

# EXHIBIT

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1 Volume I Pages 1 - 157  
2 Exhibits 1 - 20

3 UNITED STATES DISTRICT COURT  
4 EASTERN DISTRICT OF VIRGINIA  
5 NORFOLK DIVISION

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7 I/P ENGINE, INC., \*  
8 Plaintiff, \* Civil Action No.  
9 vs. \* 2:11-cv-512  
10 AOL, INC., et al., \*  
11 Defendants. \*

12 \*\*\*\*\*

13  
14 AUDIO/VISUAL DEPOSITION of LYCOS, INC.,  
15 by and through its designee MARK BLAIS  
16 Tuesday, July 31, 2012 at 9:00 a.m.

17 Goulston & Storrs  
18 50 Rowes Wharf, 7th Floor  
19 Boston, Massachusetts

20  
21 ----- Jacqueline P. Shields, RPR, CSR -----  
22  
23

24 Job No. CS409539

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20

ALSO PRESENT:

21

Dominic Boucher, Videographer

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23

24

1 connection with preparing for your deposition?

2 A. No.

3 Q. Is there anything else that you did in  
4 connection with preparing for the deposition?

5 A. Just read the topics and tried to jog my  
6 memory. Since I was involved in a lot of the issues  
7 here I felt that there wasn't really much to look at  
8 that I didn't remember.

9 Q. Are you prepared to testify regarding the  
10 topics, the remaining topics in the notice, topics 3  
11 through 11?

12 A. As best as reasonably possible.

13 Q. Did you have any involvement in the merger  
14 between Lycos and WiseWire?

15 MS. O'BRIEN: One word.

16 A. No.

17 Q. Do you know who negotiated on behalf of  
18 Lycos with regards to the agreement with WiseWire?

19 A. I do not.

20 Q. Do you know anything about the negotiations  
21 between WiseWire and Lycos related to that  
22 agreement?

23 A. No.

24 Q. Do you know if any evaluations were

1                   conducted of WiseWire's intellectual property in  
2                   connection with that agreement?

3                   A. I do not.

4                   MS. O'BRIEN: Mark as Exhibit 2 a copy of  
5                   the document produced to Lycos, 000246 through  
6                   320.

7                   (Exhibit No. 2, marked; Disclosure Schedule  
8                   to the Merger Agreement by and Among Lycos, Inc.,  
9                   Wise Acquisition Corp., and WiseWire Corporation  
10                   dated as of April 30, 1998.)

11                  Q. I'm only going to ask a question about page  
12                  285, but if you want to, take as much time as you  
13                  want to look at the document, that's fine.

14                  A. 285, did you say?

15                  Q. Uh-huh.

16                  A. Okay.

17                  Q. Do you know if WiseWire and Lycos discussed  
18                  the patent application 08627436 that's listed on  
19                  page 285 in connection with their negotiations with  
20                  the merger between Lycos and WiseWire?

21                  MS. ALBERT: Objection to foundation.

22                  A. I had no involvement in this, so I have no  
23                  idea if they discussed it. It's obviously on the  
24                  schedule, so.

1           A. I don't know when that term was created,  
2       but Terra owned Lycos from, I think, early 2000  
3       through October 2004 when it sold Lycos to Daum.

4           Q. Do you know if Terra Networks purchased  
5       Lycos in early 2000?

6           A. Yes.

7           Q. Do you know for how much?

8           A. I know that it was reported as 12 billion,  
9       but the actual price was closer to 7 billion.

10          Q. Do you know anything at all about the  
11       negotiations related to Terra's purchase of Lycos?

12          A. No.

13          Q. Is it relatedly -- do you have any  
14       knowledge as to whether the parties discussed the  
15       '420 patent in connection with that purchase?

16          A. No.

17          Q. Or the '664 patent?

18          A. No.

19          Q. And you said in October of 2004 Terra sold  
20       Lycos to Daum; is that right?

21          A. Yes.

22          Q. Do you know anything about those  
23       negotiations between Daum and Terra related to  
24       Lycos?

1 A. No.

2 Q. Do you know if the parties discussed the  
3 '420 patent in those negotiations?

4 A. No.

5 Q. Similarly, do you know if the parties  
6 discussed the '664 patent in connection with those  
7 negotiations?

8 A. No.

9 Q. Do you know what the purchase price was?

10 A. 95 million.

11 MS. ALBERT: Objection.

12 Q. Do you know if there was any valuation of  
13 Lycos's intellectual property in connection with the  
14 purchase by Daum in 2004?

15 MS. ALBERT: Objection. Lacks foundation.

16 A. No, I do not.

17 Q. Similarly, do you know if there was any  
18 valuation of Lycos's intellectual property in early  
19 2000 when Terra purchased Lycos?

