

# EXHIBIT 22

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION

L/P ENGINE, INC.,	)	
	)	
Plaintiff,	)	
	)	
VS.	)	CIVIL ACTION NO.
	)	2:11-CV-512
AOL, INC., et al,	)	
	)	
Defendants.	)	

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ORAL/VIDEO DEPOSITION OF  
STEPHEN L. BECKER, Ph.D.  
SEPTEMBER 8, 2012

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CONFIDENTIAL - OUTSIDE ATTORNEYS' EYES ONLY

ORAL DEPOSITION OF STEPHEN L. BECKER, Ph.D.,  
produced as a witness at the instance of the Defendants,  
was duly sworn, was taken in the above-styled and  
numbered cause on the SEPTEMBER 8, 2012, from 8:24 a.m.  
to 5:54 p.m., before Chris Carpenter, CSR, in and for  
the State of Texas, reported by machine shorthand, at  
the offices of ANDREWS & KURTH, 111 Congress Avenue,  
Suite 1700, Austin, Texas 78701, pursuant to the Federal  
Rules of Civil Procedure and the provisions stated on  
the record or attached hereto.  
Job No. CS416513

Page 118

1 as a business model as a way to select and place ads,  
2 but it's not -- I'd have to get a technical person to  
3 examine the claims that tell me just how broad that  
4 would be.  
5 Q. Do you understand that Google orders ads based  
6 on bids?  
7 A. I understand that that is one of the factors  
8 that goes into the selection and placement of ads.  
9 Q. Do you know whether Google practices the '361  
10 patent?  
11 A. No, I can't say that they do. They -- I know  
12 that they -- at the time that they took their license,  
13 they, at least in their public disclosures, were stating  
14 that they didn't.  
15 Q. Do you think that Interchange was a global  
16 technology leader in 2004?  
17 A. No.  
18 Q. Do you think that eXact was a global technology  
19 leader in 2005?  
20 A. No.  
21 Q. Do you think that Marchex was a global  
22 technology leader in 2005?  
23 A. I wouldn't characterize them as that.  
24 Q. Was Google -- you -- you would agree, though,  
25 that by 2004, Google was a global technology leader?

Page 119

1 A. With respect to the search business, yes.  
2 Q. Do you understand what royalty stacking is?  
3 A. Yes.  
4 Q. What is it?  
5 A. It's the problem that some industries face  
6 where you have, in some cases, hundreds, if not  
7 thousands, of individual pieces of intellectual property  
8 owned by different companies that are needed to make a  
9 particular product and -- or at least would be used to  
10 make a particular product. And the royalty stacking  
11 problem is one where if each individual package of  
12 intellectual property charges a particular royalty rate,  
13 when that is applied across -- you know, if you had to  
14 pay that to hundreds of different IP holders, when you  
15 stack up all those royalty payments, it gets to be a  
16 substantial number and can start to impact the viability  
17 of the product in the marketplace in terms of effecting  
18 demand and price. It drives the price of the product up  
19 and starts to affect demand for the product.  
20 Q. Have you taken into account royalty stacking in  
21 forming your opinion of a reasonable royalty?  
22 A. Certainly aware of the issue, as I just  
23 described. It's something that I'm well familiar with.  
24 And it -- this circumstance and this particular product,  
25 I don't think has a royalty stacking problem or a

Page 120

1 stacking issue that would cause the royalty rate to be  
2 affected.  
3 Q. Why?  
4 A. This is not like a cell phone, is the classic  
5 example of a product that has a royalty stacking issue,  
6 where you've got, you know, components made by -- you  
7 know, individual components within a Smartphone that may  
8 be coming from a hundred different suppliers and three  
9 or four, if not more, different industry-promulgated  
10 standards, that in -- in and of themselves contain  
11 hundreds, if not more than hundreds, of patents on the  
12 standard. And you just -- you know, Google's AdWords  
13 product really doesn't fit any of the indicia of a  
14 royalty stacking problem product.  
15 Q. Well, it is a very complicated system that has  
16 many different components, is it not?  
17 MS. ALBERT: Objection, vague.  
18 A. Yes. Absolutely. But that's not what --  
19 that's not what drives -- that's not what drives the  
20 royalty stacking problem.  
21 Q. (By Mr. Perlson) Are you aware of any evidence,  
22 in Google's own licensing activity, that would suggest  
23 that Google would have agreed to a running royalty in  
24 the hypothetical negotiation with Lycos?  
25 A. There's -- you know, their licensing witness, I

Page 121

1 recall, testified that they, you know, treat each --  
2 look at each circumstance on a -- on a case-by-case  
3 basis and would look at the -- you know, the merits of a  
4 particular circumstance. So in that respect, there's --  
5 there's no absolute policy at Google against doing it,  
6 you know, against running royalties.  
7 Even if there, I think that you can't just  
8 decree that you're never going to pay a running royalty  
9 and have that then be reasonable in all licensing  
10 circumstances, or everybody would just decree "I have a  
11 written policy to not pay anybody for their intellectual  
12 property." I don't think Google has taken that  
13 position.  
14 It's -- the license agreements that it  
15 produced in this case are ones that are either  
16 settlements or are lump sums, or, you know, outright  
17 purchases of patents. But there's -- I've seen no  
18 evidence that there would be a prohibition against a  
19 running royalty.  
20 Q. Well, that's not -- that's not really what I  
21 asked. I asked if you're aware of any evidence, in any  
22 of Google's licensing activity, that demonstrates that  
23 Google would, in fact, have agreed to a running royalty  
24 in the hypothetical negotiation with Lycos?  
25 MS. ALBERT: Objection.

