

EXHIBIT C

KAYE SCHOLER LLP

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Attorneys for Defendant
GOOGLE INC.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ICONFIND, INC.,)	Case No. 2:11-CV-00319 GEB JFM
)	
Plaintiff,)	DEFENDANT GOOGLE INC.'S
)	OBJECTIONS AND RESPONSES TO
v.)	PLAINTIFF'S FIRST SET OF
)	INTERROGATORIES, NOS. 1, 3-5, AND
)	8
GOOGLE INC.,)	
)	
Defendant.)	
)	
)	

1 Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Defendant Google Inc.
2 (“Google”), by its attorneys, Kaye Scholer LLP, responds and objects to Plaintiff Iconfind, Inc.’s
3 (“Plaintiff”) First Set of Interrogatories (the “Interrogatories”) as follows¹:

4 **GENERAL OBJECTIONS**

5 1. Google objects to the Interrogatories to the extent that they seek information or
6 material protected by the attorney-client privilege, the work-product doctrine, the joint defense
7 privilege, or any other applicable privilege, immunity, or protection. Any inadvertent production
8 of any privileged documents in response to the Interrogatories is not intended to constitute a waiver
9 of any applicable privilege and/or protection.

10 2. Google objects to the Interrogatories to the extent that any of them, read alone or in
11 conjunction with the “Definitions” and/or “Instructions,” purports to impose obligations not
12 imposed or contemplated by the Federal Rules of Civil Procedure, the Local Rules of the United
13 States District Court for the Eastern District of California, or any agreements or stipulations
14 entered into by the parties.

15 3. Google objects to the Interrogatories to the extent they require any information or
16 documents that are beyond what is presently available to Google based upon a reasonable search of
17 its own files and reasonable inquiry of its current employees, or purport to require Google to
18 produce documents or things not within Google’s possession, custody, or control.

19 4. Google objects to the Interrogatories to the extent they seek documents or
20 information that are not relevant to the subject matter of this action and/or not reasonably
21 calculated to lead to the discovery of admissible evidence.

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25 ¹ Pursuant to Plaintiff’s communication of June 14, 2011, Google responds only to Interrogatory
26 Nos. 1, 3, 4, 5, and 8. Google understands that Interrogatory Nos. 2, 6, 7, and 9-16 are
27 withdrawn.

1 5. Google objects to the Interrogatories to the extent they seek information or
2 documents that are already in Plaintiff's possession, custody, or control, or that are publicly
3 available or are as readily available to Plaintiff as they are to Google.

4 6. Google objects to the Interrogatories to the extent they seek information or
5 documents whose disclosure is governed by Google's agreements with third parties, including
6 confidentiality agreements. Google will produce such documents only after complying with, and
7 in compliance with, the terms of such third-party agreements.

8 7. Google objects to the Interrogatories to the extent they prematurely seek
9 information that supports Google's contentions. Meaningful and substantial discovery and/or
10 investigation in this case has not yet begun.

11 8. Google objects to the Interrogatories as compound and containing multiple discrete
12 subparts. To the extent that the Interrogatories seek information on more than one subject matter,
13 Google reserves the right to respond as to each subject and to count each subject as a separate
14 Interrogatory against the total number of Interrogatories allotted to Plaintiff.

15 9. Google objects to the Interrogatories to the extent they are vague, ambiguous, overly
16 broad, unduly burdensome, unreasonably cumulative, or duplicative.

17 10. Google expressly reserves the right to object to the admissibility at trial of these
18 Responses and Objections or any documents or information produced in response to these
19 Interrogatories. Neither Google's Responses and Objections to the Interrogatories nor the
20 production of materials in response to the Interrogatories is intended as an admission or concession
21 of the admissibility of any information contained herein.

22 11. Google objects to the Interrogatories to the extent they assume disputed facts or
23 legal conclusions in defining the information requested. Google denies any such disputed facts or
24 legal conclusions assumed by the Interrogatories, and any response or objection to any Request is
25 without prejudice to this objection.
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1 12. Google objects to the Interrogatories, and to each and every individual request
2 contained therein, to the extent they call for Google to identify privileged documents created after
3 the filing of this lawsuit on the grounds that such Interrogatories are overly broad and unduly
4 burdensome and not reasonably calculated to lead to the discovery of admissible evidence, and
5 would call for counsel to review all of its files and list most of the documents therein on a privilege
6 log.

