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GOOGLE INC.

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8  
9 IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

10 ICONFIND, INC.,

11 Plaintiff,

12 v.

13 GOOGLE INC.,

14 Defendant.

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

**JOINT STATEMENT RE DISCOVERY  
DISAGREEMENT - INFRINGEMENT  
CONTENTIONS**

Hearing Date: April 5, 2012

Time: 11:00 a.m.

8th Floor Courtroom 26

Before the Honorable Judge John F. Moulds

15  
16 Pursuant to Local Rule 251, the Parties hereby submit to the Court a Joint Statement re  
17 Discovery Disagreement. The sufficiency of Plaintiff's infringement contentions remain in  
18 dispute and the Parties seek the Court's guidance on the disputed issue.

19 This statement was drafted jointly by the parties. The parties agreed to sections (a) and  
20 (b) below. However, on the day the statement was e-mailed to the Court, counsel for Plaintiff  
21 was given an opportunity to review Defendant's edits to Defendant's section of the statement  
22 (section (c)(i)). After waiting more than four hours without a response, Defendant filed the  
23 statement without a final confirmation from Plaintiff.

24  
25 JOINT STATEMENT RE DISCOVERY DISAGREEMENT - INFRINGEMENT CONTENTIONS

1                                   **(a) Details of the conference or conferences;**

2                   In December of 2011, Defendant Google Inc. (“Google”) and Plaintiff IconFind, Inc.  
3 (“IconFind”) participated in a meet and confer concerning the sufficiency of IconFind’s  
4 infringement contentions. IconFind agreed to supplement its contentions and did so in January  
5 of 2012. On February 3, 2012, Google requested another meet and confer concerning the  
6 sufficiency of IconFind’s supplemental infringement contentions. Iconfind indicated that the  
7 parties had already met and conferred on the issues in December of 2011, that its position was  
8 that its infringement contentions were sufficient, and that it would not participate in another meet  
9 and confer on this topic.

10                                   **(b) Statement of the nature of the action and its factual disputes insofar**  
11                                   **as they are pertinent to the matters to be decided and the issues to be**  
12                                   **determined at the hearing;**

13                   On February 3, 2011, IconFind filed this suit in the United States District Court  
14 for the Eastern District of California for infringement of United States Patent No.  
15 7,181,459 B2 (the “’459 patent”). IconFind accused three products of infringing the ’459  
16 patent: Google Books, Google Picasa and Google Knol. On May 9, 2011, the parties  
17 jointly submitted a schedule that required, in part, that IconFind provide initial  
18 infringement contentions on July 1, 2011. The infringement contentions were required to  
19 include “a chart identifying where each limitation of each asserted claim is found within  
20 the accused instrumentality.” The issue to be decided at the hearing is whether  
21 IconFind’s Supplemental Infringement Contentions satisfy this obligation.  
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1                   (c) **Contentions of each party as to each contested issue, including a**  
2                   **memorandum of each party’s respective arguments concerning the**  
3                   **issues in dispute and the legal authorities in support thereof.**

4                   (i) **Defendant Google’s Contentions**

5                   On May 9, 2011, the parties agreed to a joint schedule that required the exchange of  
6 contentions. The contention exchange was based on the Northern District of California’s Patent  
7 Local Rules and borrowed language from those Rules. On July 1, 2011, IconFind was required  
8 to provide “initial infringement contentions” containing, *inter alia*, “a chart identifying where  
9 each limitation of each asserted claim is found within the accused instrumentality.” (Dkt. 47;  
10 N.D. Cal., Pat. L.R. 3-1(b)).

11                   On July 1, 2011 IconFind produced infringement contentions that contained a chart that  
12 failed to identify the required information. IconFind’s Second Supplemental Infringement  
13 Contentions are attached as Exhibit 1 to this Statement. The contention requirements in the  
14 Northern District’s Patent Local Rules “exist to further the goal of full and timely discovery and  
15 to provide all parties with adequate notice and information with which to litigate their cases.”  
16 *Avago Techs. General IP PTE Ltd. v. Elan Microelectronics Corp.*, No. 04-05385, 2007 WL  
17 951818 at \*1 (N.D. Cal. Mar. 28, 2007).

