

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

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I/P ENGINE, INC.,)	
)	
	Plaintiff,)	
	v.)	Civ. Action No. 2:11-cv-512
)	
AOL, INC. et al.,)	
)	
	Defendants.)	
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PLAINTIFF’S PROPOSED CURATIVE INSTRUCTIONS

1. Instruction Regarding The Disney-Google Agreement

Members of the jury, yesterday you heard counsel for Defendants ask Dr. Becker a number of questions during cross-examination regarding a patent license agreement between Disney and Google. Defendants were trying to establish that the technology of the Disney-Google Agreement is comparable to the technology of the patents-in-suit that I/P Engine is asserting against Google and the other defendants. The Court has ruled that the technology of the Disney-Google Agreement is not comparable to the technology of the patents-in-suit. As a result, the Court instructed you to disregard all testimony regarding the Disney-Google Agreement. You may not consider that agreement, or the amount of that agreement, for any purpose, including trying to determine what the appropriate royalty should be in this case.

I want to emphasize that my instruction to you on this matter is in no way a reflection that Dr. Becker did anything improper. During his direct examination, Dr. Becker testified that he was not relying on the Disney-Google agreement because there is no evidence that the Disney technology is relevant to any issue in this case the questions of Defense counsel regarding the

Disney-Google agreement were improper. The Court has therefore ruled that any evidence regarding the Disney technology is improper and irrelevant.

2. Instruction Regarding Discovery of Google's Financial Information

You also heard counsel for Defendants ask Dr. Becker questions regarding whether he had asked counsel for I/P Engine for further documents or information to support his opinions regarding his apportionment, or whether there was a final version of PX 64, the Revenue Force document. After reviewing the record on this matter, the Court has found that counsel for I/P Engine had requested those documents and information from Google, but that Google did not produce to I/P Engine a final version of the Revenue Force document, PX 64, or any documents providing the numerical support for the slides on page 38 of that document. I instruct you that you may conclude, based upon the cross-examination questions asked of Dr. Becker by Defendants' counsel, that Google had additional documents and information that, had they been produced, would have provided further support to Dr. Becker's opinions regarding his apportionment.