20 MS. ALBERT: Same objection.

21 A. No.

22 Q. Do you know what Lycos's revenues were  
23 related to the use of Google AdWords in 2003?

24 MS. ALBERT: Objection. No foundation.

1           A. No.

2           Q. We were discussing before that Lycos began  
3 using AdSense also in 2003; is that right?

4           A. I don't know about -- other than reading  
5 this article, I don't know.

6           Q. Do you know anything about Lycos's revenues  
7 related to AdSense in 2003?

8           MS. ALBERT: Objection. No foundation.

9           A. No.

10          Q. How about in 2004, do you know if Lycos was  
11 using AdWords in 2004?

12          A. AdWords or AdSense?

13          Q. I'm sorry, AdWords.

14          A. I don't know.

15          Q. How about AdSense, do you know if Lycos was  
16 using AdSense in 2004?

17          A. I believe we were, based on the fact that  
18 I've seen contracts.

19          Q. Do you know what Lycos's revenues were  
20 related to AdSense in 2004?

21           MS. ALBERT: Objection. No foundation,  
22 beyond scope.

23           A. No.

24          Q. How about in 2005, was Lycos using AdSense

1 MS. ALBERT: Same objection.

2 A. I don't know.

3 Q. Similarly, was Lycos aware that the quality  
4 score in AdWords in 2005 was based on the relevance  
5 of your ad text?

6 MS. ALBERT: Same objection.

7 A. I don't know.

8 Q. Similarly, was Lycos aware in 2005 that  
9 Google AdWords' quality score was based on the  
10 historical keyword performance?

11 MS. ALBERT: Same objection.

12 A. I don't know.

13 Q. Put that one aside.

14 Did Lycos have any policies regarding  
15 patent enforcement in 2004?

16 MS. ALBERT: Objection. Vague.

17 A. I don't know.

18 Q. Did Lycos have any policies regarding  
19 patent enforcement in 2005?

20 A. No.

21 Q. Did Lycos investigate in 2004 whether  
22 Google infringed any of its patents?

23 MS. ALBERT: Okay. Vague.

24 A. I don't know.

1           Q. Did Lycos investigate in 2005 whether  
2 Google infringed any of its patents?

3           MS. ALBERT: Objection. Vague.

4           A. No.

5           Q. Did Lycos investigate in 2005 whether  
6 Ask.com infringed any of its patent?

7           MS. ALBERT: Objection. Vague.

8           A. No.

9           Q. Did Lycos have in 2004 any policies  
10 regarding patent licensing?

11           A. What time period?

12           Q. 2004.

13           A. I don't know.

14           Q. How about in 2005, did Lycos have any  
15 policies related to patent licensing?

16           A. No.

17           Q. How about in 2006, did Lycos have any  
18 policies in 2006 related to patent licensing?

19           A. It depends on what you mean by "policies."  
20 Do you mean formal written policies?

21           Q. Let's start with formal written policies.

22           A. No.

23           Q. Were there any informal policies that Lycos  
24 had related to patent licensing in 2006?

1           A. I don't believe we ever established any  
2 official policies.

3           Q. Did Lycos have any negotiations regarding  
4 licensing out of any of its patents in 2004?

5           MS. ALBERT: Objection. Vague.

6           A. I don't know.

7           Q. Did Lycos have any negotiations regarding  
8 licensing out of any of its patents in 2005?

9           MS. ALBERT: Objection. Vague.

10          A. I don't believe so.

11          Q. And in 2006 did Lycos have any negotiations  
12 regarding licensing out of any of its patents in  
13 2006?

14          MS. ALBERT: Same objection.

15          A. No.

16          Q. Were there any factors that Lycos would  
17 typically consider in licensing out its patents in  
18 2004?

19          MS. ALBERT: Objection. Vague.

20          A. I don't know.

21          Q. Similarly, in 2005 were there any factors  
22 that Lycos would typically consider in licensing out  
23 its patents in 2005?

24          MS. ALBERT: Objection. Vague.

1           Q. Did the terms of that separate settlement  
2        agreement impact the royalty payment in this license  
3        agreement?

4           MS. ALBERT: Sorry, can you read that back?

5           (Read back.)

6           MS. ALBERT: Objection. Vague.

7           A. I don't know. I was not involved in the  
8        negotiations of the payment under the settlement or  
9        of this royalty, so I don't know.