18                   Ninth Circuit courts consistently hold that infringement contentions that simply recite  
19 claim language and point to an accused product are insufficient because they do not provide  
20 adequate notice. A plaintiff must provide a “link” between the claim language and the product in  
21 order to satisfy its obligations. *See, e.g., Network Caching Tech., LLC v. Novell, Inc.*, No. 01-  
22 2079, 2002 WL 32126128, at \*5 (N.D. Cal. 2002) (finding plaintiff’s infringement contentions  
23 insufficient because the plaintiff provided “no link between the quoted passages [from  
24 defendant’s documents] and the infringement contention that simply mimics the language of the  
25 claim...In essence, [plaintiff] has provided no further information to defendants than the claim

1 language itself”); *Diagnostic Sys. Corp. v. Symantec Corp.*, No. 06-1211, 2009 WL 1607717, at  
2 \*4 (C.D. Cal. June 5, 2009) (finding plaintiff’s infringement contentions “unacceptable” for,  
3 *inter alia*, “fail[ing] to identify and describe, in a clear and consistent manner, what, if any, of  
4 [defendant’s products] constitute [certain claim elements]”).

5 Without adequate infringement contentions, Google is at a disadvantage in preparing its  
6 defense. *See Diagnostic Sys. Corp.* 2009 WL 1607717, at \*4 (finding that plaintiff’s  
7 infringement contentions were unacceptable and holding that “[t]o the extent defendants are  
8 given vague infringement contentions, they are hampered in their ability to prepare their  
9 defense”) (internal citation omitted).

10 Plaintiff’s infringement contentions are insufficient on two separate claim elements, each  
11 will be discussed below.

### 12 a) Plaintiff Has Failed To Identify The Network Page

13 All three independent claims in the ’459 patent claim “a method for categorizing a  
14 *network page*.” (Emphasis added). A year after filing its infringement case, Plaintiff has yet to  
15 identify the *network page* that it alleges Google is categorizing in violation of Plaintiff’s patent  
16 rights. Plaintiff fails to identify the *network page* with the preamble of claim 1 as shown in the  
17 exemplary page below:

## 18 U.S. Patent No. 7,181,459 - Claim 1

19 Claim 1.

20 1. A computer implemented method of categorizing a  
21 network page, comprising:

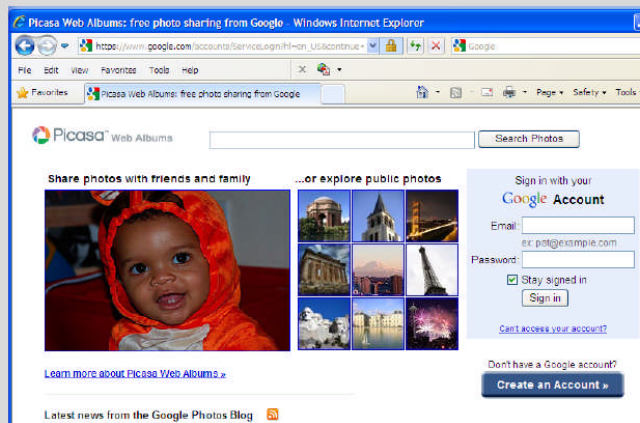
22 providing a list of categories, wherein said list of  
23 categories include a category for transacting  
24 business and a category for providing  
25 information, and wherein said list of categories  
include a category based on copyright  
status of material on a page;

assigning said network page to one or more of said  
list of categories;

providing a categorization label for the network page  
using the copyright status of material on the  
network page; and

controlling usage of the network page using the  
categorization label and the copyright status of  
the network page.

