

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

I/P ENGINE, INC.

Plaintiff,

v.

AOL, INC., *et al.*,

Defendants.

Civil Action No. 2:11-cv-512

DEFENDANTS' PROPOSED VOIR DIRE

Defendants Google Inc., AOL, Inc., IAC Search & Media, Inc., Gannett Co., Inc., and Target Corporation, by counsel, in accordance with the Local Rules of Practice of this Court and this Court's Scheduling Order, propose the following voir dire questions for use in the trial of this matter. Defendants reserve the right to submit additional questions as necessary or appropriate or based upon the responses elicited from the prospective jurors during voir dire examination, pursuant to Federal Rule of Civil Procedure 47(a).

Introduction

Good morning, ladies and gentlemen. I am Judge Raymond Jackson and will be presiding over the trial in this matter for which a jury is about to be chosen. This case is styled *I/P Engine, Inc. v. AOL, Inc., Google Inc., IAC Search & Media, Inc., Gannett Company, Inc., and Target Corporation*. Briefly stated, this is a patent infringement action under the patent laws of the United States of America. This case involves Internet advertising systems. I/P Engine alleges that Defendants have infringed certain claims of I/P Engine's patents. Defendants deny that their systems infringe any of I/P Engine's patents and assert that the patents are invalid.

In order to choose a jury, I will ask the group a series of questions. If any of you answer “yes” to any of these questions, please raise your hand so that I might call on you to get a follow-up answer.

The Parties and Their Counsel

1. I will now identify the parties in this action. The Plaintiff in this matter is I/P Engine, Inc.; I will refer to the plaintiff as “I/P Engine.” The defendants are Google Inc., AOL, Inc., Gannett Co., Inc., IAC Search & Media, Inc., and Target Corporation; for our purposes this morning, I will refer to these companies as “Google,” “AOL,” “Gannett,” “IAC,” and “Target” or, collectively, “Defendants.”

- (A) Do you, any family member or anyone close to you have any knowledge of I/P Engine, Google, AOL, Gannett, IAC, or Target?
- (B) Have you, any family member or anyone close to you ever worked for I/P Engine, Google, AOL, Gannett, IAC, or Target?
- (C) Have you or any member of your immediate family ever purchased services from or used any item provided by I/P Engine, Google, AOL, Gannett, IAC, or Target?
- (D) Do you or any member of your household now own, or have you or any member of your household ever owned, any stocks or bonds in I/P Engine, Google, AOL, Gannett, IAC, or Target?
- (E) Do you, any family member or anyone close to you know any individuals who work for or do business with I/P Engine, Google, AOL, Gannett, IAC, or Target?
- (F) Have you, or any family member or anyone close to you ever had a negative experience with I/P Engine, Google, AOL, Gannett, IAC, or Target?

2. I would like to know your initial impression of each party.

- (A) How many of you have a positive impression of Plaintiff I/P Engine?
- (B) How many of you have a negative impression of Plaintiff I/P Engine?
- (C) How many of you do not have an impression of Plaintiff I/P Engine one way or the other?

- (D) How many of you have a positive impression of Defendant Google?
- (E) How many of you have a negative impression of Defendant Google?
- (F) How many of you do not have an impression of Defendant Google one way or the other?
- (G) How many of you have a positive impression of Defendant AOL?
- (H) How many of you have a negative impression of Defendant AOL?
- (I) How many of you do not have an impression of Defendant AOL one way or the other?
- (J) How many of you have a positive impression of Defendant IAC?
- (K) How many of you have a negative impression of Defendant IAC?
- (L) How many of you do not have an impression of Defendant IAC one way or the other?
- (M) How many of you have a positive impression of Defendant Target?
- (N) How many of you have a negative impression of Defendant Target?
- (O) How many of you do not have an impression of Defendant Target one way or the other?
- (P) How many of you have a positive impression of Defendant Gannett?
- (Q) How many of you have a negative impression of Defendant Gannett?
- (R) How many of you do not have an impression of Defendant Gannett one way or the other?

