

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

REDACTED

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I/P ENGINE, INC.,)	
)	
	Plaintiff,)	
	v.)	Civ. Action No. 2:11-cv-512
)	
AOL, INC. et al.,)	
)	
	Defendants.)	
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PLAINTIFF I/P ENGINE, INC.’S NOTICE OF CALCULATION OF SUPPLEMENTAL DAMAGES, PREJUDGMENT INTEREST AND POST-JUDGMENT INTEREST

In its August 1, 2013 Order (D.I. 960), this Court held “that I/P Engine is entitled to supplemental damages for October 1, 2012 to November 20, 2012,” “prejudgment interest ... from September 15, 2011 to November 20, 2012,” and “post-judgment interest for Defendants’ infringement.” Order at 7. In accordance with this Court’s Order, I/P Engine provides herein its calculation of supplemental damages, the amount Defendants owe in prejudgment interest, and the amount Defendants owe in post-judgment interest.

I. SUPPLEMENTAL DAMAGES

Supplemental damages are calculated in accordance with the damages awarded in the jury verdict. Order at 2. In its verdict, the jury awarded damages in the form of a running royalty, and found that the royalty rate should be 3.5%. D.I. 789 at 11. The starting point for calculating supplemental damages is “an accounting of revenue for the accused products through the date of judgment, November 20, 2012.” Order at 6.

On August 16, 2013, Defendants provided I/P Engine with revenues for the accused systems for the time period of October 1, 2012 through November 20, 2012 totaling

██████████ The second step is to apportion the total revenues to create an apportioned royalty base. In its Order of August 13, 2013, this Court ordered an apportionment factor of 20.9% for post-judgment royalties, noting that this Court would not re-litigate this issue. D.I. 963 at 6. That same 20.9% apportionment factor also applies to supplemental damages. Accordingly, to determine the apportioned royalty base, the 20.9% apportionment factor is applied to the total revenues of ██████████. The apportioned royalty base is ██████████.

The third step is to apply the royalty rate to the apportioned royalty base. The jury found a 3.5% royalty rate. D.I. 789 at 11. Applying that 3.5% royalty rate to the apportioned royalty base, supplemental damages are \$16,792,982 (3.5% of ██████████). See Exhibit A for I/P Engine's supplemental damages calculations (an allocation by Defendant is provided below).

Defendant	Apportioned Royalty Base	Supplemental Damages
Google	██████████	\$15,637,463
AOL	██████████	\$384,160
Gannett	██████████	\$165
IAC	██████████	\$753,903
Target	██████████	\$8,800
AOL Search Marketplace	██████████	\$8,491

II. PREJUDGMENT INTEREST

In its Order, this Court identified the parameters for calculating prejudgment interest stating that the “use of the prime rate, compounded quarterly, is proper” and that it should run “from the date of infringement, as limited by the Court’s laches’ ruling, September 15, 2011, to the date of judgment, November 20, 2012.” Order at 6. In accordance with those parameters, prejudgment interest based upon the total compensatory damages (the award set forth in Verdict Form III.C. plus the supplemental damages award calculated above) is \$536,708. See Exhibit B for I/P Engine’s prejudgment interest calculations (an allocation by Defendant is provided below).

Defendant	Total Damages	Interest
Google	\$15,800,000	\$278,067
AOL	\$7,943,000	\$139,790
Gannett	\$4,322	\$76
IAC	\$6,650,000	\$117,035
Target	\$98,833	\$1,739

III. POST-JUDGMENT INTEREST

This Court also found that post-judgment interest should be “calculated in the manner set forth in 28 U.S.C. § 1961(a)” and run “from the date of the entry of the judgment until payment is made in full.” Order at 7. In accordance with that, post-judgment interest based upon the total compensatory damages (the award set forth in Verdict Form III.C. plus the supplemental damages award calculated above) and the prejudgment interest calculated above to date is \$60,811. *See Exhibit C* for I/P Engine’s post-judgment interest calculations. Post-judgment interest accrues in the amount of approximately \$222.75/day. Because the date of Defendants’ satisfaction of the judgment is not yet known, I/P Engine will provide an updated post-judgment interest amount upon Defendants’ satisfaction of the judgment.

Dated: August 21, 2013

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CERTIFICATE OF SERVICE

I hereby certify that on August 21, 2013, the foregoing **PLAINTIFF I/P ENGINE, INC.'S NOTICE OF CALCULATION OF SUPPLEMENTAL DAMAGES, PREJUDGMENT INTEREST AND POST-JUDGMENT INTEREST**, was served via the Court's CM/ECF system on the following:

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