Google Inc.'s Picasa is an online resource that allows users to share and add content, including photos. By and through its Picasa website, Google categorizes pages on the Internet that contain its users' content, including photos.



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Plaintiff's Second Supplemental Infringement Contentions, Ex. 1, p. 77.

1 Plaintiff also fails to identify the *network page* in the “assigning” element as shown in the  
2 exemplary page below:

### U.S. Patent No. 7,181,459 - Claim 1

Claim 1.

1. A computer implemented method of categorizing a network page, comprising:

providing a list of categories, wherein said list of categories include a category for transacting business and a category for providing information, and wherein said list of categories include a category based on copyright status of material on a page;

assigning said network page to one or more of said list of categories;

providing a categorization label for the network page using the copyright status of material on the network page; and

controlling usage of the network page using the categorization label and the copyright status of the network page.

Google also assigns individual Picasa pages to one or more of the categories based on the user's individual selection for that page or default setting.

**Photo reuse**

Some rights reserved

Do not allow reuse

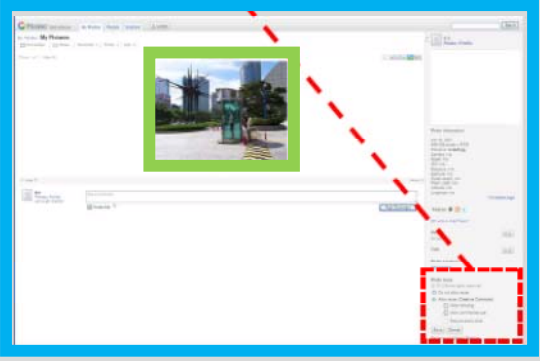
Allow reuse (Creative Commons)

Allow remixing

Allow commercial use

Require share-alike

Set account default: [Settings](#)



A screenshot of a Picasa photo page. A green box highlights a photo of a building. A red dashed box highlights the sharing options in the bottom right corner of the page. A red dashed arrow points from the 'Photo reuse' settings above to the sharing options in the screenshot.

16 Plaintiff’s Second Supplemental Infringement Contentions, Ex. 1, p. 79 (blue and green  
17 highlighting added).

19 Plaintiff is required to identify “where each limitation of each asserted claim is found  
20 within the accused instrumentality.” (Dkt. 47, ¶ 5.c.) A recitation of claim language alongside  
21 an accused product without an identification of how the product meets the claims is insufficient  
22 as a matter of law. *See Network Caching Tech.*, 2002 WL 32126128, at \*5. On the page cited  
23 above, Plaintiff literally recites the claim language but simply replaces “network page” with  
24 “individual Picasa page.” Plaintiff offers no definition for the term “individual Picasa page” and

1 does not highlight or otherwise identify the “network page” that is allegedly assigned to the list  
2 of categories. Plaintiff identified the “one or more of said list of categories” element (in red), but  
3 leaves Google to guess what part of Picasa allegedly satisfies the “network page” element.

4 One might be tempted to assume that Plaintiff contends that the page highlighted in blue  
5 is the “network page.” However, the litigation history of the ’459 patent and the testimony of the  
6 ’459 patent’s inventors suggest that Plaintiff contends that the image on the page, highlighted in  
7 green, is the “network page.” The next page of IconFind’s infringement contentions are  
8 similarly vague:

9 **U.S. Patent No. 7,181,459 - Claim 1**

10

11 **Claim 1.**

12 1. A computer implemented method of categorizing a network page, comprising:

13 providing a list of categories, wherein said list of categories include a category for transacting  
14 business and a category for providing information, and wherein said list of categories  
include a category based on copyright status of material on a page;

15 assigning said network page to one or more of said list of categories;

16 providing a categorization label for the network page using the copyright status of material on the  
network page; and

17 controlling usage of the network page using the categorization label and the copyright status of  
the network page.

