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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

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

HIGHLY CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER
ATTORNEYS' EYES ONLY
VIDEOTAPED DEPOSITION OF ALEXANDER R. BERGER
HUDSON BAY 30(b)(6) WITNESS
New York, New York
Wednesday, July 25, 2012
3:05 p.m.

Job No. CS408429
Reported by: Elizabeth M. Kondor, CCR, CLR

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2 moment?

3 Q. Sure.

4 A. Thank you.

5 VIDEOGRAPHER: We're going off the
6 record. The time is 3:14.

7 (Recess.)

8 VIDEOGRAPHER: We are now back on the
9 record. The time is 3:15.

10 BY MR. PERLSON:

11 Q. Now, this morning you had testified that
12 Mr. Wine at Dickstein Shapiro had made you aware of
13 the Lycos patents; is that correct?

14 MS. ALBERT: Objection; misconstrues
15 testimony.

16 A. When you say "Lycos patents," are you
17 referring to a defined term somewhere in here?

18 Q. Fair enough. The Lycos patents that were
19 purchased by I/P Engine.

20 A. No, that's not entirely correct.

21 Q. Okay. What about that -- what did I get
22 wrong?

23 A. So, the Lycos patents, meaning the
24 specific patents identified by patent number or some
25 other way, I learned about from Lycos.

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2 Q. Okay. And what did Mr. Wine alert you to
3 in connection with patents owned by Lycos?

4 MS. ALBERT: I would caution the witness,
5 to the extent that your response would divulge
6 attorney/client communications, I would advise you
7 not to answer.

8 A. I will take my attorney's advice.

9 Q. Okay. You can't answer that question
10 without revealing attorney/client communications?

11 A. Right.

12 Q. When was the discussion with Mr. Wine in
13 which the -- when was the discussion with Mr. Wine
14 that had the conversation that you are now indicating
15 is privileged and prevents you from answering my
16 question as to what Mr. Wine alerted you to?

17 MS. ALBERT: I'm sorry, could you repeat
18 that?

19 (Record read.)

20 MS. ALBERT: Objection; vague.

21 Go ahead.

22 A. I don't remember the specific date and
23 time.

24 Q. Okay. At that time, what work had
25 Mr. Wine been doing for Hudson Bay, what legal work?

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2 scope.

3 Q. Okay. So you got -- is it correct that
4 you got Mr. Blais' name from Mr. Wine?

5 A. No.

6 Q. How did you get Mr. Blais' name?

7 A. From another attorney.

8 Q. And who did you get that from?

9 A. Mr. Cimino.

10 Q. And who is that?

11 A. Another attorney at Dickstein Shapiro.

12 Q. And when did Mr. Cimino give you
13 Mr. Blais' name?

14 A. I don't remember.

15 Q. And was Mr. Cimino acting as your
16 attorney when he gave you that information?

17 A. Yes.

18 Q. And why did Mr. Cimino give you
19 Mr. Blais' name?

20 MS. ALBERT: I would caution the witness,
21 to the extent that your response will divulge
22 attorney/client communications, I would advise you
23 not to answer.

24 A. I will take my attorney's advice.

25 Q. You can't answer that question without

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2 divulging attorney/client communications?

3 A. Correct.

4 Q. When did you first contact Mr. Blais?

5 A. I don't remember the exact date and time.

6 Q. Why did you contact Mr. Blais?

7 A. To speak about Lycos.

8 Q. What about Lycos?

9 A. I wanted to learn more about Lycos as a
10 company.

11 Q. What -- anything specific about Lycos
12 that you wanted to learn?

13 A. I was interested in learning about the
14 company, in general, as well as, you know, certain
15 assets that it held.

16 Q. Including patents?

17 A. Yes.

18 Q. And how did -- at the time that you
19 called Mr. Blais, what was your understanding of
20 Lycos' patent assets?

21 A. I had a very limited understanding.

22 Q. What was that limited understanding?

23 A. So, we're going back, you know, over a
24 year. Generally, at the time, I had probably gone on
25 to the internet and searched, you know, a database of