

# Exhibit 4

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**From:** Monterio, Charles  
**Sent:** Tuesday, October 23, 2012 8:00 PM  
**To:** QE-IP Engine (QE-IPEngine@quinnemanuel.com); Stephen E. Noona (senoona@kaufcan.com)  
**Cc:** W. Ryan Snow (wrsnow@cwm-law.com); Donald C. Schultz (dschultz@cwm-law.com); zz-IPEngine  
**Subject:** I/P Engine v. AOL et al.: I/P Engine's objections, designations and counter-designations to Mr. Blais  
**Attachments:** Blais, Mark [Lycos] [Designations].pdf; IPE Objections to Defs Designations-Blais 10-23.pdf

Emily,


Attached please find I/P Engine's designations and counter-designations to Mr. Blais. The second set of objections will be sent momentarily.

Charles


1 to 33 of 33 results

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## Transcripts

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

Range: 7:21-8:10

Issues:  IPE Counter Designations

**Q. What was your first position after finishing law school?**

A. I was a litigation associate at Jones Day Reavis & Pogue in their, in its Cleveland, Ohio office.

**Q. When did you work at Jones Day? From what time period?**


A. September 1999 through April 2001.

**Q. What was your next job after leaving Jones Day?**

A. I left to take a position as a litigation associate at Goodwin Procter in Boston.

**Q. How long were you at Goodwin Procter?**

A. From June 2001 through January 2005.

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

Range: 27:22-28:20

Issues:  IPE Counter Designations

**Q. When you refer to AdSense, do you know if Google uses -- of course Google uses. Do you know if Lycos uses Google AdSense for content?**

A. Yes.

**Q. Okay. And does Lycos also use Google's AdSense for search?**

A. No.

**Q. Does Lycos ever use AdSense for search?**

A. Could you explain what you mean by "AdSense for search"? I'm aware of AdSense for content, and I'm obviously aware of Google's sponsored links product for search.

**Q. I think that's the same thing, but Google AdSense for search, my understanding is that it's the system that provides sponsored links as a result of a search. So when you run the search, you have the search and you have the sponsored links next to the search.**


A. Okay. We don't currently use it, but we did in the past. I believe we've switched providers many times over the last seven years. And I believe we were using Google AdSense for search in 2006 before switching over to another provider.

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

**Range:** 29:8-8

**Issues:** ■ IPE Counter Designations

something within all that, but that's what I recall.

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

**Range:** 29:23-30:9

**Issues:** ■ IPE Counter Designations

**Q. Do you know what the time period was when Lycos was doing business as Terra Lycos?**


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

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

A. Yes.

**Q. Do you know for how much?**


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

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

**Range:** 31:22-23

**Issues:** ■ IPE Counter Designations

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

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

**Range:** 32:1-5

**Issues:** ■ IPE Counter Designations

A. No.

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


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

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

**Range:** 49:22-24

**Issues:** ■ IPE Counter Designations

**Q. Was Lycos aware in 2005 that Google's quality score was determined based on the CTR of your keyword?**


 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

**Range:** 50:2-5

**Issues:** ■ IPE Counter Designations

A. I don't know.

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


 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

Range: 50:7-10


Issues:  IPE Counter Designations

A. I don't know.

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

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]


Range: 50:12-12

Issues:  IPE Counter Designations

A. I don't know.

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

Range: 55:12-56:15

Issues:  IPE Counter Designations

**Q. Did Lycos contact TiVo regarding licensing of the '799 and '214 patents?**

A. Yes.

**Q. When did that occur?**

A. It occurred sometime simultaneously with the filing of the lawsuit. We didn't serve the complaint, we sent a cover letter offering to negotiate a license before serving the complaint. So that would, if I remember correctly, that was sometime around January of 2007.

**Q. Did Lycos offer to license any patents at that time to TiVo other than the '799 and '214 patents?**

A. Not specifically.

**Q. Was an initial offer made to TiVo regarding licensing the '799 and '214 patents?**

A. Yes.

**Q. And what was that offer?**

A. I honestly do not recall. I think we gave them a model and talked about percentages that would have been somewhere in the, you know, somewhere between 2 and 8 million lump sum. I don't remember specifically though.

**Q. Do you recall if the license offer was for past use?**

A. It's for both.

**Q. Did Lycos have any idea at the time of TiVo's revenues related to the accused product?**

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

Range: 56:17-57:12

Issues:  IPE Counter Designations

A. Yeah, the revenues were public.

**Q. What was the product, the TiVo product that Lycos accused of infringing?**

A. It was a recommendation feature of their DVR product. They had a specific name for it, but I don't recall what the name was.

**Q. Do you know in 2007 what the revenues were for the DVR product that was accused?**

A. I don't recall what they were.


**Q. Why did Lycos offer a lump sum amount to license the '799 and '214 patents?**

A. If I remember correctly -- sorry.


MS. ALBERT: Objection. Misconstrues.

A. If I remember, we may have offered them two scenarios, one a lump sum and part for the past and running royalty going forward. I know we did two models, I just don't recall specifically whether we offered both or not.