7 13. Google objects to the Interrogatories to the extent they seek information or
8 documents protected by or involving trade secrets or other confidential research, development,
9 proprietary, or commercial information that would not be covered by a Discovery Confidentiality
10 Order, Protective Order, or similar Order issued by the Court.

11 14. Google objects to the Interrogatories to the extent they call for information or the
12 production of documents that are publicly available.

13 15. Google objects to the Interrogatories to the extent they call for information or
14 production of documents that are not within its possession, custody, or control.

15 16. Google objects to the Interrogatories to the extent they use undefined, vague, and
16 ambiguous terms.

17 17. Google objects to the Interrogatories to the extent they purport to require Google to
18 draw a legal conclusion concerning the meaning or application of any terms or phrases used.

19 18. Google objects to the Interrogatories to the extent they exceed the limits of
20 permissible discovery allowed under any court order or the local rules.

21 19. Google reserves the right at any time to revise, correct, add to, supplement, or
22 clarify any of the responses contained herein.

23 20. Google objects to Plaintiff's definition of "Google" as ambiguous, vague,
24 overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible
25 evidence to the extent that it seeks to include within its scope all of Google's officers, directors,
26 employees, partners, subsidiaries, affiliates, accountants, and agents. Google further objects to the
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1 term to the extent that it purports to include attorneys within its scope and thus seeks discovery of
2 information protected from disclosure by the attorney-client privilege, the attorney work product
3 doctrine, or any other applicable privilege and/or immunity.

4 21. Google objects to Plaintiff's definition of "Accused Google Instrumentality" as
5 ambiguous, vague, overbroad, unduly burdensome and not reasonably calculated to lead to the
6 discovery of admissible evidence. Google will produce only documents related to Google Knol,
7 Google Picasa and Google Books.

8 22. To the extent that Plaintiff offered a definition of "the Creative Commons Feature,"
9 Google objects to this definition as ambiguous, vague, overbroad, unduly burdensome and not
10 reasonably calculated to lead to the discovery of admissible evidence.

11 23. Google objects to Plaintiff's definition of "relevant" as ambiguous, vague,
12 overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible
13 evidence.

14 24. Google objects to Plaintiff's definitions of "relate," "relating," or "related" as
15 ambiguous, vague, overbroad, unduly burdensome and not reasonably calculated to lead to the
16 discovery of admissible evidence.

17 25. Google objects to Plaintiff's definition of "document(s)" as ambiguous, vague,
18 overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible
19 evidence.

20 26. Google objects to Plaintiff's definition of "identify" or "locate" as ambiguous,
21 vague, overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of
22 admissible evidence.

23 27. Google objects to Plaintiff's definition of "thing(s)" as ambiguous, vague,
24 overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible
25 evidence.

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The following General Statements apply to all of Google's responses to the Interrogatories.

1. All responses are made subject to the foregoing General Objections and these General Statements, which may not be repeated in each specific response. To the extent specific General Objections and/or General Statements are cited in a specific response, those specific citations are provided because they are believed to be particularly relevant to the specific interrogatory and are not to be construed as a waiver of any other General Objection or General Statement applicable to information falling within the scope of the interrogatory.

2. Where a partial response can be made to an interrogatory that is otherwise objectionable, such partial response will be made without waiving any stated objection.

3. These responses are made without waiver of, and with preservation of:

a. all questions as to competency, relevancy, materiality, privilege, and admissibility of each response herein as evidence in any further proceeding in this action, including trial;

b. the right to object to the use of any response herein, or the subject matter thereof, in any further proceedings in this action, including trial, and in any other lawsuit or proceedings;

c. the right to object on any ground at any time to a demand or request for a further response to this or any other discovery involving or relating to the subject matter of the responses herein provided; and

d. the right at any time to revise, correct, add to, supplement, or clarify any of the responses contained herein.

In responding to the Interrogatories, Google does not concede that any of the information sought or provided is relevant, material, admissible in evidence, or reasonably calculated to lead to the discovery of admissible evidence.

