opening report, you had an intuition  
9 that this comparison occurred through your view  
10 [REDACTED], but you weren't 100 percent  
11 sure of that; correct?

12 A. I wouldn't say it's an intuition.  
13 Intuition is a gut instinct. I've been in the  
14 search world for now 20 years. I know very well

15 [REDACTED] [REDACTED]  
16 [REDACTED] [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

Q. Had you -- what -- when did you --

1 when were you retained in this case?

2 A. Will you take an approximate?

3 Q. Sure. Of course.

4 A. It was -- I was contacted in the  
5 summer, not this summer, a year ago, I believe.

6 Q. And --

7 A. No, I know. Using the summer, yes,  
8 I know it was the summer of a year ago.

9 Q. [REDACTED]

10 [REDACTED]?

11 A. As I was learning what was going on.  
12 Initially, I had only documents, and the  
13 documents were -- [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 A. I don't remember.

19 Q. Was it more -- was it more than a  
20 month?

21 A. I would say a month. Three weeks.  
22 When I was learning things. I didn't have to --  
23 go ahead.

24 Q. But you didn't have to what?

25 A. I wasn't -- this isn't my day job.

1 I know that you -- you guys work this all the  
2 time. I only have a very limited amount of time.  
3 So until I actually have to act on something, I  
4 didn't act on something.

5 Q. Okay. When did you really feel you  
6 had to act on something?

7 A. When I knew that I actually had to  
8 write an expert report.

9 Q. When was that?

10 A. Oh, I knew well in advance, but I  
11 didn't have to start worrying about it for --  
12 until approximately a month beforehand.

13 Q. Okay. And why is it that you didn't  
14 have to actually start worrying about it until a  
15 month beforehand?

16 A. I can give you my answer. The  
17 reality is, a lot of cases settle, and I  
18 basically don't have so much spare time. So  
19 going and worrying about something that may  
20 disappear, the best -- the best thing in the  
21 world is when you don't have to -- when you don't  
22 do something that you don't have to do.

23 Q. Okay. So it was about a month  
24 before the report was due that you felt that you  
25 really started to had -- had to start working on

1 it?

2 A. Honestly, yes.

3 Q. The --

4 MR. JACOBS: We've been going over  
5 an hour. Is five minutes okay?

6 MR. PERLSON: Yeah. Sure, sure.

7 THE VIDEOGRAPHER: We are off the  
8 record at ten o'clock.

9 (Recess taken.)

10 THE VIDEOGRAPHER: We are back on  
11 the record at 10:18.

12 BY MR. PERLSON:

13 Q. Have -- have you reviewed marketing  
14 materials of Google regarding its advertising  
15 services?

16 MR. JACOBS: Objection as to form.

17 A. What do you mean by "marketing  
18 material"?

19 Q. Well, for example, information on  
20 Google's website?

21 A. I have looked at information on  
22 Google's website, yes.

23 Q. Okay. Do you think that that  
24 information is more definitive than the source  
25 code?

1

Q. Why not?

2

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

25

MR. JACOBS: Objection. Asked and



1 answered.

2

[REDACTED]

1

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

13

Q. Okay. And I'm -- I'm just asking a

14

very specific question. [REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

23

Q. Okay. Sorry. Same question for

24

ad -- for --

25

A. So you didn't let me finish.