

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

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I/P ENGINE, INC.,

Plaintiff,

v. Civil Action No. 2:11-cv-512

AOL, INC., et al.,

Defendants.

-----x

CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER

Videotaped Deposition of ANDREW K. LANG

Washington, D.C.

Thursday, May 17, 2012

9:04 a.m.

Reported by: Amy E. Sikora, RPR, CRR, CSR-NY, CLR

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1 Deposition of ANDREW K. LANG
2 held at the offices of:
3 Dickstein Shapiro LLP
4 1825 Eye Street, N.W.
5 Washington, D.C. 20006
6

7 Pursuant to notice, before Amy E. Sikora,
8 Registered Professional Reporter, Certified
9 Realtime Reporter, Certified Shorthand
10 Reporter (NY), Certified LiveNote Reporter, and
11 Notary Public for the District of Columbia.
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A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFF:

DAWN RUDENKO ALBERT, ESQUIRE

Dickstein Shapiro LLP

1633 Broadway

New York, New York 10019-6708

212-277-6715

albertd@dicksteinshapiro.com

-and-

JONATHAN L. FALKLER, ESQUIRE

1825 Eye Street, N.W.

Washington, D.C. 20006-5403

202-420-3032

falklerj@dicksteinshapiro.com

ON BEHALF OF DEFENDANTS GOOGLE, INC., IAC
SEARCH & MEDIA, INC., TARGET CORP., AND GANNETT
CO., INC.:

DAVID A. PERLSON, ESQUIRE

Quinn Emanuel Urquhart & Sullivan

50 California Street

San Francisco, California 94111

415-986-5700

davidperlson@quinnemanuel.com

A P P E A R A N C E S

(Continued)

ON BEHALF OF DEFENDANT AOL, INC.:

CORTNEY S. ALEXANDER, ESQUIRE

Finnegan Henderson Farabow Garrett & Dunner

LLP

3500 SunTrust Plaza

303 Peachtree Street, NE

Atlanta, Georgia 30308-3263

404-653-6400

courtney.alexander@finnegan.com

ALSO PRESENT:

David L. Cohen, Esquire

Innovate/Protect

Daniel McClutchy, Videographer

1 Q. Sure.

2 A. I'm not sure.

3 Q. And -- well, when is the last time
4 you've read the patents that are at issue in this
5 case in any level of detail?

6 MS. ALBERT: Objection, vague.

7 A. I've -- I've read parts of them as
8 recently as the latter half of 2011.

9 Q. What parts?

10 MS. ALBERT: I would caution the
11 witness that if your response is going to divulge
12 attorney-client communications, I would advise
13 you not to answer.

14 A. I'm going to take my attorney's
15 advice.

16 Q. You can't answer the question without
17 divulging privileged communications?

18 A. Yes.

19 Q. Prior to looking at or -- let me start
20 over. Prior to reading parts of the patent in
21 the latter half of 2011, before that when was the
22 last time that you had read the patents?

23 A. I don't recall exactly, but probably
24 10 years prior to that, roughly.

25 Q. And in connection with your deposition

1 today, you did not feel a need to read your
2 patents?

3 MS. ALBERT: Objection.

4 A. I -- I don't recall feeling some need
5 to read them.

6 Q. Did you anticipate that you'd be asked
7 questions regarding the patents at issue in this
8 case?

9 MS. ALBERT: Objection. I would also
10 caution the witness that if your response would
11 divulge any attorney-client communications, I
12 would advise you not to answer.

13 A. I'm going to take my attorney's
14 advice.

15 Q. Well, separate and apart from anything
16 that your attorney told you, did you anticipate
17 that you'd be asked questions regarding the
18 patents at issue in this case that you are a
19 named inventor of?

20 A. Aside from what I've been told by my
21 attorneys, I'm not sure I would be even aware of
22 this deposition.

23 Q. Okay. But -- okay. But once you knew
24 that the deposition was scheduled and that you
25 were going to be giving a deposition in this case

1 hundreds of millions that the current search
2 engine was -- was using.

3 Q. Other than -- excuse me. Other than
4 Gigasearch, did you personally do any work in
5 connection with Internet search while you were at
6 Lycos?

7 MS. ALBERT: Objection.

8 A. It's possible. I don't -- I don't
9 recall working on their -- on their current
10 search engine a lot. My -- my focus was more on
11 new technologies.