3. In this case, I/P Engine is represented by Dickstein Shapiro LLP and Crenshaw Ware & Martin PLC. Google, AOL, ICA, Target, and Gannett are represented by Quinn Emanuel Urquhart & Sullivan LLP and Kaufman & Canoles P.C.

- (A) Have you, a family member, or anyone you know ever been represented by any of the law firms in this case?
- (B) Have you, a family member, or anyone you know ever been employed by any of the law firms?

- (C) Have you, a family member, or anyone you know ever been on the other side of a case from any of the law firms?
- (D) Have you, a family member, or a close friend—either personally, or through a company—ever been involved in a suit where the person or persons on the other side were represented by any of the law firms?

4. I am now going to read a list of the individual lawyers involved in this case. If you, a family member, or a close friend has heard of, has a relationship with, knows, or has been represented by any of these attorneys, please raise your hand:

Jeffery Sherwood
Kenneth Brothers
Charles Montario, Jr.
Dawn Rudenko
DeAnna Allen
Frank C Cimino, Jr.
Jonathan Falkler
Krista Carter
Leslie Jacobs, Jr.
Donald Charles Schultz
Ryan Snow
David Perlson
David Bilsker
David Nelson
Robert Wilson
Emily O'Brien
Antonio Sistos
Joshua Sohn
Margaret Kammerud
Jennifer Ghaussy
Sara Agudo
Howard Chen
Stephen E. Noona

Companies

5. I am now going to read you a list of companies. I will place a copy of the list on the screen so you can follow along. Once I have read these names, I will ask you if any of you or any of your families have any connection to any of these entities:

Innovate/Protect, Inc.
Hudson Bay Capital Management LP
Vringo, Inc.
Lycos, Inc.

6. Now I am going to ask you a few questions about these companies, organizations and institutions. If your answer to any of these questions is “yes,” please raise your hand:

- (A) Have you, any family member or anyone close to you ever worked for any of these companies or organizations?
- (B) Are you personally acquainted with any officer, director, or employee of any of those companies or organizations?
- (C) Do you or any member of your household now own, or have you or any member of your household ever owned any stocks or bonds or had any other financial interest in any of those companies or organizations?
- (D) Have you, any family member, or anyone close to you had any dealings with, or relied financially in any way on any of these companies or organizations?
- (E) Have you, any family member, or anyone close to you had any negative experiences with any of these companies or organizations?
- (F) Have you, any family member, or anyone close to you had any positive experiences with any of these companies or organizations?
- (G) Before today have you heard about or read any news articles about these companies or organizations?

7. Have you or any member of your immediate family ever worked for the United States government other than a branch of the military service?

Knowledge of the Case

8. Has any member of the jury panel ever read or heard anything about this case?

Witnesses

9. I am now going to read to you a list of individuals who might appear as witnesses in this case. For each such person, please indicate whether you are related to, personally acquainted with, or have any knowledge of any of the following individuals:

Andrew K. Lang
Donald M. Kosak
Alexander Berger
Andrew Perlman
Mark Blais
Ophir Frieder
Stephen L. Becker
Jaime Carbonell

Jonathan Alferness
Bartholomew Furrow
Keith Ugone
Lyle Ungar
Rubin Ortega
Gary Culliss
Daniel Rose
Nick Fox
Derek Cook
Sanjay Datta
Gary Holt
James Maccoun
Jon Diorio
Stephen Kurtz
Celia Denery
Kevin Cotter
James Christopherson
Marie Bamford
Robert Hickernell

Technical Subject Areas

10. I am now going to read you a list of subject areas. Again, if your answer to any of my questions is “yes,” please raise your hand. Have you, or any family member, or anyone close to you ever been educated, employed, trained, or had any experience in any of the following areas:

- (A) Computer Science or IT
- (B) Electrical Engineering
- (C) Accounting, auditing, or bookkeeping
- (D) Finance/Financial Planning
- (E) Business/Business Planning
- (F) Psychology, psychiatry, or counseling
- (G) Law
- (H) Health Care or Medicine

