

# EXHIBIT A

# NIRO, HALLER & NIRO

181 WEST MADISON STREET-SUITE 4600

CHICAGO, ILLINOIS 60602

TELEPHONE (312) 236-0733

FACSIMILE (312) 236-3137

RAYMOND P. NIRO  
TIMOTHY J. HALLER  
WILLIAM L. NIRO  
JOSEPH N. HOSTENY, III  
ROBERT A. VITALE, JR.  
PAUL K. VICKREY  
DEAN D. NIRO  
RAYMOND P. NIRO, JR.  
PATRICK F. SOLON  
ARTHUR A. GASEY  
CHRISTOPHER J. LEE  
DAVID J. SHEIKH  
VASILIOS D. DOSSAS  
RICHARD B. MEGLEY, JR.  
MATTHEW G. McANDREWS  
PAUL C. GIBBONS

GREGORY P. CASIMER  
DINA M. HAYES  
FREDERICK C. LANEY  
DAVID J. MAHALEK  
KARA L. SZPONDOWSKI  
ROBERT A. CONLEY  
LAURA A. KENNEALLY  
TAHITI ARSULOWICZ  
BRIAN E. HAAN  
JOSEPH A. CULIG  
ANNA B. FOLGERS  
CHRISTOPHER W. NIRO  
DANIEL R. FERRI  
GABRIEL I. OPATKEN  
OLIVER D. YANG  
OF COUNSEL:  
JOHN C. JANKA

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**Via Email:** [Kenneth.Maikish@kayescholar.com](mailto:Kenneth.Maikish@kayescholar.com)

Kenneth M. Maikish  
KAYE SCHOLER LLP  
Two Palo Alto Square  
Suite 400  
3000 El Camino Real  
Palo Alto, CA 94306-2112  
Phone: 650.319.4500  
Fax: 650.319.4908

**Re: *IconFind, Inc. v. Google Inc.*, Case No. 2:11-cv-00319-GEB-JFM;  
Document production and privilege log**

Dear Ken,

I am writing pursuant to the Court's April 9, 2012 Order requiring the parties to meet and confer regarding Google's supplemental document production and revised privilege log, as well as in response to your March 27, 2012 letter regarding the same.

In the Joint Statement, Google stated that:

Of the 479 entries on Google's initial privilege log, 333 documents were removed from the log because the documents were not responsive to Plaintiff's Requests For Production. 127 documents that were listed in the initial privilege log were produced, unredacted, to Plaintiff. The revised privilege log contains 19 entries.

As a threshold matter, can you confirm the numbers represented above? From our review, it appears that the August 25, 2011 Google Privilege Log has 506 (not 479) entries. Also, the March 27, 2012 Google Privilege Log (attached to your March 27 letter) has 17 (not 19) entries.

With respect to the 333 documents (please also confirm) that Google has removed from the revised privilege log, we understand that Google has now taken the position that these documents are not

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responsive to Plaintiff's Requests for Production. It is difficult for IconFind to understand why these documents were deemed responsive for the purposes of Google's August 25, 2011 Privilege Log, but now deemed nonresponsive upon request for a supplemental privilege log. As you can appreciate, by not listing them on the revised, supplemental privilege log, IconFind cannot fully assess their responsiveness (or status as being privileged).

Based on the limited information provided to date, many of these documents in fact appear relevant. First, in your March 27 letter, you list numerous document entries which have been removed as concerning Google Editions (Google eBooks). However, from the original privilege log, it appears that at least entries 129, 150, 207, 241, 259 and 336 are clearly directed at Google books. In any event, IconFind does not agree that documents regarding Google eBooks are nonresponsive or unrelated. To the contrary, Google generates sales leads and revenue for Google eBooks through the accused Google books. See e.g. IF005031 (including link to buy Google eBook for \$9.99 for a book shown on Google books). Likewise, Google has now deemed numerous documents regarding its lawsuit with the Authors Guild and the Association of American Publishers as nonresponsive. However, as part of the Google Book Settlement, Authors and Publishers can distribute their work under a Creative Commons license. See e.g. IF004999. Thus, IconFind does not agree that documents pertaining to that lawsuit are nonresponsive or unrelated. With respect to the Google Books web server (aka Book Uplift), IconFind simply does not agree, and indeed finds the argument untenable, that "Google's process for uploading scanned books" is not responsive to IconFind's requests for technical information related to Google Books. Given the above, IconFind requests that Google either produce (unredacted) the 333 documents (please confirm that number) which have now been removed from its privilege log or, if it still believes they are privileged, supplement the March 27, 2012 privilege log to provide the requisite level of detail, as IconFind requested in the Joint Statement. As an alternative, IconFind requests that Google agree to request an *in-camera* inspection of these documents when the parties file the status report (per the Court's April 9 Order) advising the Court of whether a hearing is necessary.

Regarding Google's Redaction Log – Source Code, can you confirm that these documents are available in unredacted form in Google's source code production? Also, this redaction log does not appear to be in any particular order. Can Google provide a revised redaction log in Bates Number order, as well as with a column merely listing an entry number # like it did for the Privilege Log?

I am generally available this week for the Court-ordered meet and confer, including the issues above, which must take place within 10 days (by April 19). I'll propose Wednesday, April 18, at 3:00pm CST, but feel free to propose alternative times, as necessary.

Sincerely,

/s/ Brian E. Haan