1 that it seeks proprietary, trade secret or other confidential or competitively sensitive business
2 information. Google will only produce such relevant, non-privileged information subject to
3 adequate protections for Google's confidential, trade secret and/or proprietary business or technical
4 information via a protective order entered by the Court in this action. Google objects to this
5 interrogatory as premature as Plaintiff has not yet set forth its allegations of infringement.

6 Subject to and without waiving the foregoing general and specific objections, Google
7 responds, in accordance with Federal Rule of Civil Procedure 33(d), all or part of the non-
8 objectionable discovery sought may be obtained from documents that will be produced after the
9 entry of a Protective Order in this matter.

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11 **INTERROGATORY NO. 3:**

12 Identify for the Accused Google Instrumentality: (1) the date of first deployment or use of the
13 Accused Google Instrumentality; and (2) the date of first deployment or use of the Creative
14 Commons Feature in the Accused Google Instrumentality. If a complete answer to this
15 interrogatory can be derived or ascertained from documents provided by Google in accordance
16 with Fed.R.Civ.P. 33(d), identify the Bates numbers of such documents.

17 **RESPONSE TO INTERROGATORY NO. 3:**

18 Google objects to this interrogatory on the ground that it is compound and/or is comprised
19 of subparts constituting more than one interrogatory. Google objects to this interrogatory on the
20 ground that the terms "first deployment or use" is vague and ambiguous. Google objects to this
21 interrogatory as overbroad, unduly burdensome, and oppressive as it is not limited in time or
22 limited to the accused functionality of the accused instrumentalities. Google further objects to this
23 interrogatory on the ground that it seeks information that is equally available to Plaintiff from other
24 sources that are more convenient, less burdensome and/or less expensive, particularly to the extent
25 the information sought is publicly available.

26 Subject to and without waiving the foregoing general and specific objections, Google
27 responds, to the extent it understands Plaintiff's interrogatory, as follows. Google Knol was the
28 subject of an invitation only rollout in December 2007 and was introduced the public on July 23,
2008. Knol included the "Creative Commons Feature," as Google best understands Plaintiff's use

1 of that phrase, at the time of public rollout. Picasa was introduced in approximately June 2006.
2 The "Creative Commons Feature" of Picasa, as Google best understands Plaintiff's use of that
3 phrase, was introduced in September 2008. Google Books was introduced in October 2004. The
4 "Creative Commons Feature" of Google Books, as Google best understands Plaintiff's use of the
5 phrase, was introduced in August 2009.

6
7 **INTERROGATORY NO. 4:**

8 State the daily, weekly, monthly, quarterly and annual website usage statistics of the Accused
9 Google Instrumentality, including those provided by any web analytics software or platform,
10 including without limitation, (a) the number of requests made to Google's server(s) to assign a
11 Creative Commons designation to a page; (b) the number of requests made to Google's server(s)
12 to access pages containing a Creative Commons designation; (c) the number of requests made to
13 Google's server(s) to search for a page with a Creative Commons designation. Provide any such
14 usage statistics in Google's possession, custody or control from 2007 to the present. If a complete
15 answer to this interrogatory can be derived or ascertained from documents provided by Google in
16 accordance with Fed.R.Civ.P. 33(d), identify the Bates numbers of such documents.

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18 **RESPONSE TO INTERROGATORY NO. 4:**

19 Google objects to this interrogatory on the ground that it is compound and/or is comprised
20 of subparts constituting more than one interrogatory. Google objects to this interrogatory on the
21 ground that the terms "website usage statistics," "web analytics software or platform," "client
22 requests made to Google's server(s)," "assign," "Creative Commons designation," and "page" are
23 vague and ambiguous. Google objects to this interrogatory as overbroad, burdensome, oppressive
24 on the grounds that it seeks names of "website usage statistics" including "(a) the number of
25 requests made to Google's server(s) to assign a Creative Commons designation to a page; (b) the
26 number of requests made to Google's server(s) to access pages containing a Creative Commons
27 designation; (c) the number of requests made to Google's server(s) to search for a page with a
28 Creative Commons designation." Any alleged relevance of this information is vastly outweighed
by the burdensome nature of this interrogatory. Google objects to this interrogatory as overbroad,
unduly burdensome, and oppressive as it is not appropriately limited in time or limited to the
accused functionality of the accused instrumentalities. Google objects to this interrogatory on the

1 ground that it seeks proprietary, trade secret or other confidential or competitively sensitive
2 business information. Google will only produce such relevant, non-privileged information subject
3 to adequate protections for Google's confidential, trade secret and/or proprietary business or
4 technical information via a protective order entered by the Court in this action. Google objects to
5 this interrogatory as premature as Plaintiff has not yet set forth its allegations of infringement.