- (I) Chemical Engineering
- (J) Computer programming
- (K) Web design
- (L) Information or systems management
- (M) Graphic arts or design
- (N) Patents
- (O) Copyrights
- (P) The music industry
- (Q) Education
- (R) Social work
- (S) Economics
- (T) Philosophy or ethics
- (U) Market research
- (V) Advertising
- (W) Publishing (either print or Internet)
- (X) Research methods
- (Y) Consumer research

Internet and Technology Experience

- 11. How many of you use a computer at work?
- 12. How many of you use a computer at home?
- 13. My next questions address how frequently, in general, you use the Internet, either daily, several times a week or month, and not at all.
 - (A) How many of you use the Internet on at least a daily basis?
 - (B) How many of you use the Internet several times a week or month?
 - (C) How many of you do not use the Internet?
- 14. Please raise your hand if you use the Internet in the following ways.
 - (A) For work-related activities?
 - (B) For personal shopping?
 - (C) For personal email?
 - (D) For viewing news-related content like newspapers?
 - (E) For managing your financial portfolio or investments?
 - (F) For blogging or live journaling?

- (G) For downloading music?
- (H) For downloading or streaming movies?
- (I) For watching live television?
- (J) For viewing videos on video-sharing websites like YouTube?
- (K) For promoting your business or organization?
- (L) For selling products or goods on auction websites like eBay?
- (M) For buying products or goods on auction websites like eBay?

15. How many of you read or participate in any Internet “chat rooms,” “blogs,” or other Internet discussion forums?

16. How many of you are in any way involved with any social networking websites, such as Facebook, LinkedIn, Google Plus, MySpace, or Twitter?

17. How many of you have an account with any social networking website, such as Facebook, LinkedIn, Google Plus, MySpace, or Twitter?

18. How many of you update or view information on your social networking site at least several times per week?

19. My next questions address how frequently, in general, you use Internet search tools such as Google.com, AOL.com, Ask.com, or Yahoo.com, to seek out information on the Internet, either daily, several times a week or month, and not at all.

- (A) How many of you use Internet search tools on at least a daily basis?
- (B) How many of you use Internet search tools several times a week or month?
- (C) How many of you do not use Internet search tools?

20. My next questions address how frequently do you use e-mail or the Internet to view online content.

- (A) How many of your use e-mail on at least a daily basis?

- (B) How many of you view websites or content on the Internet at least several times per month?
 - (C) How many of you do not use e-mail?
 - (D) How many of you do not view websites or content on the Internet?
21. How many of you know something about the AdWords or AdSense advertising services offered by Google?
22. How many of you have ever established an account to use Google's AdWords or AdSense services?
23. How many of you have ever worked for a company that has used Google's AdWords or AdSense services?
24. How many of you own smart phones? How many of you own iPhones?
25. How many of you own Blackberries?
26. How many of you own smart phones using Google Android ?
27. Have you or anyone in your immediate family researched anything about this case or any of the parties on the Internet before you came into today?

[Defendants request that the Court instruct the jury NOT to do such research].

28. Have you or anyone in your immediate family signed up for or participated in any services that monitor online activities? If so, please raise your hand.

Business Experience

29. Have any of your ever owned your own business?
30. Have any of you ever invested or otherwise been involved in a "start up" or newly formed company or business?

Litigation Experience

31. Now, I would like to ask you some questions concerning your prior experiences with litigation. Please raise your hand if your answer is yes. Have you ever been a plaintiff, a defendant, or a witness in any lawsuit?

- (A) If you were a party to a lawsuit, what were the circumstances?
- (B) Were you a plaintiff or defendant?
- (C) Were you satisfied with the outcome?
- (D) Do you have any feelings about courts or lawsuits that would affect how you view the Court system or the parties in the case?
- (E) Was there anything about your experience as a party to a lawsuit that would make it difficult for you to keep an open mind and to listen to the opinions of others before forming your own opinion?