Page 122

1 A. Yes, the testimony that they would treat each  
 2 circumstance on a case-by-case basis and that they don't  
 3 have an absolute policy against it. They, obviously,  
 4 have a preference for lump sums. But to the extent that  
 5 their statements about their licensing policies and  
 6 their -- the way they approach licensing is evidence of  
 7 their licensing practice, then I have evidence of that.  
 8 Q. Any other evidence?  
 9 A. No. I think I've covered it in -- in the  
 10 answers I've given you.  
 11 Q. And but you do agree that Google has expressed  
 12 a preference for a lump sum format for licenses?  
 13 A. Yes.  
 14 MR. PERLSON: We have to take a break.  
 15 THE VIDEOGRAPHER: We're off record at  
 16 1:51 p.m.  
 17 (Recess.)  
 18 THE VIDEOGRAPHER: We are back on record  
 19 at 2:01 p.m.  
 20 Q. (By Mr. Perlson) In -- what percentage of your  
 21 time would you say that you spend doing expert work in  
 22 litigation?  
 23 A. If you include, you know, matters that clearly  
 24 are likely headed that way --  
 25 Q. Yes.

Page 123

1 A. -- and that is in anticipation of a role that I  
 2 might play in that regard, I would say it's 90 percent.  
 3 Q. And what percentage of the time would you say  
 4 you are doing work on behalf of plaintiffs versus  
 5 defendants?  
 6 A. In patent-related matters or just in general?  
 7 Q. Well, let's start with patent matters.  
 8 A. Generally, about fifty-fifty. You know, as  
 9 cases ebb and flow, I can't say that the last -- last  
 10 month's bills would be 50 percent plaintiff and 50  
 11 percent defense. Probably in the last six months, it  
 12 would tilt more heavily towards defense side, but then,  
 13 you know, there would be six-month periods or annual  
 14 periods where it was a little more than 50 percent on  
 15 the plaintiff's side.  
 16 Q. Was the -- what defendants -- what's the most  
 17 recent case in which you represented a defendant? I'm  
 18 sorry, let me ask that again.  
 19 What's the most recent case in which you  
 20 provided expert testimony on behalf of a defendant in a  
 21 patent case?  
 22 A. Including, say, deposition testimony?  
 23 Q. Sure.  
 24 A. Probably Cisco.  
 25 Q. What sort of case is that?

Page 124

1 A. Patent case related to networking, computer  
 2 networking products.  
 3 Q. In that case, did you opine that there would be  
 4 a lump-sum royalty or a reasonable royalty -- or a  
 5 running royalty?  
 6 A. I have quantification of both of those in my  
 7 report.  
 8 Q. When is the last time that you offered an  
 9 opinion of a -- that a hypothetical negotiation would  
 10 have resulted in a lump-sum form of agreement?  
 11 A. Well, the one that we just talked about, you  
 12 know, part of my opinion is that -- I have an opinion  
 13 that the most likely outcome of the negotiation in that  
 14 particular case was a lump sum, but provide also that if  
 15 one looked at it as a running royalty, I've got an  
 16 analysis that looks at what I think a reasonable running  
 17 royalty would be.  
 18 Q. And in the work that you've have done for, on  
 19 behalf of plaintiffs in patent litigation, what  
 20 percentage of the time would you approximate that your  
 21 opinion has been that a running royalty would be the  
 22 result of a hypothetical negotiation?  
 23 A. I -- I can't tell you precisely. I'd say it  
 24 would be very -- a very high percentage and not unlike  
 25 the very high percentage of times on the defense

Page 125

1 side. There's really only a few circumstances,  
 2 regardless of whether of I've been on the plaintiff's  
 3 side or the defense side, where I've opined to a lump-  
 4 sum payment.  
 5 Q. For the purposes of your opinion of a  
 6 reasonable royalty, did you assume there were no  
 7 commercially viable alternatives to the patent-in-suit?  
 8 A. As described in my report, what I've assumed is  
 9 that there are no commercially viable alternatives that  
 10 would produce the benefits that practicing this  
 11 invention allows Google to receive.  
 12 Q. And what's the basis of that assumption?  
 13 A. I'm relying on Dr. Frieder for the technical  
 14 opinion that there are no alternatives. I think that I  
 15 put that in the context of the evidence that I've seen  
 16 in -- in the record of evidence that Google has produced  
 17 that supports that. I haven't seen any evidence of --  
 18 in Google's documents of alternatives that have been, in  
 19 fact, considered or that from my understanding of what  
 20 is accused of infringing, would qualify as acceptable  
 21 alternatives.  
 22 Q. When did you speak with Dr. Frieder?  
 23 A. I -- I don't know the date. I had several  
 24 conversations with him. I was in Washington, D.C. for  
 25 several days on one of my trips to Washington, and