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Google’s internal documents confirm that it assigns individual Picasa pages to one or more of the categories based on the user’s individual selection for that page or default setting.

**Photos Data API - Codesite extensions**

**Creative Commons**

Picasa Web supports Creative Commons licensing for photos by specifying a default license type that applies to every photo in their online gallery and by setting specific licenses for individual photos. The license info is available in the Data API as a separate element under the “photo” namespace.

**REDACTED**

RESTRICTED CONFIDENTIAL - SOURCE CODE - PROSECUTION BAR MATERIAL 0000-001988 8

Plaintiff’s Second Supplemental Infringement Contentions, Ex. 1, p.82.

1 Plaintiff again states that “individual Picasa pages” are assigned but fails to identify or  
2 otherwise define what an “individual Picasa page” is. The term is not used in the cited document  
3 or otherwise defined in Plaintiff’s infringement contentions.

4 IconFind’s infringement contentions are similarly vague in identifying the “network  
5 page” element with regard to other accused products:

6 **U.S. Patent No. 7,181,459 - Claim 1**

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8 **Claim 1.**

9 1. A computer implemented method of categorizing a network page, comprising:

10 providing a list of categories, wherein said list of categories include a category for transacting business and a category for providing information, and wherein said list of categories include a category based on copyright status of material on a page;

11 assigning said network page to one or more of said list of categories;

12 providing a categorization label for the network page using the copyright status of material on the network page; and

13 controlling usage of the network page using the categorization label and the copyright status of the network page.


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The screenshot shows the Google Books interface for applying a Creative Commons license. It includes a 'Frequently Asked Questions' section with the following text:

**Using a Creative Commons license with your books**

If you have included your books in the Google Books Partner Program, you can now attribute a Creative Commons license to your titles, and have this license displayed alongside your book.

With a Creative Commons license, you can keep your copyright out slow people to copy and distribute your work provided they give you credit — and only on the conditions you specify.

**Frequently Asked Questions**

A few of the most common questions about attributing a Creative Commons license to your book in Google Books are below. For further information, please see the [Creative Commons FAQ](#) site.

**Are there required settings before I can apply a Creative Commons license to my book?**  
Yes. In order to participate, you will need to provide the worldwide rights for your books. In addition, you must show your books 100% browsable to users, with downloading enabled. You can read more about enabling download [here](#).

**Where can I edit my book settings to apply a Creative Commons license?**  
Partners can update individual book settings from the Books tab within their account. Simply click on the pencil icon (✎) alongside the book in question and edit the [archive details](#). More information on [editing book archives](#) can be found [here](#).

The screenshot also shows a list of Creative Commons license types with their descriptions:

1. Creative Commons (Attribution-NonCommercial-Derivative Works): Allows distribution of your book with attribution but prohibits commercial use or derivative works. Terms available [here](#).
2. Creative Commons (Attribution-NonCommercial): Allows distribution of your book and derivative works provided there is attribution in each case, but prohibits commercial use. Terms available [here](#).
3. Creative Commons (Attribution-NonCommercial-Share Alike): Allows distribution and also creation of derivative works of your book, in each case with attribution and under the same or similar license as the license. Terms available [here](#).
4. Creative Commons (Attribution-No Derivative Works): Allows distribution of your book and commercial use provided there is attribution in each case, but prohibits derivative works. Terms available [here](#).
5. Creative Commons (Attribution-Share Alike): Allows distribution, commercial use and derivative works of your book, in each case with attribution and under the same license as the license. Terms available [here](#).
6. Creative Commons (Attribution): Allows distribution, commercial use, and derivative works of your book provided there is attribution in each case. Terms available [here](#).
7. Creative Commons (CC0): Waives all copyrights to the authorized file and dedicates the authorized file to the public domain. Terms available [here](#).

