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13 Attorneys for Plaintiff IconFind, Inc.

14 IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

15 ICONFIND, INC.,

16 Plaintiff,

17 v.

18 GOOGLE INC.,

19 Defendant.

Case No. 2:11-cv-00319-GEB-JFM

**PLAINTIFF ICONFIND, INC.'S
MOTION TO DISMISS PURSUANT TO
FRCP 12(B)(6) AND MOTION TO
STRIKE PURSUANT TO FRCP 12(F)**

**DATE: MAY 16, 2011
TIME: 9:00 A.M.
PLACE: COURTROOM 10
JUDGE GARLAND E. BURRELL, JR.**

22 Plaintiff IconFind, Inc. ("IconFind") respectfully moves to dismiss Defendant Google
23 Inc.'s ("Google") amended counterclaim of patent invalidity (Count Two) pursuant to Rule
24

25 PLAINTIFF ICONFIND, INC.'S MOTION TO DISMISS PURSUANT TO
FRCP 12(B)(6) AND MOTION TO STRIKE PURSUANT TO FRCP 12(F)

- 1 -

1 12(b)(6) and moves to strike Google's corresponding amended affirmative defense of patent
2 invalidity (Second Defense) pursuant to Rule 12(f).

3 On April 1, 2011, Iconfind filed its first Motion to Dismiss and Motion to Strike
4 Google's invalidity counterclaim and corresponding affirmative defense. Recognizing the
5 deficiencies in its pleading, Google on April 11, 2011 filed a First Amended Answer and
6 Counterclaims (Dkt. No. 27). Google's amended pleading is still deficient. Google has now
7 twice been given ample opportunity to prepare and adequately set forth the basis for its invalidity
8 claim and affirmative defense. Its complete failure to do so requires dismissal of its amended
9 counterclaim and amended affirmative defense. The reasons for this Motion are set forth in
10 detail in the accompanying Memorandum in Support.

11 Respectfully submitted,

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1 **CERTIFICATE OF SERVICE**

2 The undersigned hereby certifies that on April 18, 2011 the foregoing

3 **PLAINTIFF ICONFIND, INC.'S MOTION TO DISMISS PURSUANT TO**
4 **FRCP 12(B)(6) AND MOTION TO STRIKE PURSUANT TO FRCP 12(F)**

5 was filed with the Clerk of Court using the CM/ECF system, which will then send a notification
6 of such filing to the following counsel of record.

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15 **Attorneys for Defendant Google Inc.**

16 I certify that all parties in this case are represented by counsel who are CM/ECF participants.

17 /s/ Anna B. Folgers
18 Attorney for Plaintiff