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10 **UNITED STATES DISTRICT COURT**
 11 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

12	ICONFIND, INC.,)	Case No. 2:11-CV-00319 GEB JFM
)	
13	Plaintiff,)	JOINT STATUS REPORT
14)	
15	v.)	
)	
16	GOOGLE INC.,)	
17)	
18	Defendant.)	
19)	

1 Pursuant to the Court's Order of February 3, 2011, Local Rule 240, and Rule 26(f), the
2 parties submit the following Joint Status Report.

3
4 1. On April 28, 2011 a meeting was held at which the parties discussed the nature of and
5 bases for their claims and defenses, as well as the possibilities for a prompt settlement, and
6 developed a proposed discovery plan. This meeting was attended by:

7 a. Brian Haan and Anna Folgers, on behalf of Plaintiff, IconFind;

8 b. Michael Malecek, Kenneth Maikish, and John LaBarre, on behalf of Defendant
9 Google.

10 2. All parties have been served.

11 3. It is too early to determine whether the joinder of additional parties or amendments to the
12 pleadings will be necessary, but none are currently anticipated.

13 4. This Court has original jurisdiction over the subject matter of IconFind's patent
14 infringement claim under 28 U.S.C. § 1338(a). Google does not object to this Court's exercise of
15 personal jurisdiction over it in this matter. Venue is proper in this district under 28 U.S.C. §§
16 1391 and 1400(b).

17 5. Proposed Discovery Plan and Case Schedule.

18 a. Discovery will be needed on at least the following subjects: patent validity, patent
19 infringement and damages, as well as the defenses and counterclaims asserted by Google. As
20 indicated below, Google believes that discovery with respect to willfulness and damages should
21 be bifurcated. IconFind opposes bifurcating discovery with respect to willfulness and damages
22 and believes bifurcation would result in more burden, expense and delay for the parties and the
23 Court.

24 b. The parties will exchange the information required by Fed. R. Civ. P. 26(a)(1) by
25 June 10, 2011.

26 c. On or before July 1, 2011, IconFind will provide initial infringement contentions
27 containing the following information: 1) each asserted patent claim; 2) each accused
28

1 instrumentality; 3) a chart identifying where each limitation of each asserted claim is found
2 within the accused instrumentality; 4) the priority date to which each asserted claim is entitled;
3 and 5) the bases for its willful infringement allegation. With its infringement contentions, and to
4 the extent not already provided in discovery, IconFind will produce: 1) all documents evidencing
5 conception and reduction to practice of each claimed invention; 2) a copy of the file history for
6 the patent in suit; and 3) all documents evidencing ownership of the patents by IconFind. The
7 foregoing contentions are to be deemed continuing, requiring prompt supplementation whenever
8 the conditions of Fed.R.Civ.P. 26(e) are satisfied.

9 d. On or before August 15, 2011, Google will provide initial invalidity contentions
10 containing the following information: 1) the identity of each item of prior art on which Google
11 intends to rely; 2) whether each item of prior art anticipates each asserted claim or renders it
12 obvious, including an explanation of why the prior art renders the asserted claim obvious and an
13 identification of any combinations of prior art; 3) a chart identifying where in each item of prior
14 art each limitation of each asserted claim is found; 4) any grounds for invalidity under 35 U.S.C.
15 §§ 101 and 112. With its invalidity contentions, and to the extent not already provided in
16 discovery, in conformity with a Protective Order entered into in this matter , Google will produce
17 or otherwise make available for inspection: 1) source code, specifications, schematics, flow
18 charts, artwork, formulas, or other documentation sufficient to show the operation of any aspects
19 or elements of the accused instrumentality identified by IconFind; and 2) a copy of each item of
20 prior art identified in Google's invalidity contentions. The foregoing contentions are to be
21 deemed continuing, requiring prompt supplementation whenever the conditions of Fed.R.Civ.P.
22 26(e) are satisfied.

23 e. The parties should be allowed until November 21, 2011 to join additional parties
24 and to amend the pleadings.

25 f. Each party shall serve on each other party its Proposed Terms for Construction by
26 September 30, 2011.

1 g. The parties shall simultaneously exchange their Proposed Claim Constructions and
2 Extrinsic Evidence by November 11, 2011.