32. How many of you believe that most people who sue others in court have legitimate grievances?

33. How many of you believe that laws should be changed to make it easier to sue corporations?

34. Additionally, please raise your hand if you have ever served on a jury. If yes:

- (A) In what court? What types of cases have you sat on?
- (B) Did the jury reach a decision?
- (C) Were you chosen as the foreperson?
- (D) Were you satisfied with the verdict?
- (D) Was your jury experience good or bad?
- (E) Was there anything about your experience as a juror that would affect how you view the Court system or whether you could be fair and impartial as a juror on this case?
- (F) Was there anything about your experience as a juror that would lead you to not want to serve on a jury in this matter?

- (G) If you were chosen as a juror in this case, would it be difficult for you to keep an open mind and listen to the opinions of others before forming your own opinion?

Patent and/or Intellectual Property Exposure

As I indicated when we began, this matter involves a claim of patent infringement. As a result, I would now like to ask each of you about your experiences with patents or the office of the Federal Government that grants patents, the United States Patent and Trademark Office.

35. Have you, any family member or anyone close to you worked for or had any contact, business or otherwise, with the United States Patent and Trademark Office?
36. Have you, any family member or anyone close to you ever invented a process or apparatus of any kind?
37. Have you ever had an idea or developed a product that you thought was suitable for a patent?
38. Has a family member or anyone close to you ever had an idea or developed a product that the person thought was suitable for a patent?
39. Have you, any family member or anyone close to you ever applied for or been awarded a patent, trademark or copyright?
40. Have you, any family member or anyone close to you ever sought advice about obtaining a patent, trademark or copyright for an idea, process, method or invention?
41. Have you, any family member or anyone close to you ever sought to take actions to protect any intellectual property rights, such as a patent, trademark or copyright, against another individual or company?
42. Have you, any family member or anyone close to you ever worked for a business that sought to take actions to protect any intellectual property rights, such as a patent, trademark or copyright, against another individual or company?

43. Have you, any family member or anyone close to you ever worked for a business that was sued over the potential violation of any intellectual property rights, such as a patent, trademark or copyright, against another individual or company?

44. Have you, any family member or anyone close to you ever consulted with a patent attorney or any attorney who specializes in patents, trademarks or copyrights?

45. How many of you know a little bit about the process for obtaining patents?

46. How many of you know a little bit about the process for enforcing patents?

47. How many of you believe that once a patent is granted by the United States Patent and Trademark Office, it is still reasonable to challenge whether the patent is valid?

48. How many of you believe that the government reviews patent applications very thoroughly?

49. How many of you believe that the government makes it too easy to get a patent?

50. Have you, any family member or anyone close to you ever had any legal training? If so, what was that training?

Special Disability or Problem

This case will last for approximately ___ days. I would like to ask each of you about any special circumstances that would prevent you from serving as a juror in this case. If your answer to any of these questions is yes, please raise your hand.

51. Does any member of the jury panel have any special physical disability or problem that would make it difficult or impossible for you to serve as a juror in this case?

52. How many of you, as a result of your background and experiences, have any feelings that would influence your decision toward either party in this case?

53. Does any member of the jury panel have any difficulty speaking, reading, writing or understanding English?

54. Do you or any member of your immediate family, or anyone close to you, have any medical circumstances, condition, or illness that you believe might be affected or cause you a problem in serving as a juror in this case?

55. How many of you, as a result of your background and experiences, believe that it would be difficult for you to try the issues without favoring one side or the other?

56. Is there any other reason that would prevent you from serving as a member of this jury without favoring one side or the other?

Ladies and Gentlemen, I thank you for your attention and for answering my questions. We will now allow the parties to choose the jury for this matter. Since there are only ___ people who will be chosen, you may or may not be asked to serve on this jury. Either way, I want to thank you for doing your civic duty and for ensuring the fair functioning of justice system.

DATED: October 9, 2012

/s/ Stephen E. Noona

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CERTIFICATE OF SERVICE

I hereby certify that on October 9, 2012, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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