19 Plaintiff’s Second Supplemental Infringement Contentions, Ex. 1, p. 52.

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21 With respect to Google Books, Plaintiff states that “Google assigns the Google books  
22 pages” to the list of categories, but does not identify a “Google books page” or otherwise define  
23 the term. Google is again left to guess what Plaintiff contends meets the “network page”  
24 element.



1  
2 Because Plaintiff's infringement contentions fail to put Google on notice of the claims  
3 against it with respect to this claim element, Google respectfully requests that this Court compel  
4 Plaintiff to identify the "network page" that Google allegedly categorizes with enough specificity  
5 for Google to prepare an adequate defense.

6 **b) Plaintiff Failed To Identify The Copyright Status Categories**

7 Dependent claim 6 and independent claim 31 recite a limitation that requires an accused  
8 method to provide "categories related to public domain, fair use only, use with attribution, and  
9 permission of copyright owner needed." Plaintiff has failed to identify where that limitation is  
10 allegedly met in Google's accused products. The page below is exemplary of Plaintiff's  
11 contentions on this claim limitation:

12 **U.S. Patent No. 7,181,459 - Claim 31**

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14 **Claim 31.**  
A computer implemented method of categorizing a network page, comprising:

15 providing a list of categories, wherein said categories include a category based on the copyright status of material on a page, and wherein the copyright status comprises categories related to public domain, fair use only, use with attribution, and permission of copyright owner needed;

16 assigning said network page to one or more of a plurality of said list of categories;

17 providing a categorization label for the network page using the copyright status of material on the network page; and

18 controlling usage of the network page using the categorization label and the copyright status of the network page.

19

20 Google incorporates into its Picasa website the use of Creative Commons licenses. Google provides a list of categories for Picasa, as shown below, including a variety of copyright status options "related to public domain, fair use only, use with attribution, and permission of copyright owner needed." For example, "do not allow reuse (all rights reserved)" is a category related to "permission of copyright owner needed."

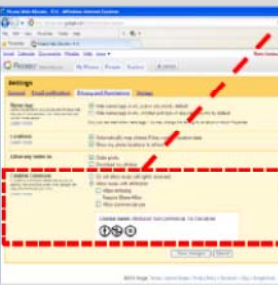
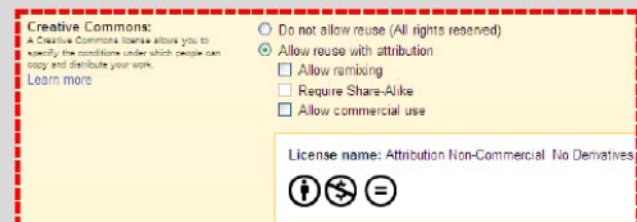
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1 Plaintiff's Second Supplemental Infringement Contentions, Ex. 1, p. 108.

2 Again, Plaintiff simply recites the claim language and points to an accused product  
3 without providing the required link between the claim language and the product. The claim  
4 element recites four limitations: “categories related to [1] public domain, [2] fair use only, [3]  
5 use with attribution, and [4] permission of copyright owner needed.” Plaintiff identified where  
6 the fourth limitation is found in the accused product while completely ignoring the first three.  
7 This contention does not identify “where each limitation of each asserted claim is found within  
8 the accused instrumentality” so it is insufficient. (Dkt. 46, ¶ 5.c.) Google is left to guess which  
9 licenses, if any, allegedly meet the other three limitations recited in the claim element.

10 In its section of this statement, Plaintiff contends that this claim element can be met by  
11 only one category in the accused product. Currently, it's infringement contentions only indicate  
12 that the “do not allow reuse (all rights reserved)” category is related to the “permission of  
13 copyright owner needed” limitation. Further, that contention is labeled as an “example.” If  
14 Plaintiff's contention is that the “do not allow reuse (all rights reserved)” category in the accused  
15 product meets this entire claim element, then it should be required to say so.