12 Q. Well, and other than Gigasearch, did
13 any of those new technologies relate to Internet
14 search?

15 MS. ALBERT: Objection.

16 A. I don't recall. It's possible.

17 Q. In relation to the inventions in this
18 case, did you ever create any prototype of --
19 of -- of any system?

20 A. In connection with this case?

21 Q. Let me start over. It was a bad
22 question.

23 Did you ever develop any prototype
24 system of the inventions of the patents that are
25 at issue in this case?

1 MS. ALBERT: Objection, vague.

2 A. I don't recall whether I did or not.

3 Q. Do you know whether anybody did?

4 MS. ALBERT: Objection, vague.

5 A. I'm not sure.

6 THE VIDEOGRAPHER: Five minutes left
7 on the tape, Counsel.

8 MR. PERLSON: Okay.

9 Q. Do you know whether anyone ever did
10 any testing of the inventions that are at issue
11 in this case?

12 MS. ALBERT: Objection, vague.
13 Speculation.

14 A. I don't recall any specific memories
15 of people testing it.

16 MR. PERLSON: Why don't we change --
17 we're at the end of the tape. Why don't we take
18 a break.

19 THE VIDEOGRAPHER: Going off the
20 record. The time is 10:20. This ends tape
21 No. 1.

22 (Recess taken.)

23 THE VIDEOGRAPHER: We are back on the
24 record. The time is 10:32. This is tape No. 2.

25

1 BY MR. PERLSON:

2 Q. Do you know whether Lycos ever used
3 the -- the patents in suit?

4 MS. ALBERT: Vague. Speculation.

5 A. Sitting here today, I don't know.

6 Q. At some point in time Lycos sold the
7 patents in suit to an entity that -- that you
8 were involved with; is that correct?

9 MS. ALBERT: Objection, vague.

10 A. Yes.

11 Q. Okay. And when was that?

12 A. I believe it was the middle of 2011.

13 Q. Okay. And how did you first hear of
14 the opportunity to buy those patents?

15 A. How did I hear of them?

16 Q. Sure.

17 A. Let's see, I'm --

18 MS. ALBERT: I would just caution the
19 witness that if it's going to divulge
20 attorney-client communications, I'd advise you
21 not to answer.

22 A. I -- there was a meeting that took
23 place in the middle of 2011 in which I was told
24 that there may be an opportunity to buy those
25 patents.

1 Q. And does -- did the NewsWeeder use
2 collaborative filtering?

3 A. Not --

4 MS. ALBERT: Objection, vague.

5 A. I don't recall -- I don't recall there
6 being collaborative filtering at the time that I
7 was there.

8 Q. Okay. Did it use content-based
9 filtering?

10 MS. ALBERT: Objection.

11 A. I don't remember whether was the -- it
12 was using content-based analysis or filtering
13 live with the users reading things or if it was
14 simply done on the back end as far as doing
15 research.

16 Q. Was the NewsWeeder -- was it -- you
17 had a -- a research paper in connection with the
18 NewsWeeder; is that correct?

19 A. That's correct.

20 Q. And did you make any proposals to
21 Carnegie Mellon to try to commercialize the news
22 reader -- NewsWeeder?

23 A. I think what you mean -- you may mean
24 by that is, Carnegie Mellon has a technology
25 transfer office, and if you're going to start

1 had others around at the time.

2 Q. And what was Mr. Kosak's contribution
3 to the patents at issue in this case?

4 MS. ALBERT: Objection, vague.

5 A. It was a long time ago. He was --
6 let's see. He was the first technology-oriented
7 person that joined the company, and he and I
8 worked together on the patents, on the invention
9 and the technology, and I don't recall exactly
10 who contributed what in the . . .

11 Q. So you can't say that one of you was
12 the content-based guy and the other one was the
13 collaborative-based guy?

14 MS. ALBERT: Objection, vague.

15 A. I don't think that there was any, you
16 know, clear division between who did what.

17 Q. What was the -- did Empirical Media
18 ever release any products?

19 A. Sorry, can you repeat that?

20 Q. Did Empirical Media ever release any
21 products?

22 A. When you -- when you say "products,"
23 you mean like a physical product that was
24 delivered to customers?

25 Q. Or something made available through

1 than millions.

