

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

I/P ENGINE, INC.

Plaintiff,

v.

AOL, INC., *et al.*,

Defendants.

Civil Action No. 2:11-cv-512

**DECLARATION OF DAVID PERLSON IN SUPPORT OF DEFENDANTS' RENEWED
MOTION TO COMPEL DEPOSITION OF DR. BECKER AND FOR ENLARGEMENT
OF TIME TO OPPOSE PLAINTIFF'S MOTION FOR POST-JUDGMENT ROYALTIES**

I, David A. Perlson, declare as follows:

1. I am an attorney in the law firm of Quinn Emanuel Urquhart & Sullivan, LLP and am counsel for Defendants in the above-captioned case. I provide this declaration upon personal knowledge and, if called upon as a witness, would testify competently as to the matters recited herein.

2. On April 9, 2013, the parties met and conferred about the possibility of postponing briefing of the Motion for an Award of Post-Judgment Royalties and conducting additional related discovery. Defendants' counsel reiterated its position that Plaintiff should make Dr. Becker available for deposition to give Defendants the opportunity to question Dr. Becker about his new theories and then respond to Plaintiff's motion for post-judgment royalties. Plaintiff's counsel said that such deposition was unnecessary, but did not elaborate. Defendants' counsel also offered Plaintiff the opportunity to investigate Google's scheduled launch of an

admittedly non-infringing alternative functionality in AdWords. Defendants' counsel noted that such an extended period of discovery would be sensible given that the change in operation could impact post-trial damages both before and after this change was implemented. Plaintiff's counsel said Plaintiff would consider this option and asked that Defendants provide a proposal.

3. On April 15, 2013, the parties again discussed, among other things, extending the time for briefing on Plaintiff's Motion for an Award of Post-Judgment Royalties in order to give the parties time to depose the opposing party's experts. Plaintiff's counsel proposed the following alternative potential discovery schedule during the parties' meet and confer of April 15: Dr. Ugone to provide his declaration in rebuttal to Dr. Becker's declaration in support of Plaintiff's motion, Plaintiff to provide Dr. Becker for deposition, Defendants to provide Dr. Ugone for deposition, Defendants to thereafter file their opposition brief, followed by Plaintiff filing its reply brief.

4. As a result of their meet and confer efforts, on April 15 the parties agreed to a two week extension for Defendants' Opposition to Plaintiff's Motion for an Award of Post-Judgment Royalties, and a one week extension for Plaintiff's Reply in Support of its Motion for an Award of Post-Judgment Royalties, in order to give the parties time to discuss their proposed discovery and briefing schedules, pending approval by the Court.

5. Attached hereto as **Exhibit 1** is a true and correct copy of an email exchange between counsel for Plaintiff and counsel for Defendants discussing, amount other things, meeting and conferring about the briefing schedule concerning post-judgment royalties.

6. Attached hereto as **Exhibit 2** is a true and correct copy of an email exchange between counsel for Plaintiff and counsel for Defendants discussing, among other things,

extending the time for briefing on Plaintiff's Motion for an Award of Post-Judgment Royalties and making Dr. Becker available for deposition.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Dated: April 16, 2013

A handwritten signature in blue ink, appearing to read "David Perlson", written over a horizontal line.

David A Perlson

DATED: April 16, 2013

/s/ Stephen E. Noona

Stephen E. Noona
Virginia State Bar No. 25367
KAUFMAN & CANOLES, P.C.
150 West Main Street, Suite 2100
Norfolk, VA 23510
Telephone: (757) 624.3000
Facsimile: (757) 624.3169
senoona@kaufcan.com

David Bilsker
David A. Perlson
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
50 California Street, 22nd Floor
San Francisco, California 94111
Telephone: (415) 875-6600
Facsimile: (415) 875-6700
davidbilsker@quinnemanuel.com
davidperlson@quinnemanuel.com

*Counsel for Google Inc., Target Corporation,
IAC Search & Media, Inc., and Gannett Co., Inc.*

/s/ Stephen E. Noona

Stephen E. Noona
Virginia State Bar No. 25367
KAUFMAN & CANOLES, P.C.
150 W. Main Street, Suite 2100
Norfolk, VA 23510
Telephone: (757) 624-3000
Facsimile: (757) 624-3169

Robert L. Burns
FINNEGAN, HENDERSON, FARABOW, GARRETT &
DUNNER, LLP
Two Freedom Square
11955 Freedom Drive
Reston, VA 20190
Telephone: (571) 203-2700
Facsimile: (202) 408-4400

Cortney S. Alexander
FINNEGAN, HENDERSON, FARABOW, GARRETT &
DUNNER, LLP
3500 SunTrust Plaza
303 Peachtree Street, NE
Atlanta, GA 94111
Telephone: (404) 653-6400
Facsimile: (415) 653-6444
Counsel for Defendant AOL, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on April 16, 2013, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

Jeffrey K. Sherwood
Kenneth W. Brothers
DICKSTEIN SHAPIRO LLP
1825 Eye Street NW
Washington, DC 20006
Telephone: (202) 420-2200
Facsimile: (202) 420-2201
sherwoodj@dicksteinshapiro.com
brothersk@dicksteinshapiro.com

Donald C. Schultz
W. Ryan Snow
Steven Stancliff
CRENSHAW, WARE & MARTIN, P.L.C.
150 West Main Street, Suite 1500
Norfolk, VA 23510
Telephone: (757) 623-3000
Facsimile: (757) 623-5735
dschultz@cwm-law.com
wrsnow@cwm-law.com
sstancliff@cwm-law.com

Counsel for Plaintiff, I/P Engine, Inc.

/s/ Stephen E. Noona

Stephen E. Noona
Virginia State Bar No. 25367
KAUFMAN & CANOLES, P.C.
150 West Main Street, Suite 2100
Norfolk, VA 23510
Telephone: (757) 624.3000
Facsimile: (757) 624.3169
senoona@kaufcan.com