

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

<hr/>)	
I/P ENGINE, INC.,)	
)	
	Plaintiff,)	
	v.)	Civ. Action No. 2:11-cv-512
)	
AOL, INC. et al.,)	
)	
	Defendants.)	
<hr/>)	

**PLAINTIFF I/P ENGINE’S OPPOSITION TO
DEFENDANTS’ MOTION TO EXPEDITE BRIEFING**

Defendants request to expedite the briefing on Defendants’ Renewed Motion to Compel Deposition of Dr. Becker and for Enlargement of Time to Oppose Plaintiff’s Motion for Post-Judgment Royalties should be denied. Plaintiff’s Motion for Post Judgment Damages was filed almost four months ago. Any timing issues relating to the current motion schedule are of Defendants’ own making – at all times, I/P Engine acted diligently and in good faith regarding Defendants’ request for an extension.

I/P Engine filed its Motion for Post Judgment Damages on December 18, 2012. On April 3, 2013, the Court reset the briefing schedule for Defendants’ opposition to April 18, and I/P Engine’s reply to April 25. After the close of business on April 8, Defendants demanded that Dr. Becker be provided for deposition “at least 5 days before [their] opposition is due” – in other words, in the next three days.¹ Defendants did not request an extension of the briefing schedule at that time. At a meet and confer on April 9, Defendants did not pursue their request to depose

¹ (See Ex. 1) I/P Engine has consistently opposed since January the further deposition of Dr. Becker.

Dr. Becker. Instead, during that meet and confer, Defendants were preoccupied with their suggestion that because Google might attempt to implement an alleged design around at some future date, all briefing should be postponed. Defendants made no proposal at that time, but said that they would send a proposed schedule sometime later. (Ex. 2)

It was not until late Friday afternoon, that Defendants sent their proposal. (Ex. 3) Upon receipt, I/P Engine immediately asked for clarification regarding the proposal. (Ex. 4) The parties then discussed the issue by phone the morning of Monday, April 15, 2012 (approximately 11:51 AM (ET)/8:51 AM (PT)). It was not until this conversation that Defendants clarified their request. I/P Engine did not respond to, much less accept, Defendants' request during that conversation. After considering Defendants' request, I/P Engine advised Defendants at 2:40 PM (ET)/11:40 AM (PT) that I/P Engine would not agree to a further delay of the briefing schedule. (Ex. 5)

Dated: April 16, 2013

By: /s/ Jeffrey K. Sherwood
Donald C. Schultz (Virginia Bar No. 30531)
W. Ryan Snow (Virginia Bar No. 47423)
CRENSHAW, WARE & MARTIN PLC
150 West Main Street
Norfolk, VA 23510
Telephone: (757) 623-3000
Facsimile: (757) 623-5735

Jeffrey K. Sherwood (Virginia Bar No. 19222)
Frank C. Cimino, Jr.
Kenneth W. Brothers
Charles J. Monterio, Jr.
DICKSTEIN SHAPIRO LLP
1825 Eye Street, NW
Washington, DC 20006
Telephone: (202) 420-2200
Facsimile: (202) 420-2201

Dawn Rudenko Albert
DICKSTEIN SHAPIRO LLP
1633 Broadway
New York, NY 10019
Telephone: (212) 277-6715
Facsimile: (212) 277-6501

Counsel for Plaintiff I/P Engine, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on April 16, 2013, the foregoing **PLAINTIFF I/P ENGINE'S**
OPPOSITION TO DEFENDANTS' MOTION TO EXPEDITE BRIEFING, was served via
the Court's CM/ECF system on the following:

Stephen Edward Noona
Kaufman & Canoles, P.C.
150 W Main St
Suite 2100
Norfolk, VA 23510
senoona@kaufcan.com

David Bilsker
David Perlson
Quinn Emanuel Urquhart & Sullivan LLP
50 California Street, 22nd Floor
San Francisco, CA 94111
davidbilsker@quinnemanuel.com
davidperlson@quinnemanuel.com

Robert L. Burns
Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
Two Freedom Square
11955 Freedom Drive
Reston, VA 20190
robert.burns@finnegan.com

Cortney S. Alexander
Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
3500 SunTrust Plaza
303 Peachtree Street, NE
Atlanta, GA 94111
cortney.alexander@finnegan.com

/s/ Jeffrey K. Sherwood