2 Q. Thousands?

3 A. I don't recall that number.

4 Q. Did Ustream use collaborative
5 filtering?

6 MS. ALBERT: Objection. No
7 foundation. Vague.

8 A. Ustream, what do you mean by
9 "Ustream"?

10 Q. Oh, I'm sorry. Was the service -- I'm
11 sorry, I guess I'm confusing Ustream and UMedia,
12 I think. What -- you said there was WiseWire and
13 then -- I thought it was Ustream. Is it UMedia?

14 A. My recollection was the first name we
15 chose for the service was UMedia. The words
16 "Ustream" are vaguely familiar, but I don't
17 remember how we were using them at the time.

18 Q. Okay. Well, did -- did the UMedia
19 service use collaborative filtering?

20 MS. ALBERT: Objection.

21 A. When it was called UMedia?

22 Q. Sure.

23 A. I'm not sure.

24 Q. Did the WiseWire service use
25 collaborative filtering?

1 A. I believe it did.

2 Q. And did it use content filtering?

3 MS. ALBERT: Objection.

4 A. Yes. I believe it used content-based
5 filtering, if you mean the WiseWire service.

6 Q. Correct. And what did the WiseWire
7 service use collaborative filtering for?

8 MS. ALBERT: Objection.

9 A. I believe we had a number of different
10 projects that used it. One such project I
11 remember was a service that let users read things
12 on the Internet and rate them, and then use those
13 ratings to help predict ratings for other users.

14 Q. Was WiseWire ever used in connection
15 with Internet search?

16 MS. ALBERT: Objection.

17 A. Can you tell me what you mean by
18 "Internet search"?

19 Q. You don't understand what an Internet
20 search is?

21 A. Well, it could mean different things
22 so I'm asking what you mean by it.

23 Q. In the context of an Internet search
24 engine. Does that help?

25 A. A search engine like Lycos?

1 Q. Sure.

2 A. I don't recall whether it was used
3 with -- physically used with -- with a search
4 engine like Lycos.

5 Q. Do you recall whether WiseWire was
6 ever used in connection with any service that
7 allowed the user to search the Internet?

8 A. By "connection," can you tell me what
9 you mean by that? "In connection with"? I'll --
10 I'll tell you why I'm asking. I mean, as I
11 mentioned earlier, we did provide technology that
12 could be used for various Lycos products. Those
13 products were sometimes used within the -- the
14 same web page as Lycos' search engine. That
15 could be considered in connection with, although
16 it did not -- it did not -- may not have been
17 being used in the search engine itself.

18 Q. Okay. So can you give an example of
19 how WiseWire products might have been on the
20 Lycos page?

21 MS. ALBERT: Objection.

22 Q. Web page?

23 A. Which -- which web page?

24 Q. Let me just back up.

25 A. Okay.

1 Q. That was a bad question.

2 Can you give me an example of the --
3 of what you just described, a practical example
4 of when your technology was used in connection
5 with --

6 A. Well, my recollection of the Lycos
7 website was there was various pages, and
8 different pages could provide different kinds of
9 services. And one web page had a search engine.
10 There were other web pages that had -- their
11 hierarchy or directory of web pages. And I
12 recall WiseWire being used in the directory. I
13 don't -- I don't recall whether it was used in
14 their search engine or not.

15 Q. When was the first WiseWire service
16 offered?

17 MS. ALBERT: Objection.

18 A. I don't recall.

19 Q. Did WiseWire use a user query to
20 perform content-based filtering?

21 MS. ALBERT: Objection.

22 A. I'm not sure. I don't remember
23 queries being used in that way.

24 Q. Do you know whether WiseWire used user
25 queries for collaborative-based filtering?

1 MS. ALBERT: Objection.

2 A. I don't recall them being used in that
3 way.

4 Q. Do you know what a spider is in
5 connection -- in the context of Internet search?

6 MS. ALBERT: Objection.

7 A. Do I know what a spider is in
8 connection with Internet search or in general
9 what my understanding is what that means?