6 Subject to and without waiving the foregoing general and specific objections, Google
7 responds, in accordance with Federal Rule of Civil Procedure 33(d), documents sufficient to show
8 all or part of the non-objectionable discovery sought may be obtained from documents that will
9 be produced after the entry of a Protective Order in this matter.

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11 **INTERROGATORY NO. 5:**

12 State the quarterly revenues and quarterly profit (gross, net and incremental) realized by Google
13 from the operation and use of the Accused Google Instrumentality, including without limitation
14 revenues and profits realized from sales, partner programs, membership fees and advertising,
15 from 2007 to the present. If a complete answer to this interrogatory can be derived or ascertained
16 from documents provided by Google in accordance with Fed.R.Civ.P. 33(d), identify the Bates
17 numbers of such documents.

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19 **RESPONSE TO INTERROGATORY NO. 5:**

20 Google objects to this interrogatory on the ground that it is compound and/or is comprised
21 of subparts constituting more than one interrogatory. Google objects to this interrogatory as
22 overbroad, unduly burdensome, and oppressive as it is not appropriately limited in time or limited
23 to the accused functionality of the accused instrumentalities. Google objects to this interrogatory
24 on the ground that the terms "operation and use," "partner programs," and "membership fees" are
25 vague and ambiguous. Google objects to this interrogatory on the ground that it seeks proprietary,
26 trade secret or other confidential or competitively sensitive business information. Google will only
27 produce such relevant, non-privileged information subject to adequate protections for Google's
28 confidential, trade secret and/or proprietary business information via a protective order entered by
the Court in this action. Google objects to this interrogatory as premature as Plaintiff has not yet
set forth its allegations of infringement.

1 Subject to and without waiving the foregoing general and specific objections, Google
2 responds, in accordance with Federal Rule of Civil Procedure 33(d), documents sufficient to show
3 all or part of the non-objectionable discovery sought may be obtained from documents that will be
4 produced after the entry of a Protective Order in this matter.

5
6 **REQUEST FOR PRODUCTION NO. 8:**

7 Describe in detail the complete factual basis supporting Google's Counterclaim I and First
8 Affirmative Defense alleging that "Google has not infringed and does not infringe, directly or
9 indirectly, any valid and enforceable claim of the '459 patent." A complete answer to this
10 interrogatory shall: (a) identify all information including, but not limited to, documents
11 considered, reviewed and/or relied upon by Google as a basis for the facts and assertions provided
12 in response to this interrogatory, with reference to Bates numbers in accordance with
13 Fed.R.Civ.P. 33(d); (b) include an element-by-element application of each claim of the '459
14 Patent to the Accused Google Instrumentality, including an identification of all claim terms,
15 elements and limitations that are present in the Accused Google Instrumentality and all claim
16 terms, elements and limitations that are allegedly absent from the Accused Google
17 Instrumentality; (c) identify for any claim term, element and limitation that is allegedly absent
18 from the Accused Google Instrumentality, whether any other feature, part, component, element,
19 or combination of structure present in the Accused Google Instrumentality performs substantially
20 the same or a similar function as the allegedly absent claim element; (d) identify any portion of
21 the specification and prosecution history of the '459 Patent on which Google is relying upon as a
22 basis for any non-infringement contention; and (e) identify persons having knowledge concerning
23 facts provided in response to this interrogatory.