16 Because Plaintiff's infringement contentions fail to put Google on notice of the claims  
17 against it with respect to this claim element, Google respectfully requests this Court to compel  
18 Plaintiff to identify the licenses that are allegedly related to the copyright statuses listed in the  
19 claim element with sufficient specificity in order to allow Google to prepare its defense.

20 **(ii) Plaintiff IconFind's Contentions**

21 IconFind's Second Supplemental Infringement Contentions, which contain 110 pages of  
22 claim charts for every claim asserted in this litigation (Ex. 1), are more than sufficient under the  
23 Local Patent Rules. Google's arguments simply reflect the disagreements of the Parties  
24 concerning the scope and meaning of certain claim terms and the application of those disputed

1 terms to the products accused of infringement (the “Accused Google Instrumentalities”).  
2 Google’s briefing is, in effect, a preview of the Parties’ disputes positions on claim construction  
3 in this case, which will be decided by this Court in short order. A claim construction schedule  
4 has been set; the parties recently exchanged on March 28, 2012 their proposed constructions of  
5 the disputed claim terms and briefing is currently schedule to begin on June 12, 2012. (Dkt. No.  
6 55).

7 Tellingly, the three claim elements that Google asserts are deficient in this case (“network  
8 page”, the “assigning” step and the copyright status categories) are all included in Google  
9 proposed list of terms to be construed. (Ex. 2). If Google believes that these terms need to be  
10 defined by the Court, then how can it complain that IconFind has failed to adequately identify  
11 these terms in its Supplemental Infringement Contentions?

12 IconFind’s Supplemental Infringement Contentions at this time reflect its proposed  
13 construction of the terms as applied to the Accused Google Instrumentalities. Google, as  
14 expected, disagrees. There is no basis for Google’s motion to compel and Google’s request  
15 should be denied.

16 **A. Google Misses the Mark on the “Copyright Status” Categories Element and**  
17 **Mistakenly Asserts that Each of the Four Copyright Elements Must Be Present**  
**to Infringe**

18 Google’s analysis refers to the copyright claim elements in a vacuum and mistakenly  
19 suggests to the Court that the claim language requires four separate and distinct categories in the  
20 Accused Products. This is not the case. This element as it appears in Claim 31, the claim  
21 Google utilizes above by way of example, reads:

22 Providing a list of categories, wherein said categories include **a category** based on the copyright  
23 status of the material on a page, and wherein the copyright status comprises categories **related to**  
24 public domain, fair use only, use with attribution, and permission of the copyright owner needed.

1 As noted in bold above, Google ignores to phrases “a category” and “related to.” This is  
2 important for three reasons. First, there need not be an exact “match up” to a category; the use of  
3 the phrase “related to” means just that: “related to” the following four copyright categories.  
4 Second, these categories are not mutually exclusive: they can occur at the same time. For  
5 example, a category can be related both to public domain and fair use only. Third, one or all four  
6 of them could be present in order to infringe: all four categories need not be present in the  
7 Accused Product to infringe this claim term. Specifically, the claim language requires only “a  
8 category” based on the copyright status. Thus, all that needs to be present are one or more  
9 categories that are related to either (1) public domain; (2) fair use only; (3) use with attribution;  
10 or (4) permission of the copyright owner.

11 With these points of clarification in mind, IconFind’s Supplemental Contentions are more  
12 than sufficient to put Google on notice of its claims of infringement. As shown below, IconFind  
13 provided to Google an example of where the category is related to “permission of the copyright  
14 owner needed”:

# U.S. Patent No. 7,181,459 - Claim 31

## Claim 31.

A computer implemented method of categorizing a network page, comprising:

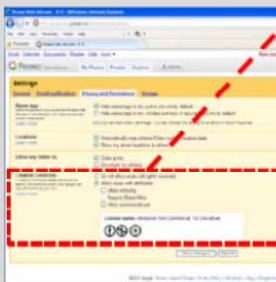
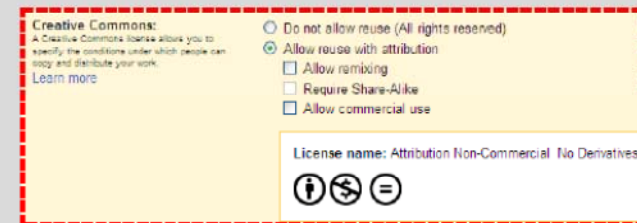
providing a list of categories, wherein said categories include a category based on the copyright status of material on a page, and wherein the copyright status comprises categories related to public domain, fair use only, use with attribution, and permission of copyright owner needed;

assigning said network page to one or more of a plurality of said list of categories;

providing a categorization label for the network page using the copyright status of material on the network page; and

controlling usage of the network page using the categorization label and the copyright status of the network page.

Google incorporates into its Picasa website the use of Creative Commons licenses. Google provides a list of categories for Picasa, as shown below, including a variety of copyright status options "related to public domain, fair use only, use with attribution, and permission of copyright owner needed." For example, "do not allow reuse (all rights reserved)" is a category related to "permission of copyright owner needed."



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The fact that Google disagrees with that construction is of no relevance to the sufficiency of IconFind's contentions. This contention is more than sufficient.

## **B. IconFind Has Sufficiently Identified the Network Page Element**

Again, the Parties disagree as to the proper construction of the term "network page." (See Google and IconFind's Proposed Constructions of this term, Ex. 2 and Ex. 3). As set forth in IconFind's proposed construction and as exemplified in IconFind's Supplemental Infringement Contentions, a "network page" in the context of the '459 Patent is just that: a page on the Internet, private corporate network, intranet, local area network or other network. (Ex. 3). Google asserts that IconFind must be more specific in its Supplemental Infringement Contentions. This is incorrect. IconFind's infringement contentions reflect its proposed construction of the term "network page." IconFind's contentions are consistent with this

1 construction. As set forth in the example below, Google categorizes “network pages” or, “pages  
2 on the internet that contain its users’ content, including photos”:

3 **U.S. Patent No. 7,181,459 - Claim 1**

4

5 Claim 1.

6 1. A computer implemented method of categorizing a network page, comprising:

7 providing a list of categories, wherein said list of categories include a category for transacting business and a category for providing information, and wherein said list of categories include a category based on copyright status of material on a page;

8 assigning said network page to one or more of said list of categories;

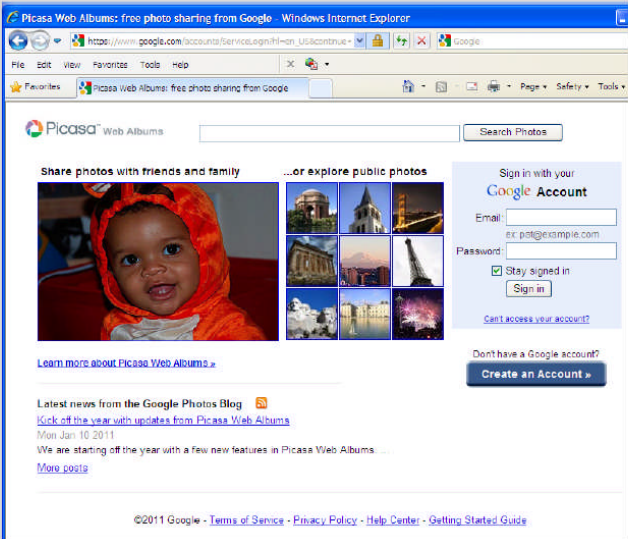
9 providing a categorization label for the network page using the copyright status of material on the network page; and

10 controlling usage of the network page using the categorization label and the copyright status of the network page.

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12 Google Inc.'s Picasa is an online resource that allows users to share and add content, including photos. By and through its Picasa website, Google categorizes pages on the Internet that contain its users' content, including photos.