10 Q. Yeah.

11 A. Yes, I have a general understanding.

12 Q. What -- what is it?

13 A. A spider collects web pages to put
14 into the search engine.

15 Q. How does it do that?

16 A. It makes requests on the Internet for
17 web pages, receives them, and then puts them in
18 an index.

19 Q. Would you agree that spidering systems
20 existed before the patents in this case were
21 filed?

22 MS. ALBERT: Objection, vague. No
23 foundation.

24 A. I believe that people would call some
25 of the systems created before these patents were

1 filed spidering systems.

2 Q. Yourself and Mr. Kosak didn't invent
3 spidering; correct?

4 MS. ALBERT: Objection.

5 A. If by "spidering" you mean what I was
6 referring to earlier, sort of pulling web pages
7 from the Internet and putting them into search
8 engines, no, we did not invent that.

9 Q. Have you ever heard of GroupLens?

10 A. Yes.

11 Q. What's GroupLens?

12 A. My -- I don't have a deep familiarity
13 with it because it was a long time ago, but my
14 recollection is they had a system for filtering.

15 Q. What sort of filtering?

16 A. I don't know the technical details of
17 it, but I believe it -- it would fall in the
18 collaborative filtering area.

19 Q. Were you aware of that at the time
20 that you filed for the patents at issue in this
21 case, of GroupLens?

22 A. I believe I was.

23 MS. ALBERT: Objection, vague.

24 Q. Did you provide the information on
25 GroupLens to your patent attorneys?

1 MS. ALBERT: You can answer yes, no,
2 or I don't recall, but I caution you not to
3 divulge any communications between you and your
4 attorney.

5 A. I'm going to take my attorney's
6 advice.

7 MS. ALBERT: Well, you can answer yes,
8 no, or I don't recall whether you provided, but I
9 don't want you to give any substance.

10 A. Oh, I don't recall.

11 Q. You don't know one way or the other?

12 A. I don't know. It might have been me.
13 It might have been somebody else.

14 Q. Well, do you know whether anybody
15 provided documentation regarding GroupLens to the
16 patent attorney in connection with the
17 prosecution of the patents in suit?

18 A. My recollection is that I believe in
19 at least one of the patents in the family
20 GroupLens is mentioned, but I'm not positive.

21 Q. Do you know what the difference is
22 between GroupLens and the patents at issue in
23 this case?

24 MS. ALBERT: Objection.

25 A. I think I'd need to look at the

1 things, so I don't -- I can't list them all.

2 Q. Do you use a computer for work,
3 presumably?

4 A. Yes.

5 Q. And do you have files that are stored
6 locally on that computer?

7 MS. ALBERT: Objection.

8 A. There are files locally stored on the
9 computer.

10 Q. And did you look for files on your
11 computer in connection with requests for
12 documents in this litigation?

13 A. I didn't look for documents on it. I
14 just -- I -- they had somebody who came and just
15 imaged the entire thing.

16 Q. Do you keep paper files at
17 Innovate/Protect?

18 A. In general, no. There might be an
19 occasional piece of paper that's there, but
20 nothing comes to mind right now.

21 Q. Do you still have documentation -- let
22 me ask -- start over.

23 It's been a while since you worked at
24 Lycos or WiseWire. Did you take anything with
25 you documentation-wise from those times?

1 MS. ALBERT: Objection. Compound,
2 vague.

3 A. I believe that there were some -- at
4 least some things that remained with me after I
5 left their employment.

6 Q. Oath. Do you still have those?

7 MS. ALBERT: Objection.

8 A. Do I have them in my possession?

9 Q. Sure.

10 A. I don't believe I have any remaining
11 in my possession now.

12 Q. Okay. Did you look?

13 MS. ALBERT: Objection.

14 A. I looked, along with a representative
15 from my attorney, to see if in my possession
16 there was anything like that.

17 Q. Among any physical files or on the
18 computer?

19 MS. ALBERT: Objection.

20 A. Well, your earlier question was about
21 paper documents, right?

22 Q. Okay.

23 A. Are you referring to that or which
24 thing are you referring to?

25 Q. Well, I'm referring to -- you had said

1 that you looked through with an attorney --

2 A. Uh-huh.

3 Q. -- for files.

4 A. Right.

5 Q. And I was asking if those were paper
6 files?

7 A. Those were paper files.

8 Q. Okay. And are those things that you
9 had like at home or in your garage?

10 A. I had them in a storage unit.

11 Q. Okay. When you were working on the
12 inventions of the -- the patent in suit, did you
13 keep like a notebook of some kind?