24 **RESPONSE TO INTERROGATORY NO. 8:**

25 Google objects to this interrogatory on the ground that it is compound and/or is comprised
26 of subparts constituting more than one interrogatory. Google objects to this Interrogatory to the
27 extent it seeks information or documents protected from discovery by the attorney-client privilege
28 and/or the attorney work-product doctrine or any other applicable privileges. Google objects to
this interrogatory as overbroad, burdensome, oppressive on the grounds that it seeks "an element-
by-element application of each claim of the '459 Patent to the Accused Google Instrumentality,
including an identification of all claim terms, elements and limitations that are present in the
Accused Google Instrumentality and all claim terms, elements and limitations that are allegedly
absent from the Accused Google Instrumentality [and the identification] for any claim term,
element and limitation that is allegedly absent from the Accused Google Instrumentality, whether

1 any other feature, part, component, element, or combination of structure present in the Accused
2 Google Instrumentality performs substantially the same or a similar function as the allegedly
3 absent claim element.” Any alleged relevance of this information is vastly outweighed by the
4 burdensome nature of this interrogatory. Google objects to this interrogatory as overly burdensome
5 as it seeks a narrative that will take significant resources and time to prepare and the information
6 sought by the interrogatory can be obtained via other discovery means. Google objects to this
7 interrogatory as overly burdensome as it requests Google to “identify . . . documents” and “persons
8 having knowledge” in addition to providing a narrative response. Google objects to this
9 interrogatory on the ground that it seeks proprietary, trade secret or other confidential or
10 competitively sensitive business information. Google will only produce such relevant, non-
11 privileged information subject to adequate protections for Google’s confidential, trade secret and/or
12 proprietary business or technical information via a protective order entered by the Court in this
13 action. Google objects to this interrogatory as premature as Plaintiff has not yet set forth its
14 allegations of infringement. Google further objects to this interrogatory as premature in advance of
15 expert discovery, the schedule for which has not yet been set by the Court. Google will provide
16 information regarding its non-infringement contentions after a reasonable investigation and in
17 accordance with the Court’s discovery schedule.

18
19 Dated: June 20, 2011

Respectfully submitted,

KAYE SCHOLER LLP

21
22 By: /s/ Michael J. Malecek

23 Michael J. Malecek
24 Kenneth M. Maikish
25 Attorneys for Defendant
26 GOOGLE INC.
27

EXHIBIT D

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

16 ICONFIND, INC.,

Plaintiff,

17 v.

18 GOOGLE INC.,

19 Defendant.

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

**PLAINTIFF'S FIRST SET OF
REQUESTS FOR PRODUCTION TO
DEFENDANT GOOGLE INC. NOS. 1-45**

20 In accordance with Fed.R.Civ.P. 34, Plaintiff, Iconfind Inc. ("IconFind"), by and through
21 counsel, requests that Defendant, Google, Inc. ("Google"), produce the documents and things
22 described in the following requests for production within 30 (thirty) days of service. These
23 requests for production shall be deemed continuing so as to require the requested information as
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1 of the date of service of Google's answers thereto and also as to require prompt supplementation
2 whenever the conditions of Federal Rule of Civil Procedure 26(e) are met.

3 IconFind will examine the documents at the offices of its counsel, or where the
4 documents are maintained by Google, or at any other mutually agreeable location where
5 suitable examination and photocopying facilities exist or can be arranged. By accepting
6 photocopies, IconFind is not waiving its right to examine originals where necessary.

7 All electronically stored information that is responsive to one or more of the categories
8 set forth below shall be produced in the native format in which the information is kept in the
9 ordinary course of business, except for machine readable files such as object code, binary files
10 and the like which shall be produced electronically in a format that can reasonably be read and
11 understood using conventional word processing, file viewing or equivalent commercially
12 available software technology.

13 Where Google withholds documents for reasons of attorney-client privilege, work-
14 product immunity or the like, IconFind requests that it be served with a list of such documents
15 prepared in accordance with applicable case law, including at least the names and titles or
16 functions of the authors; any recipients; the date; the basis for withholding; and a description of
17 the document and its subject matter sufficient to allow IconFind to contest the claim. IconFind
18 will accept confidential documents under a suitable protective order.

19 In cases where Google believes there is no responsive document, or where it is
20 maintained for a different period or fiscal year, IconFind asks that Google produce the best
21 available documents from which the information sought by the request may be derived. (In the
22 case of financial information, it is usually possible to derive the desired information if it is not
23 already available).