10          Q. If you turn to page 3 of this agreement,  
11        which is Bates-numbered Lycos 0000914.

12          A. Yes.

13          Q. And in particular section 3.1 of the grant  
14        of license.

15          A. Okay.

16          Q. The first sentence refers to a grant to  
17        Lycos of a "nonexclusive, nontransferable,  
18        nonassignable limited license under the license  
19        patents," do you see that?

20          A. Yes.

21          Q. And it refers to, first to the license  
22        patents, do you know what patents it's referring to?

23          A. Referring to patent number 6269361.

24          Q. Have you ever read the U.S. Patent 6269361?

1 A. No, I don't believe so.

2 Q. Do you have any understanding of what the  
3 '361 patent covers?

4 A. I just have a general understanding it  
5 covers their keyword auction-based advertising  
6 system. At least that's their opinion.

7 Q. Did Lycos have any opinions as to the value  
8 of the '361 patent at the time that they entered  
9 into this agreement?

10 MS. ALBERT: Objection. Vague.

11 A. I don't believe so.

12 Q. Was Lycos aware of any agreements between  
13 Overture and any third parties related to the '361  
14 patent?

15 A. If I recall correctly, Overture received  
16 stock in Google to settle claims based on these  
17 patents at a certain point. That's just my  
18 recollection. And they had pending litigation at  
19 the time against FindWhat, one word, capital F,  
20 capital W. Internet names in the past.

21 Q. Was Lycos in 2005 aware of any licenses  
22 between Overture and any third parties related to  
23 the '361 patent?

24 A. Other than what I recall, between Overture

1 and Google, no.

2 Q. And was Lycos aware of any of the specific  
3 terms?

4 A. Only what was recorded publically.

5 Q. Did the agreement between Overture and  
6 Google have any impact on the terms that Lycos  
7 agreed to to license the '361 patent?

8 A. I don't know.

9 Q. Do you know what factors, if any, were  
10 considered by Lycos in agreeing to enter into this  
11 licensure agreement for the '361 patent?

12 A. It was partly because we wanted to continue  
13 our AdBuyer business, get rid of cost in litigation,  
14 and we were at the same time settling all types of  
15 matters with our previous parent company under the  
16 acquisition agreement with our then present parent  
17 company. There were all types of disputes and  
18 matters and we were trying to reach a global  
19 settlement to settle everything. And this was part  
20 of it because we had an indemnification, so we were  
21 trying to settle this up as quickly as possible to  
22 clean up the rest of the matters.

23 Q. Were there any other factors that Lycos  
24 considered in entering into this agreement with

1 Overture for the '361 patent?

2 A. I honestly don't know. I didn't negotiate  
3 the financial terms of this.

4 Q. Do you recall who did on behalf of Lycos?

5 A. I believe that would have been Peter Karol.  
6 That's K-A-R-O-L. He was our general counsel at the  
7 time, and he was the one that participated in face-  
8 to-face meetings, I believe, that ultimately led to  
9 an agreement, I believe. And I believe our outside  
10 patent counsel at the time may have been Ropes &  
11 Gray. I don't remember.

12 Q. Turn to page 4 of the agreement which is  
13 Bates-numbered Lycos 000915, and in particular  
14 section 4.1 under the term of license. Do you see  
15 that?

16 A. Yes.

17 Q. The term of license states that "The  
18 license granted under the license patents by this  
19 license agreement shall terminate six years from the  
20 active date of this license agreement." Do you know  
21 why the term of license was six years from the  
22 effective date?

23 A. No, I do not.

24 Q. Do you know if that term had any impact on

1 the amount of royalties that Lycos was willing to  
2 agree to in order to license the '361 patent?

3 A. I don't know.

4 Q. Do you know if that term had any impact on  
5 the type of royalty that Lycos was willing to enter  
6 into with Overture?

7 MS. ALBERT: Objection. Vague.

8 A. I don't know.

9 Q. And then going to the next section, 5.1 on  
10 royalties, do you see that section?

11 A. Yes.

12 Q. Second paragraph, the one that begins "for  
13 AdBuyer product," do you see that?

14 A. Yes.

15 Q. I'm paraphrasing, but it says that the  
16 licensee shall pay Overture royalties in the amount  
17 of ten percent of gross revenue. Do you see that?

18 A. Yes.

19 Q. Do you have any understanding of how the  
20 parties reached the agreement that the, that the  
21 amount paid would be ten percent of gross revenue?

22 A. No.

23 Q. Did Lycos have any knowledge of royalty  
24 rates that, of customer royalty rates in the

1 industry?

2 MS. ALBERT: Objection. Vague.

3 A. I don't know.

4 Q. And similarly, the second sentence refers  
5 to Websites owned by syndicatees or subsyndicatees;  
6 do you see that?