13



14

15 The fact that Google disagrees with those contentions (and the underlying construction  
16 supporting that contention) is of no relevance to the sufficiency of IconFind’s contentions. The  
17 parties disagree as to the precise meaning of this claim term. IconFind’s contentions as to this  
18 claim element are more than sufficient.

19 **C. The Assigning Step is Appropriately Identified**

20 As with the element “network page,” the same analysis applies to the “assigning step.”  
21 Google also asserts that this claim term should be construed. (Ex. 2). IconFind asserts that  
22 assigning means just that “assigning.” (Ex. 3). And as set forth in IconFind’s Supplemental  
23 Infringement Contentions, Google “assigns” the Google books’ network pages to one of more  
24 categories:

# U.S. Patent No. 7,181,459 - Claim 1

## Claim 1.

1. A computer implemented method of categorizing a network page, comprising:

providing a list of categories, wherein said list of categories include a category for transacting business and a category for providing information, and wherein said list of categories include a category based on copyright status of material on a page;

assigning said network page to one or more of said list of categories;

providing a categorization label for the network page using the copyright status of material on the network page; and

controlling usage of the network page using the categorization label and the copyright status of the network page.

Google assigns the Google books pages to one or more of the categories based on the user's settings. As shown below, on a Google books page, the license is "displayed alongside your book," and thus is a "Creative Commons license to your book in Google Books."

Using a Creative Commons license with your books

If you have included your books in the Google Books Partner Program, you can now attribute a Creative Commons license to your titles, and have this license displayed alongside your book.

With a Creative Commons license, you can keep your copyright but allow people to copy and distribute your work provided they give you credit — and only on the conditions you specify.

Frequently Asked Questions

A few of the most common questions about attributing a Creative Commons license to your book in Google Books are below. For further information, please see the [Creative Commons FAQ](#) site.

**Are there required settings before I can apply a Creative Commons license to my book?**  
Yes. In order to participate, you will need to provide the worldwide rights for your books. In addition, you must show your books 100% browsable to users, with downloading enabled. You can read more about enabling download [here](#).

**Where can I edit my book settings to apply a Creative Commons license?**  
Partners can update individual book settings from the Books tab within their account. Simply click on the pencil icon (✎) alongside the book in question and edit the settings directly. More information on applying book settings can be found [here](#).

Types of Creative Commons license

There is a variety of all of the available types of licenses, along with links to the Creative Commons site for further details on each type.

1. Creative Commons (Attribution-NonCommercial-No Derivative Works)  
Allows distribution of your book with attribution but prohibits commercial use or derivative works. [Terms available here](#).
2. Creative Commons (Attribution-NonCommercial)  
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IconFind need not explain or add anything further to this contention. Its position is clearly articulated. Google's contention that it does not understand what the word "assigning" means in the context of the '459 Patent does not go to the **sufficiency** of IconFind's contentions. It goes to the substantive issue of Google's infringement as informed by the claim construction process. Google is free to argue that position in its proper context: the claim construction process that is set to begin in less than two months.

In sum, Google's current attack on IconFind's Supplemental Infringement Contentions simply stems from the Parties' disagreement: (a) as to the meaning of these claims terms; and (2) the application of these disputed claim terms to the Accused Instrumentalities. IconFind should not be compelled to alter or modify its contentions, which are consistent with the claim

1 construction positions it has taken, simply because Google disagrees with them. As such,  
2 IconFind respectfully requests that this Court deny Google's motion to compel.

3  
4 Respectfully submitted,

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1 **CERTIFICATE OF SERVICE**

2 The undersigned hereby certifies that on March 29, 2012 the foregoing

3 **JOINT STATEMENT RE DISCOVERY DISAGREEMENT - INFRINGEMENT**  
4 **CONTENTIONS**

5 was filed with the Clerk of Court via e-mail and sent to the following counsel of record.

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*/s/ Kenneth M. Maikish*  
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