**Q. At the time did Lycos have a preference for one of the two models?**

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]


Range: 57:14-16

Issues:  IPE Counter Designations

A. There were some preferences for a running royalty to create a revenue stream, but it wasn't strong.

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

Range: 98:4-14


Issues:  IPE Counter Designations

**Q. Did Overture ever contact Lycos regarding licensing of the 6269316 patent prior to filing its lawsuit?**

A. No, I don't believe so. In fact, they filed this lawsuit as a counterclaim to our lawsuit against it.

**Q. When did Lycos file its lawsuit against Overture?**


A. I don't know for sure. I wasn't at the company when it was filed, but it was sometime in 2004.

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

**Range:** 101:1-3

**Issues:** ■ IPE Counter Designations


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

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

**Range:** 101:7-9

**Issues:** ■ IPE Counter Designations


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

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

**Range:** 107:18-19

**Issues:** ■ IPE Counter Designations

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

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

**Range:** 107:21-108:3

**Issues:** ■ IPE Counter Designations

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

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

**A.** I do not know.

**Q.** Similarly, do you know if the '664 patent was included in the cross license agreement?


**A.** I don't know.

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

**Range:** 110:13-14

**Issues:** ■ IPE Counter Designations

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


 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

**Range:** 110:16-111:12


**Issues:** ■ IPE Counter Designations

**A.** Well, I wasn't at the company, however, we had, again, subscription-based revenue. At the time we owned Matchmaker, which was an online dating site. We since sold that. You had to have a

subscription to Matchmaker. Quote.com also had subscribers, we no longer own that, but at the time they had subscribers, Raging Bull we no longer own, that was related to Quote. Those just have message boards, so probably no independent revenue. Tripod and Angelfire, again, had subscribers. So they had a subscription base that paid users who built Websites for users, for users are the ones that get the contextually targeted ads on their pages. Wired also had a subscription aspect to it. It was an online news site that we no longer own. We had domain sales, email subscription, at the time we would have had banner ads throughout our properties, sponsorships, subscribers to Gamesville. Again, all types of advertising both in games and outside the games on Gamesville. That's all I can think of right now. Of course we had AdBuyer.

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]


**Range:** 113:8-14

**Issues:**  IPE Counter Designations


**Q. Have you personally been involved in any licensing of patents on behalf of Lycos?**

A. Yes.

**Q. Does Lycos take into account, does Lycos take into account its current business relationship with the potential licensee when determining the terms for a patent license?**


 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

**Range:** 113:16-21


**Issues:**  IPE Counter Designations

A. We haven't entered a patent license with a current business partner of the company, in my experience.

**Q. Have you negotiated with any current business partners related to the potential license of the patent?**

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

**Range:** 113:23-114:14

**Issues:**  IPE Counter Designations

A. Yes, related to the game patent I mentioned earlier, a few of the parties I think we felt were infringing that particular patent that were also business partners, albeit small.

**Q. When did those negotiations take place?**

A. 2006, 2007.


**Q. Did Lycos take into consideration its**




**business relationship with those entities when negotiating regarding the patent?**

A. Not really. Because, again, those relationships were very, very small. They -- it wouldn't have made sense really to care about the business relationship in those instances.


**Q. Would Lycos consider the business relationship in a potential patent license if the business was larger?**

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]


Range: 114:16-16

Issues:  IPE Counter Designations


A. Yes.

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]


Range: 116:14-16

Issues:  IPE Counter Designations


**Q. Do you know if Lycos would have been willing to license the '420 patent to Google in 2005 for a lump sum amount?**

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]


Range: 116:18-19

Issues:  IPE Counter Designations

A. I never had any conversations with my client back then. I couldn't say.


 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

Range: 123:4-11

Issues:  IPE Counter Designations

**Q. What patent was Lycos contacted about?**

A. I believe we were contacted at one point about the '799 patent, and we may have been contacted on another specific patent, that I just don't remember right now, but we never engaged in any talks to sell an individual patent. The only talks we engaged in came in 2009 as related to the entire portfolio.


 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

Range: 136:5-6


Issues:  IPE Counter Designations

made his 3 million the final offer, so I never went


back to Altitude with the 3.2.

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]


**Range:** 146:20-22

**Issues:**  IPE Counter Designations

**Q.** Similarly, do you have reason to believe that Lycos wouldn't have licensed the patent in this agreement for \$3.2 million?


 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

**Range:** 147:5-9


**Issues:**  IPE Counter Designations

**A.** No. I have no reason to believe one way or the other.

**Q.** Do you have any reason to believe that Lycos wouldn't have licensed the patents in this agreement for \$3.2 million in 2004?

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]


**Range:** 147:11-20

**Issues:**  IPE Counter Designations

**A.** I have no reason. What we would have done in 2004, I mean, like I said, a lot of this was internally driven. We would have been a much different company back then, larger in all respects, much bigger parent company, and just the overall business forces would have been different. This was largely driven by our lack of profitability at the time, our need for some cash, things like that. Circumstances being completely different, I have no idea what we would have done back then.

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

**Range:** 154:9-155:5

**Issues:**  IPE Counter Designations

**Q.** I just want to clarify, because I believe in the line of questioning, if you look at page six of the agreement, the cross license agreement section, paragraph 11.1, I believe the questions were, do you know whether the '420 patent would be included in this cross license, and I believe your testimony was you do not know.


**A.** Well, no patent is specifically included. It depends on whether the patent covers the criteria in here, which is in the field of art covered by the claim of the licensed patents made by the terms of this license by licensee.

Q. And by licensee they're referring to Lycos?


A. Yes.

Q. Would that first sentence there mean that it had to be an invention created by Lycos during the term of the patent -- strike that.

Does that first sentence mean that the invention, that Overture would have a license to -- would have to be made by Lycos during the term of this agreement?

 Jul 31, 2012 Blais, Mark [Lycos] [\*Designations\*]

Range: 155:7-21

Issues:  IPE Counter Designations

A. I'm just going to take a second to read this.

Q. That's fine.

A. Yes, it would have to be within the field of art covered by the terms of this license agreement.

Q. And do you know or do you have a recollection when the '420 patent was filed?

A. It was before this license agreement, so it would not come within this.

Q. And the same question regarding the '664 patent, do you have a recollection of when that patent was filed?

A. Also before this agreement was entered. So it would not be included in this section.