14 MS. ALBERT: Objection, vague.

15 A. When I was -- when I was inventing
16 them, is that what you're saying?

17 Q. Yeah.

18 A. I would occasionally use a pad and
19 paper to write down ideas.

20 Q. Okay. You didn't have like a notebook
21 that you would centrally store all your ideas or
22 something like that?

23 MS. ALBERT: Objection.

24 A. I don't recall a specific -- there
25 may -- there may have been some specific -- well,

1 there were various notebooks but there wasn't
2 like one central one.

3 Q. Uh-huh. Would you have taken those
4 notebooks with you --

5 MS. ALBERT: Objection.

6 Q. -- when you left Lycos?

7 A. I don't -- I don't recall what I took
8 with me specifically.

9 Q. So you don't know where they are
10 necessarily?

11 MS. ALBERT: Objection. No
12 foundation.

13 A. Where the -- where the notebooks are
14 from when I left?

15 Q. Yeah.

16 A. No. I don't know where they are right
17 now.

18 Q. Okay.

19 MR. PERLSON: Well, he has to change
20 the tape, so do you want to break for lunch?

21 THE VIDEOGRAPHER: Going off the
22 record. The time is 11:58. This ends tape
23 No. 2.

24 (Recess taken.)

25 (Lang Exhibit No. 2, copy of Lang

1 then I would need to go and see what systems were
2 in existence at that point in time.

3 Q. And you can't do that right now as to
4 claim 26 of the '664 patent; correct?

5 A. Yeah. I would need the time to read
6 the patent, and then I would probably need to do
7 some Internet research about what systems existed
8 then and how they worked.

9 Q. Okay. So you can't answer that
10 question right now; correct?

11 A. That's correct.

12 Q. Did -- did you do any investigation
13 concerning what the state of the art was at the
14 time you filed for your patents in connection
15 with your preparation for this deposition?

16 MS. ALBERT: Objection. Compound,
17 vague.

18 A. I'm sorry, can you repeat the whole
19 thing?

20 Q. Sure.

21 A. Yeah.

22 Q. Did you do any investigation -- well,
23 let me ask you this: Have you ever done any
24 investigation as to what the state of the art was
25 at the time that you applied for your patents?

1 MS. ALBERT: Objection.

2 A. Did I do any investigation at that
3 time that I was applying?

4 Q. Sure.

5 A. I believe I probably did, but I
6 don't -- that was a long time ago so I don't
7 remember exactly.

8 Q. Have you -- have you done that since
9 then?

10 MS. ALBERT: Objection.

11 A. Have I done any -- have I reviewed
12 whether there was existing systems out there --

13 Q. Sure.

14 A. -- prior to filing? I don't recall --
15 I don't recall doing it since then.

16 Q. So, you know, you're really not in any
17 position to identify what -- well, let's move on
18 to a different question.

19 Did anyone tell you not to look at the
20 state of the art at the time you filed for your
21 patents, in connection with your deposition
22 today?

23 MS. ALBERT: I would caution the
24 witness -- first I want to object to the form of
25 the question. But I would also caution the

1 Is there a specific page that you're referring
2 to.

3 Q. Well, that's sort of why I was asking
4 the question. Because, as you say, it has
5 some -- you know, it has these title pages, and
6 then it has emails behind them. And I was
7 wondering if you remembered someone putting this
8 together for some particular purpose?

9 A. I don't.

10 Q. On the second page it refers to
11 "WiseWire 3.0 Software Component Layout"?

12 A. Yes, I see it.

13 Q. And is -- do you know what the
14 WiseWire 3.0 was in comparison to the previous
15 versions, like how it was different?

16 MS. ALBERT: Objection. No
17 foundation.

18 A. I don't off the top of my head. It's
19 been many years since then.

20 Q. If you look on -- it's Lang 1322.
21 It's the "WiseWire Technology Group." Kind of an
22 org chart, it looks like?

23 A. I see it.

24 Q. So was there a -- a separate group at
25 WiseWire that -- that you were in charge of or --

1 description at a high level for marketing
2 purposes to the layman.