1 "And," "or" as well as "and/or" shall be construed disjunctively or conjunctively as
2 necessary in order to bring within the scope of the request all responses which otherwise might
3 be construed to be outside its scope.

4 "Document(s)" refers to the broadest definition of document and electronically stored
5 information under the Federal Rules, e.g., anything which would be a "writing" or "recording"
6 pursuant to Rule 1001(1) of the Federal Rules of Evidence or "document" or "electronically
7 stored information" including software code, pursuant to Rule 34(a) of the Federal Rules of
8 Civil Procedure. A draft or a non-identical copy is a separate document within the meaning of
9 this term.

10 "Thing(s)" means any tangible item, and shall be construed as broadly as possible under
11 the Federal Rules of Civil Procedure.

12 "Person(s)" refers to both natural persons and corporate or other business entities
13 (including Google) whether in the employ of Google or not, and the acts of a person (including
14 Google) are defined to include the acts of directors, officers, owners, members, employees,
15 agents or attorneys acting on the person's behalf.

16 "Infringe," "infringes," or "infringed" refers to any form of infringement actionable
17 under United States law, including without limitation, direct infringement, contributory
18 infringement and inducement to infringe.

19 "Prior art" includes by way of example and without limitation, the subject matter
20 described in 35 U.S.C. § 103 and in each subdivision of 35 U.S.C. § 102.

21 "Lawsuit" or "Litigation" means Iconfind Inc. v. Google, Inc., Case No. 2:11-cv-00319-
22 GEB-JFM in the United States District Court for the Eastern District of California.

23 REQUESTS

24 Iconfind requests production of all documents and things relating to the following
25 categories:

1 1. All documents identified in Google's responses to any of Iconfind's
2 interrogatories in this action, such as Iconfind's First Set of Interrogatories (Nos. 1-15),
3 including, but not limited to, all documents consulted in the formulation of Google's responses
4 thereto as well as all documents relating to the subject matter of the interrogatories.

5 2. Documents sufficient to show the past and present organizational and operational
6 structure of Google since 2007, including all divisions or subsidiaries, entities owned or
7 controlled by Google, affiliates, predecessors or successors in interest, whether in the United
8 States or anywhere else in the world (such as, without limitation, corporate family
9 organizational charts), and the identity of any officers, employees and sales agents, or
10 representatives (such as, without limitation, departmental officer/employee organizational
11 charts).

12 3. All documents sufficient to identify past and present officers, employees, agents,
13 consultants or representatives of Google who has and/or has had any involvement in the
14 incorporation, integration, development, testing or past and present functionality of the Creative
15 Commons Feature in the Accused Google Instrumentality.

16 4. All documents pertaining to the reasons why and the circumstances under which
17 the Accused Google Instrumentality was conceived, designed, developed, manufactured, and
18 commercially exploited.

19 5. All documents pertaining to Google's decision to incorporate the Creative
20 Commons Feature into the Google Accused Instrumentality.

21 6. Documents sufficient to establish when the Creative Commons Feature was first
22 used in and incorporated into the Accused Google Instrumentality and the circumstances
23 surrounding such first use and incorporation.

24 7. Documents sufficient to show the structure, function and operating
25 characteristics of the Accused Google Instrumentality including without limitation design

1 schematics (for both discrete parts and the entire system), source code, flowcharts, specification
2 documents, test plans, algorithms, pseudo-code, customer service/assistance manuals and
3 guidelines, and system protocols. All source code is specifically requested with comments
4 intact and on computer readable media.

5 8. To the extent not requested in No. 7, documents sufficient to show the structure,
6 function and operating characteristics of Creative Commons Feature in the Accused Google
7 Instrumentality including without limitation design schematics (for both discrete parts and
8 whole systems), source code, diagrams, flowcharts, specification documents, drawings,
9 datasheets, requirements documents, test plans, set-up guides, customer service/assistance
10 manuals and guidelines, instruction manuals, algorithms, pseudo-code, and system protocols.

11 9. All source code is specifically requested with comments intact and on computer
12 readable media.

13 10. Documents sufficient to identify the designer and/or supplier of the Accused
14 Google Instrumentality.

