

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

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

CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER

VIDEOTAPED DEPOSITION OF ALEXANDER R. BERGER

New York, New York

Wednesday, July 11, 2012

9:05 a.m.

Reported by: Elizabeth M. Kondor, CCR, CLR

Job No. CS406462

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corporate entity.

Why did you want to establish
Innovate/Protect as a corporate entity?

A. [REDACTED]

Q. Was there a specific type of intellectual
property you were interested in investing in?

A. What do you mean by "specific type"?

Q. You say you were interested in purchasing
intellectual property.

What do you mean by that?

A. At the time, in that context, I am
referring to patents.

Q. Were there any specific patents you were
interested in purchasing?

A. Yes.

Q. And what were those patents?

A. Those were patents that were owned by
Lycos.

Q. How did you first learn about the patents

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that were owned by Lycos?

A. I --

MS. ALBERT: I would caution the witness that to the extent that any of your answers would divulge attorney/client communications, I would advise you not to answer. If you can answer without divulging attorney/client communications, then you can do so.

A. My answer would involve attorney/client communications.

Q. So just to make -- I don't want -- I'm not asking for any attorney/client communications, but just so I understand, so you don't have any information as to how you learned about the Lycos patents without -- separate and apart from your communications with attorneys?

MS. ALBERT: If you're unsure, we can step outside and talk about it. Or for further instruction, you can say how, but not discuss the content of any communications.

A. I can say that I learned about -- that I first learned about the Lycos patents through conversations with attorneys.

Q. Just without going into the details,

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which attorneys were those?

A. They were attorneys in Washington, D.C. at Dickstein Shapiro.

Q. Do you remember specifically? Again, without telling me anything other than their names.

MS. ALBERT: It's fine to identify the attorneys, just don't go into any of the substance of the conversation.

THE WITNESS: Okay.

A. One of the attorneys was Brad Wine.

Q. Anyone else that you can identify?

A. Yes.

Q. And who would that be?

A. Frank Cimino.

Q. Anyone else?

A. From when I first learned about it, those are the only two that come to mind as I sit here today.

Q. Do you recall when this meeting occurred?

MS. ALBERT: Objection; no foundation.

A. Which meeting?

Q. Do you recall when -- not divulging the contents, do you recall when you first spoke with Mr. Wine and Mr. Cimino regarding the Lycos patents?

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MS. ALBERT: Objection.

A. I'm sorry, which attorney?

Q. Let's start with Mr. Wine.

Do you recall when you first spoke to Mr. Wine about the Lycos patents?

A. I don't specifically recall the date. I could say, generally, it was sometime in 2011.

Q. Do you recall more specifically when in 2011?

A. No.

Q. How about with Mr. Cimino, do you recall when you first discussed the Lycos patents with Mr. Cimino?

MS. ALBERT: Objection; no foundation as to discussing Lycos patents.

And I would also caution you. If you can identify a date, that's fine, but I'd advise you not to divulge any communications.

A. I don't remember specifically.

Q. When you first learned of the Lycos patents, were you still employed with Hudson Bay?

A. Yes.

Q. At that time, had Hudson Bay retained Dickstein Shapiro?

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Q. And what is your title at I/P Engine?

A. It's similar to my title at Innovate/Protect. I am the chief operating officer and chief financial officer. And then I have the corollary titles of secretary and treasurer. And in addition, I am a member of the Board of Directors.

Q. Who else is on the I/P Engine Board of Directors?

A. I believe the other directors currently consist of Mr. Lang, Mr. Stout and Mr. Sinclair.

Q. Does I/P Engine have office space?

A. I/P Engine?

Q. Uh-huh.

A. I do not believe that I/P Engine is party to a lease or owns any real property.

Q. So the Board of Directors of Innovate/Protect is identical to the Board of Directors of I/P Engine?

A. I believe so.

Q. Does I/P Engine have any other assets?

A. Yes.

Q. And what are those?

A. I believe one other asset is cash.

Q. And how much cash does I/P Engine have?

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2 I/P Engine was, you know, created to be a
3 wholly-owned subsidiary of Innovate/Protect, you
4 know, primarily to deal with, you know, just the
5 management of, you know, accounting for the different
6 business -- businesses that Innovate/Protect would
7 engage in.