3 Q. Okay. Does it say here that this is
4 just one of the many ways of -- of doing
5 collaborative filtering?

6 MS. ALBERT: Objection. No
7 foundation.

8 A. No. It says "a process."

9 Q. It says, "a process called
10 collaborative filtering"; right?

11 A. Right.

12 Q. If you look in the third paragraph --
13 third full paragraph on page 2, in the second
14 sentence that's attributable -- attributed to
15 you, it says, "'The ability to dynamically meet
16 the interests of its users can personalize the
17 Internet for each individual, while the
18 combination of adaptive and collaborative
19 filtering provides the highest quality of online
20 information available."

21 Do you see that?

22 A. I see it.

23 Q. And what is -- what is adaptive
24 filtering?

25 MS. ALBERT: Objection.

1 Q. As you used it in that sentence?

2 MS. ALBERT: Objection. No

3 foundation.

4 A. You know, it was a long -- it was a
5 very long time ago, so, you know, I can't tell
6 you, sitting here today, what was in my mind when
7 I was -- when I was quoted in this.

8 Q. Do you have a present understanding of
9 what adaptive filtering it?

10 A. Today, you know, I have -- I can give
11 you my general understanding today of -- of how I
12 would define what that generally means.

13 Q. Okay. Please do.

14 A. Well, filtering, as I described
15 earlier, is taking a stream of -- of content and
16 using a set of criteria to decide whether to
17 include or exclude pieces of that content
18 according to that criteria, and potentially
19 ranking the items that are included. And being
20 adaptive means that it can change over time and
21 become -- become improved, in general.

22 Q. Is adaptive filtering a type of
23 content filtering?

24 A. I wouldn't say all -- you're saying
25 all adaptive filtering is -- are types of content

1 read the full patent to get a full understanding
2 of what's in claim 10 and how it's used and what
3 the design of it is. And then I would also need
4 to be able to go back to NewsWeeder and see
5 exactly how it functioned and compare it with
6 that.

7 Q. Okay. So you can't answer right now?

8 A. Not this many years later, no.

9 Q. How about claim 25 of the '420 patent,
10 can you identify any element of claim 25 of the
11 '420 patent that wasn't used in NewsWeeder?

12 MS. ALBERT: Objection. No
13 foundation. Asked and answered. Vague.

14 MR. PERLSON: Any others?

15 MS. ALBERT: Give me a sec.

16 A. Similar to claim 10, I would need to
17 read the full patent to get an idea of what each
18 of the terms meant, and then I might be able to
19 understand how the entire claim as a design and
20 an invention works, and then I would need to
21 compare that with NewsWeeder. I'd need to
22 research how all the pieces of NewsWeeder worked.

23 Q. Okay. So you can't answer that
24 question right now?

25 A. Not this many years later off the top

1 of my head, no.

2 Q. If you look at claim 26 of the '664
3 patent, please. Can you point to any element of
4 the '664 patent, claim 26, that was not used in
5 NewsWeeder?

6 MS. ALBERT: Same objections.

7 A. Claim 26 of the '664 patent?

8 Q. Yeah.

9 A. I would -- I would need to read the
10 full patent and get a better understanding of
11 each of the terms there to have an understanding
12 of the full claim, and then I could compare that
13 again with NewsWeeder to be able to answer that.

14 Q. So you can't answer the question right
15 now?

16 A. Not without doing all that, no.

17 Q. NewsWeeder used collaborative
18 filtering; correct?

19 MS. ALBERT: Objection. No
20 foundation, vague.

21 A. I don't -- I don't recall.

22 Q. NewsWeeder used content filtering;
23 correct?

24 MS. ALBERT: Objection. No
25 foundation, vague.

1 advice.

2 Q. You can't answer the question?

3 A. That's correct.

4 Q. Do you know what search for prior art
5 was done in connection with the applications of
6 the '420 patent?

7 MS. ALBERT: I'm sorry, can you read
8 that back, please.

9 (Record read.)

10 A. No, I don't recall.

11 Q. Did you ever ask anyone to do such a
12 search?

13 MS. ALBERT: Hold on. Objection,
14 vague. And to the extent that any communications
15 were with counsel, I would advise you not to
16 divulge privileged communications.

17 You can say yes, no, or I don't
18 recall, but before you get into the substance of
19 anything.

20 THE WITNESS: Uh-huh.

21 A. Are you asking if I asked somebody to
22 do a prior art search prior to this patent
23 application?

24 Q. Yeah.

25 A. I don't recall.