15 11. One copy of the hypertext markup language (html, xml, jhtml or any other
16 markup) code for the Accused Google Instrumentality including copies of all support files of
17 any type.

18 12. All documents relating to the existence, substance or circumstance of any
19 communications (i.e., the transmittal of information in the form of facts, ideas, inquiries, or
20 otherwise) or correspondence (such as notes, e-mail, letters, memoranda, telephone call notes,
21 calendar entries, etc.) between Google and any other person relating to the '459 Patent or the
22 Lawsuit.

23 13. All documents relating to the existence, substance or circumstance of any
24 communications (i.e., the transmittal of information in the form of facts, ideas, inquiries, or
25

1 otherwise) or correspondence (such as notes, e-mail, letters, memoranda, telephone call notes,
2 calendar entries, etc.) between Google and IconFind and/or Lee H. Grant.

3 14. All documents relating to the existence, substance or circumstance of any
4 communications (i.e., the transmittal of information in the form of facts, ideas, inquiries, or
5 otherwise) or correspondence (such as notes, e-mail, letters, memoranda, telephone call notes,
6 calendar entries, etc.) between Google and Creative Commons Corporation.

7 15. Documents sufficient to identify Google's business relationship with Creative
8 Commons Corporation, including but not limited to license agreements, software license
9 agreements, service agreements, support agreements, service agreements, confidentiality
10 agreements, partnership agreements, revenue sharing agreements, joint venture agreements, and
11 any other type of agreement or contract, between Google and Creative Commons

12 16. Documents sufficient to establish the total number of web pages, photographs,
13 books, pages of books or other media or content that have been designated with a Creative
14 Commons label or licensed with a Creative Commons license through the Accused Google
15 Instrumentality since February 20, 2007.

16 17. Summary documents relating to Google's revenues, costs (fixed and variable),
17 gross profit and net profit realized by Google from the operation and use of the Accused Google
18 Instrumentality, including without limitation advertising revenue from 2007 to the present, with
19 projections through calendar year 2010.

20 18. Summary documents relating to Google's revenues, costs (fixed and variable),
21 gross profit and net profit realized by Google from the operation and use of the Creative
22 Commons Feature of the Accused Google Instrumentality, including without limitation
23 advertising revenue from 2007 to the present, with projections through calendar year 2010.

1 19. Valuations pertaining to the Accused Google Instrumentality, specifically
2 including but not limited to valuations of the Creative Commons Feature.

3 20. All documents relating to business plans, business meetings, financial forecasts,
4 or other financial activities involving the Accused Google Instrumentality, specifically
5 including but not limited to the Creative Commons Feature.

6 21. All documents relating to communications with potential investors or other
7 financially interested parties relating to the Accused Google Instrumentality, specifically
8 including but not limited to the Creative Commons Feature.

9 22. Summary documents relating to the daily, weekly, monthly, quarterly and annual
10 website usage statistics of the Accused Google Instrumentality, including those provided by any
11 web analytics software or platform, from 2007 to the present.

12 23. All documents sufficient to establish the daily, weekly, monthly, quarterly and
13 annual website usage statistics of the Accused Google Instrumentality, including those provided
14 by any web analytics software or platform, including without limitation, (a) the number of client
15 requests made to Google's server(s) to assign a Creative Commons designation to a page; (b)
16 the number of client requests made to Google's server(s) to access pages containing a Creative
17 Commons designation; and (c) the number of client requests made to Google's server(s) to
18 search for a page with a Creative Commons designation, from 2007 to the present.

19 24. All documents that constitute, refer to, reflect or identify any marketing,
20 promotion and advertising pertaining to the Accused Google Instrumentality, specifically
21 including but not limited to the Creative Commons Feature, such as marketing research,
22 marketing plans, market demand analyses, market share analyses, market research, customer
23 surveys, and related press releases.

24 25. All documents that constitute, refer to, reflect or identify any report, business
25 plan, strategic plan, prospectus, offering memorandum or similar document pertaining to the

1 Accused Google Instrumentality, specifically including but not limited to the Creative
2 Commons Feature, such as financial forecasts, business meetings, and related press releases.