8 Q. Does I/P Engine currently have any
9 businesses other than the Lycos patents?

10 MS. ALBERT: Objection; vague.

11 A. I'm not sure.

12 Q. Would there be anyone else that would
13 know the answer to that question, besides you?

14 A. There may be.

15 Q. And who would that be?

16 A. Perhaps Mr. Lang.

17 Q. Does I/P Engine manufacture any products?

18 A. No.

19 Q. Does it provide any services?

20 A. At the moment, not that I'm aware of.

21 Q. Does I/P Engine intend to provide any
22 services in the future?

23 A. It's possible.

24 Q. And what would those potentially be?

25 A. [REDACTED]

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[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Q. Does I/P Engine currently conduct any business other than the enforcement of some or all of the Lycos patents?

MS. ALBERT: Objection; vague.

A. What do you mean by that?

Q. Well, are you aware that I/P Engine has brought a litigation against AOL, Google, IAC Search & Media, Target and Gannett?

A. I am aware of the litigation.

Q. Does I/P Engine currently have any business other than enforcing that litigation?

MS. ALBERT: Objection; vague, no

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foundation.

A. What do you mean by "business"?

Q. Does I/P Engine currently own any assets other than the Lycos patents and the cash that we discussed?

MS. ALBERT: Objection; compound, asked and answered.

A. I would have to examine I/P Engine's balance sheet to see if there are any other assets, though I would expect there is a deferred tax asset.

Q. Anything else that you're aware of?

A. I believe, you know, in the context of tangible assets, that's it. In terms of intangible assets, I/P Engine has a team of people and, as I mentioned, patents.

Q. Has I/P Engine offered to license the Lycos patents to any entities?

MS. ALBERT: Objection; vague.

A. I'm sorry, what do you mean by "offered to license"?

Q. Well, has I/P Engine made any offers to license any or all of the Lycos patents to any third parties?

MS. ALBERT: Objection; vague as to time.

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A. Are you referring to from when I/P Engine established ownership -- you know, took assignment of the patents at closing through today?

Q. Yes.

A. Not that I'm aware of.

Q. Has I/P Engine ever contacted anyone regarding licensing of -- licensing out of the Lycos patents?

MS. ALBERT: Objection; vague.

A. Other than Lycos, I am not aware.

Q. Has I/P Engine ever been contacted by anyone regarding licensing the Lycos patents since I/P Engine took ownership of them?

A. I don't believe that there have been any concrete requests from bona fide third parties.

Q. And what do you mean by -- what do you mean when you say "concrete requests by bona fide third parties"?

A. I mean that every once in a while, a patent -- you know, someone who purports to be a patent broker will call, you know, and offer, kind of, vague overtures, but I don't consider those particularly concrete. They seem more like, you know, inquiries of a general nature.

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Does I/P Engine have any income?

A. Do you mean revenue?

Q. Sure, let's start with revenue.

A. No.

Q. Does Innovate/Protect have any revenue?

A. No.

Q. Do you have any understanding of the '420 and '664 patent, other than what we've discussed?

MS. ALBERT: Objection; compound, vague.

A. I don't believe so.

Q. You can put the '420 patent to the side.

I'm going to hand you what's being marked as Berger Deposition Exhibit 2, which, for the record, is Bates numbered IPE 0017715 through 20.

(Exhibit Berger-2, Innovate/Protect, In. Executive Summary September 2011, IPE 0017715 - 720, was received and marked for identification.)

Q. Just take as long as you need to look at the document and let me know when you're ready.

My first question is just, do you recognize this document?

A. I will look at it.

Q. Okay.

A. Yes.

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