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EXHIBIT D

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

16 ICONFIND, INC.,

17 Plaintiff,

18 v.

19 GOOGLE INC.,

20 Defendant.

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

**PLAINTIFF’S REQUEST FOR
JUDICIAL NOTICE**

21 Plaintiff Iconfind, Inc. hereby requests that the Court take judicial notice, pursuant to Rule
22 201 of the Federal Rules of Evidence, the patent-in-suit, U.S. Patent No. 7,181,459 (“the ‘459
23 Patent”) and U.S. Patent No. 7,788,274 (“the ‘274 Patent”) filed as Exhibits A and C to Plaintiff’s
24 Memorandum in Opposition to Google’s Renewed Motion for Judgment, for the reasons stated

1 below. Iconfind does not oppose Defendant Google Inc.’s Request for Judicial Notice of the
2 prosecution history of the ’459 Patent.

3 **ARGUMENT**

4 A court may take judicial notice of a fact that is “capable of accurate and ready
5 determination by resort to sources whose accuracy cannot reasonably be questioned.” FED.
6 R.EVID. 201(b)(2). Where a document is in the public record and is not subject to reasonable
7 dispute, it is appropriate for a Court to take judicial notice of it. Streak Products, Inc. v. Antec,
8 Inc., 2010 WL 3515752, *3 (N.D. Cal. Sep. 8, 2010) (citing Lee v. City of Los Angeles, 250
9 F.3d 668, 689 (9th Cir. 2001). “Because [] patents are matters of public record, they are also
10 appropriate subjects for judicial notice under Rule 201.” Lamle v. City of Santa Monica, 2010
11 WL 3734868, *5 (C.D. Cal. Jul 23, 2010) (granting request for judicial notice of two patents)
12 (citing Mack v. South Bay Beer Distrib., 798 F.2d 1279, 1282 (9th Cir. 1986)). The reasoning
13 behind this rule is that a public record, such as a patent, is “not subject to reasonable dispute and
14 is capable of accurate and ready determination by resort to sources whose accuracy cannot
15 reasonably be questioned.” Fujitsu Ltd. v. Belkin Intern., Inc., 2010 WL 5387920, *9 (N.D.Cal.
16 Dec. 22, 2010) (granting request for judicial notice of two patents).

17 The ’459 Patent is the subject of the Complaint and Google’s Renewed Motion for
18 Judgment on the Pleadings of Invalidity. The ’274 Patent was also cited by Iconfind in its
19 Complaint (Compl., Dkt. No. 1, ¶9) and its Response in Opposition to Google’s Renewed
20 Motion for Judgment on the Pleadings. Both Patents are published on the United States Patent
21 and Trademark Office website and their accuracy cannot reasonably be questioned. For the
22 same reasons, Iconfind does not oppose Google’s Request for Judicial Notice (Dkt. No. 31) of
23 the prosecution history of the ’459 Patent.

1
2 **CONCLUSION**

3 Pursuant to the foregoing, Iconfind respectfully requests that the Court take judicial notice,
4 pursuant to Federal Rule of Evidence 201, of U.S. Patent No. 7,181,459 and U.S. Patent No.
5 7,788,274 filed as an Exhibits A and C, respectively, to Iconfind's Memorandum in Opposition to
6 Google's renewed Motion for Judgment on the Pleadings.

7
8 Respectfully submitted,

9 /s/ Anna B. Folgers
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1 **CERTIFICATE OF SERVICE**

2 The undersigned hereby certifies that on January 9, 2012 the foregoing

3 **PLAINTIFF'S REQUEST FOR JUDICIAL NOTICE**

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

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11 **Attorneys for Defendant Google Inc.**

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

13
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