

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

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

**SECOND UPDATED EXPERT REPORT OF OPHIR FRIEDER
ON INFRINGEMENT OF U.S. PATENT NOS. 6,314,420 AND 6,775,664**

I. INTRODUCTION

1. I have been retained by Dickstein Shapiro LLP, attorneys for I/P Engine, Inc. (“I/P Engine”) in the above-captioned case, which I understand to be a patent infringement case involving U.S. Patent Nos. 6,314,420 (“the ‘420 patent”) and U.S. Patent No. 6,775,664 (“the ‘664 patent”). I previously submitted a report on July 25, 2012, and an updated report on September 4, 2012, in which I opined that all asserted claims are infringed.

2. I update my report in view of the Court’s Order of October 9, 2012 (D.I. 697), and in view of the additional source code produced by Google after the close of discovery on September 17, 2012, subsequent to my deposition in this case and my expert reports.

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II. NON-INFRINGEMENT ALTERNATIVES

3. I have reviewed the “non-infringing alternatives” set forth in Dr. Ungar’s August 30, 2012 Expert Report Concerning Noninfringement and Dr. Ugone’s August 29, 2012 Rebuttal Expert Report.

4. In my opinion, none of the alternatives set forth in Dr. Ungar and Dr. Ugone’s reports would have the same advantages of the system currently used by Google, and none of them would be acceptable substitutes for Google’s current system. The proposed alternatives would not produce the same quality results because none of the proposed alternatives would consider the relevance of an advertisement to the user’s query.

III. ADDITIONAL SOURCE CODE PRODUCTION

5. Since my July 25 report and September 4 update, and my September 6 deposition, I have learned that Google produced additional source code on September 17, 2012, after the close of discovery.

6. The “Google17” model includes attribute templates corresponding to, among other things, the [REDACTED]. See SC-G-IPE00000151-154 (for example, [REDACTED]). These attribute templates are similar to attribute templates identified in the prior source code productions. See SC-G-IPE00000001-4 (for example, [REDACTED]). The source code shows that other earlier models also included attribute templates corresponding to the [REDACTED]. See SC-G-IPE00000151-229 (for example, “Google15,” “Google9” and “Google7” models).

7. The models produced on September 17, 2012 therefore further confirm that historical versions of SmartASS infringe the asserted patents for the same reasons as set forth in my July 25 report. Specifically, it confirms my conclusion, supported by the documents and testimony cited in my original report, that the accused AdWords systems have infringed the asserted claims of the '420 and '664 patents since the launch of SmartASS in 2004.

8. Executed on this 11th day of October 2012, in Washington, DC.

By



Ophir Frieder

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of October, 2012, the foregoing **SECOND**

UPDATED EXPERT REPORT OF OPHIR FRIEDER ON INFRINGEMENT OF U.S.

PATENT NOS. 6.314.420 AND 6,775,664, was served via electronic mail, on the following:

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