7 A. Yes.

8 Q. And it refers to earned royalties in the  
9 amount of eight percent in the gross revenue  
10 attributable to such links; do you see that?

11 A. Yes.

12 Q. And do you have an understanding how the  
13 parties reached an agreement of eight percent of  
14 gross revenues for syndicatees or subsyndicatees?

15 A. No.

16 Q. Do you know if those terms were negotiated  
17 by the parties?

18 A. Yes.

19 Q. Do you have any knowledge of specific  
20 offers made by Lycos to license the '361 patent?

21 A. No.

22 Q. Do you recall when Lycos stopped using the  
23 AdBuyer product?

24 A. Sometime in 2006.

1           Q. Do you know the amount of royalties paid by  
2        Lycos to Overture under this agreement?

3           MS. ALBERT: Objection.

4           A. I don't know.

5           Q. Did this license of the '361 patent apply  
6        to any products other than the AdBuyer products?

7           A. No, specifically limited to AdBuyer.

8           Q. Turn to page 6 of the agreement, which is  
9        Bates-numbered Lycos 0000917.

10          A. Got it.

11          Q. And in particular this section on cross  
12        license agreement; do you see that section?

13          A. Yes.

14          Q. Do you know what Lycos patents, if any,  
15        were covered by the cross license agreement?

16          A. I don't recall any specific patents being  
17        discussed.

18          Q. Do you know if any value was placed by  
19        Lycos on the cross license agreement?

20           MS. ALBERT: Objection. Vague.

21          A. No, I don't know of any value.

22          Q. Do you know if the '420 patent was included  
23        within the cross license agreement?

24          A. I do not know.

1 28, 2004.)

2 MS. ALBERT: Do you know what the Bates  
3 number is or not?

4 MS. O'BRIEN: Yes, I do. I lied, I don't.  
5 I thought I had it.

6 MS. ALBERT: Maybe you can just send that to  
7 us.

8 MS. O'BRIEN: Sure. Not a problem.

9 A. Okay.

10 Q. Do you recognize this document?

11 A. No.

12 Q. Okay. If you look about the paragraph that  
13 begins "Lycos advertising base," do you see that?

14 A. Yes.

15 Q. And that's the paragraph I'm going to ask  
16 about. Take as much time as you want to look at the  
17 document.

18 First sentence says, "Lycos advertising  
19 base revenue structure was largely dependent on  
20 Google AdWords, which are distributed on U.S.  
21 properties," and then it has a list of U.S.  
22 properties, do you see that?

23 A. Yes.

24 Q. Do you know if Lycos's advertising base

1 revenue was largely dependent on Google AdWords in  
2 2004?

3 MS. ALBERT: Objection. No foundation.

4 A. I don't know.

5 Q. Now as of 2004 was Lycos using Google-  
6 sponsored listings?

7 MS. ALBERT: Objection. Foundation.

8 A. I believe so.

9 Q. And as of 2004 was Google using -- was  
10 Lycos using Google's AdSense for content product?

11 MS. ALBERT: Same objection.

12 A. I believe so, yes.

13 Q. Do you know what other sources of revenue  
14 Lycos had in 2004 besides Google products?

15 MS. ALBERT: Same objection.

16 A. Well, I wasn't at the company, however, we  
17 had, again, subscription-based revenue. At the time  
18 we owned Matchmaker, which was an online dating  
19 site. We since sold that. You had to have a  
20 subscription to Matchmaker. Quote.com also had  
21 subscribers, we no longer own that, but at the time  
22 they had subscribers, Raging Bull we no longer own,  
23 that was related to Quote. Those just have message  
24 boards, so probably no independent revenue. Tripod

1 and Angelfire, again, had subscribers. So they had  
2 a subscription base that paid users who built  
3 Websites for users, for users are the ones that get  
4 the contextually targeted ads on their pages. Wired  
5 also had a subscription aspect to it. It was an  
6 online news site that we no longer own. We had  
7 domain sales, email subscription, at the time we  
8 would have had banner ads throughout our properties,  
9 sponsorships, subscribers to Gamesville. Again, all  
10 types of advertising both in games and outside the  
11 games on Gamesville. That's all I can think of  
12 right now. Of course we had AdBuyer.

13 Q. Do you know the amount of Lycos's  
14 advertising-based revenue that was derived from its  
15 use of Google products in 2004?

16 MS. ALBERT: Objection. Vague, no  
17 foundation.

18 A. No, I don't.

19 Q. Do you know the amount of advertising-based  
20 revenue that was derived from Lycos's AdBuyer  
21 product in 2004?

22 MS. ALBERT: Objection. Foundation.

23 A. No, I don't.

24 Q. Similarly in 2005, was Lycos using Google's