3 h. The parties shall file their Joint Claim Construction and Prehearing Statement by
4 December 16, 2011.

5 i. Each party shall serve and file an opening claim construction brief and supporting
6 evidence by January 20, 2012.

7 j. Each party shall serve and file its responsive brief and supporting evidence by
8 February 24, 2012.

9 k. Subject to the convenience of the Court's calendar such hearing will be held on or
10 about March 15, 2012.

11 l. Initial expert disclosures will be made by 21 days after the entry of a Claim
12 Construction Order by this Court.

13 m. All fact discovery shall be commenced in time to be completed by 45 days after
14 the entry of a Claim Construction Order by this Court.

15 n. Reports from retained experts under Rule 26(a)(2): Initial reports for matters on
16 which a party bears the burden of proof shall be served 45 days after the entry of a Claim
17 Construction Order by this Court. Rebuttal expert reports shall be served 75 days after the entry
18 of a Claim Construction Order by this Court.

19 o. Any party desiring to depose an expert witness shall notice and complete said
20 deposition no later than thirty days from the day rebuttal expert reports are due, unless otherwise
21 agreed in writing by the parties or ordered by the Court.

22 p. All dispositive, partially dispositive or other motions shall be filed by 120 days
23 after the entry of a Claim Construction Order by this Court. Since discovery has not yet been
24 initiated, the parties do not have a firm understanding as to which, if any, issues may be
25 determined by motion.

1 q. A final pre-trial conference to be held approximately 90 days before trial as the
2 Court's schedule allows.

3 r. The parties believe that the case will be ready for trial 260 days after the entry of a
4 Claim Construction Order by the Court. A jury trial has been demanded. The parties anticipate
5 that the trial will take approximately 5-7 court days to complete.

6 s. Google believes that the issues of infringement, invalidity and unenforceability,
7 should be separated from the issues of willfulness and damages for purposes of discovery and
8 trial. Accordingly, Google contends that the above should only apply to the issues of
9 infringement and invalidity and a new schedule should be issued, as appropriate, to address the
10 issues of willfulness and damages. IconFind opposes bifurcating discovery with respect to
11 willfulness and damages and believes bifurcation would result in more burden, expense and delay
12 for the parties and the Court.

13 6. The limitations of the Federal Rules of Civil Procedure shall govern depositions,
14 interrogatories and all other discovery, absent further agreement of the parties or leave of the
15 Court, save as indicated below:

16 a. Maximum of 35 requests for admission by each side, not including requests for
17 admission solely regarding authentication of documents for which there shall be no
18 limit.

19 b. To the extent that an inventor is provided as a Rule 30(b)(6) witness, this does not
20 preclude such person from being noticed for deposition in his or her individual
21 capacity under Rule 30(a)(1).

22 7. At this time, the parties do not propose any modifications to the standard pretrial
23 proceedings.

24 8. The parties have addressed the issue of discovery of electronically stored information, and
25 their agreement with respect to such discovery is attached as Exhibit 1 to this Joint Status Report.

26 9. The parties anticipate submitting a proposed protective order in this matter.
27

1 10. The parties have discussed the possibility of settlement and the appropriateness of
2 alternate dispute resolution including as required under Local Rule 240(a)(17) and Local Rule
3 271(d). The undersigned counsel understand and have explained to their respective clients the
4 Voluntary Dispute Resolution Program rules and process, and, the undersigned counsels' clients
5 have carefully considered whether this action might benefit from participation in the Voluntary
6 Dispute Resolution Program. The parties believe that settlement is unlikely at this time, however,
7 the parties are open to further discussions regarding settlement. The likelihood of settlement
8 may, however, increase after the parties have exchanged their respective contentions and
9 discovery documents and responses.

10 11. The parties do not believe that any special procedures such as reference to a special master
11 are necessary in this matter. The parties do not consent to try this matter before a magistrate
12 judge.

13
14 Dated: May 9, 2011

15 By: /s/ Brian E. Hahn
16 As Authorized on May 9, 2011
17 Brian E. Hahn
18 NIRO, HALLER & NIRO
Attorneys for IconFind, Inc.

By: /s/ Michael Malecek
Michael Malecek
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