3 26. All documents pertaining to the Accused Google Instrumentality, specifically
4 pertaining to but not limited to the Creative Commons Feature, used, distributed, displayed or
5 presented in trade shows, technical workshops, user conferences, user forums, user summits,
6 developer conferences, developer forums, developer summits or similar documents, such as
7 presentations, demonstrations and technical papers.

8 27. All documents pertaining to the existence, substance or circumstance of any
9 feedback (positive and negative) between Google and its customers pertaining to the Creative
10 Commons Feature of the Accused Google Instrumentality, including, without limitation, all
11 troubleshooting communications.

12 28. All documents pertaining to recognition, praise, awards and the like for the
13 Accused Google Instrumentality, including documents pertaining to but not limited to the
14 Creative Commons Feature.

15 29. All documents pertaining to the existence, substance or circumstance of any
16 competitive analyses pertaining to the Accused Google Instrumentality, including documents
17 pertaining to, but not limited to, the Creative Commons Feature.

18 30. Documents sufficient to identify the date Google first learned of and/or received
19 "notice of infringement" of the '459 Patent.

20 31. Any and all document retention policies in effect at Google since 2007.

21 32. All documents Google intends to use to support its Counterclaim I and First
22 Affirmative Defense alleging that "Google has not infringed and does not infringe, directly or
23 indirectly, any valid and enforceable claim of the '459 patent."
24
25

1 33. All documents Google intends to use to support its Counterclaim II and Second
2 Affirmative Defense that the “[t]he ’459 patent is invalid under 35 U.S.C. § 101 because it “fails
3 to claim patentable subject matter insofar as it seeks to claim an abstract idea.”

4 34. All documents Google intends to use to support its Counterclaim II that the ’459
5 Patent is invalid for failure to meet the “conditions of patentability of 35 USC § 102 because the
6 inventions are “is taught by” or “suggested by” the “prior art.”

7 35. All documents Google intends to use to support its Counterclaim II and Second
8 Affirmative Defense that the ’459 Patent is invalid for failure to meet “the conditions for
9 patentability” of 35 USC § 103 because the alleged invention are “obvious in view of” the
10 “prior art.”

11 36. All documents Google intends to use to support its Counterclaim II and Second
12 Affirmative Defense that the ’459 Patent is invalid because it fails to meet “the conditions for
13 patentability” of 35 USC § 112 because the inventions are “unsupported by the written
14 description of the patented invention.”

15 37. All documents Google intends to use to support its Third Affirmative Defense
16 that “IconFind’s claim for damages, if any, against Google for alleged infringement of the ’459
17 patent are limited by 35 U.S.C. §§ 286, 287, and/or 288.”

18 38. All documents Google intends to use to support its Fourth Affirmative Defense
19 that “[o]n information and belief, IconFind’s claims for relief are barred, in whole or in part, by
20 the equitable doctrines of laches and estoppel.”

21 39. All documents Google intends to use to support its Fifth Affirmative Defense
22 that “[a]ny and all products or actions accused of infringement have substantial uses that do not
23 infringe and do not induce or contribute to the alleged infringement of the claims of the ’459
24 Patent.”

25 40. All documents and things that Google contends are prior art to the ’459 Patent.

1 41. All documents and things obtained or acquired through all validity, non-
2 infringement or patentability prior art searches or investigations relied upon, reviewed,
3 generated, performed, commissioned, ordered, requested, received, contracted or purchased by
4 or on behalf of Google that relates in any way to the '459 Patent.

5 42. To the extent not requested above, any documents relating to any opinions of
6 counsel sought or obtained by Google that relate in any way to the '459 Patent or the subject
7 matter of this Lawsuit.

8 43. Any and all documents relating to Google's contentions of the level of skill of a
9 person of ordinary skill in the art of the '459 Patent.

10 44. All documents which Google contends are relevant to claim construction in this
11 Lawsuit.

12 45. All intellectual property licenses/agreements between Google and any third party
13 pertaining to the Creative Commons Feature of the Accused Google Instrumentality.

14 /s/ Anna B. Folgers
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Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 17, 2011 the foregoing
**PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION TO DEFENDANT
GOOGLE INC. NOS. 1-45**
was served via electronic transmission to the following counsel of record:

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

/s/ Anna B. Folgers
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