EXHIBIT 4

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

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

Plaintiff, IconFind Inc. ("IconFind"), hereby submits its Objections and Responses to the First Set of Interrogatories (Nos. 1-8) propounded by Defendant, Google Inc. ("Google"), as follows:

General Objections

1. To the extent any of Defendant's discovery requests call for documents or information subject to the attorney client privilege and/or work product immunity, they are objected to on that basis. Any documents withheld from production on either basis will be identified in a withheld document list that will be exchanged with Defendant's list of withheld documents. IconFind objects to identifying documents withheld on the basis of the attorney client privilege and/or work product immunity that were created or prepared after the filing of this lawsuit.

2. Certain of Defendant's discovery requests seek documents and information which contain confidential and proprietary business or technical information or trade secrets of IconFind. Therefore, IconFind objects to providing such documents and information without the entry of a protective order adequate to protect IconFind's rights in such information and documents. Upon entry of an appropriate order, and unless subject to another objection, properly requested documentation or information will be provided.

3. IconFind objects to Defendant's discovery requests to the extent they are not sufficiently limited or reasonably calculated to lead to discovery of admissible evidence, and/or are overly broad or unduly burdensome. IconFind is willing, however, to confer with Defendant in an effort to resolve any disagreements between the parties relating to the scope, breadth and relevancy of Defendant's discovery requests.

4. IconFind objects to Defendant's discovery requests to the extent that they are repetitive, overlapping or duplicative. Where applicable, IconFind has attempted to identify

documents in response to Defendant's discovery requests, and IconFind has made a good faith effort to identify such documents and/or categories of documents as provided in Rules 33 and 34, Fed.R.Civ.P.

5. In those instances where the response to Defendant's discovery requests can best be derived from the records of IconFind or from an examination, audit or inspection of such records, and the burden of deriving or ascertaining the answer is substantially the same for IconFind and Defendant, IconFind will specify the records from which a complete answer may be ascertained and afford Defendant's counsel a reasonable opportunity to audit, inspect and copy such records or provide categorized copies of such records in accordance with Federal Rule of Civil Procedure 33(d).

6. IconFind objects to Defendant's discovery requests to the extent they request documents and/or information already in Defendant's possession or which are equally available to IconFind and Defendant from other sources.

7. Where a discovery request includes words and concepts indicative of a legal conclusion, by responding to the request and/or stating that it will produce documents its possession or identify documents, IconFind does not represent that such legal conclusions apply.

8. Discovery requests calling for or pertaining to ultimate conclusions are premature and are necessarily limited by the present lack of discovery. Interrogatories requesting the full basis for any contention are premature at this stage of the litigation. Discovery responses will be supplemented as appropriate and as provided in Rule 26(e), Fed.R.Civ.P

IconFind objects to Defendant's definitions and instructions to the extent they are inconsistent with the appropriate Federal Rule of Civil Procedure, such as Rules 26, 33 and 34,

and the Local Rules of the Court. IconFind will rely upon the Federal Rules of Civil Procedure, the Local Rules and governing case law with respect to the definitions, instructions and responses.

To the extent that specific objections are cited in a specific response, those specific citations are provided because they are believed to be particularly applicable to the specific requests and are not to be construed as a waiver of any other objection applicable to information falling within the scope of the request.

INTERROGATORIES

INTERROGATORY NO. 1:

Identify the PRIORITY DATE of each claim in the PATENT-IN-SUIT and all relevant data and documents (identified by Bates number) to support this assertion.

RESPONSE:

See General Objection Nos. 1, 3, 6, 7 and 8. IconFind objects to this interrogatory to the extent that it seeks information protected by the attorney-client privilege and/or work-product doctrine. IconFind objects to the phrase "priority date" as vague and ambiguous.

Subject to and without waiving the above objections and comments and as it understands this interrogatory, in the spirit of cooperation and to proceed with discovery in an expeditious manner, IconFind states that the effective filing date to which each claim of the '459 Patent is entitled to is at least as early as August 9, 2001. IconFind also incorporates by reference IconFind's *Initial Infringement Contentions*, served via electronic transmission to Google on July 1, 2011.

IconFind's investigation into the subject matter of this interrogatory is ongoing. IconFind will supplement its response to this interrogatory, if necessary, as fact and expert discovery progresses in accordance with Fed. R. Civ. P. 26(e).

INTERROGATORY NO. 2:

For each claim of the PATENT-IN-SUIT, IDENTIFY the date of conception, the date of reduction to practice of its subject matter, all acts you contend represent diligence occurring between the dates of conception and reduction to practice, each person involved in such conception, diligence and/or reduction to practice, where the invention was first reduced to practice, when, where, and to whom the invention was first disclosed, and IDENTIFY each person, including third parties, who worked on the development of the alleged invention(s) described and claimed in the PATENT-IN-SUIT, describing each person's role (e.g., producer, developer, tester, technician. researcher, etc.) and the dates and places each such person assisted, supervised, or was otherwise so involved.

RESPONSE:

See General Objection Nos. 1, 3, 6, 7 and 8. IconFind objects to this interrogatory to the extent that it seeks information protected by the attorney-client privilege and/or work-product doctrine. IconFind also objects to the following phrases as vague and ambiguous: "diligence," "conception" and "reduction to practice." This interrogatory also seeks information and documents relating to the parties' respective legal contentions and allegations concerning the chronology of the development of the subject matter of the '459 Patent. Under such circumstances and to the extent this interrogatory calls for IconFind's contentions concerning the actual dates of conception and reduction to practice (issues that are relevant to Google's invalidity claims on which they bear the ultimate and initial burden of persuasion and production (see, e.g., Innovative Scuba Concepts v. Feder Industries, 26 F.3d 1112, 1115 (Fed. Cir. 1994)), IconFind objects to providing such contentions at this time since Google has failed to proffer sufficient evidence of their alleged invalidity claim(s).

Subject to and without waiving the above objections and comments and as it understands this interrogatory, in the spirit of cooperation and to proceed with discovery in an expeditious manner, IconFind answers that the patent-in-suit is statutorily presumed valid and the burden is on Google to challenge validity by clear and convincing evidence. In other words, the patent was born and remains valid unless and until proven otherwise by clear and convincing evidence

of invalidity, Roper Cop. v. Litton Systems, Inc., 757 F.2d 1266, 1270 (Fed. Cir. 1985), and the presumption of validity is based on 35 U.S.C. § 282 of the patent statute: "a patent shall be presumed valid." "'The burden of establishing invalidity of a patent or any claim thereof shall rest on the party asserting such invalidity.' … This burden 'exists at every stage of the litigation.'" Abbott Labs. v. Sandoz, Inc., 544 F.3d 1341, 1346 (Fed. Cir. 2008) (citations omitted). Thus, the decision maker (the Court and the jury in this case) are required to begin by accepting the proposition that each patent-in-suit is valid and then looking to the challenger for proof to the contrary. Lear Siegler, Inc. v. Aeroquip Corp., 733 F.2d 881, 885 (Fed. Cir. 1984). The Federal Circuit recently reiterated that "the statutory presumption of validity can be overcome only by showing invalidity by clear and convincing evidence, even where allegedly invalidating prior art was not before the patent office" … and that "[u]ntil changed by the Supreme Court or this court sitting en banc, that is still the law." Uniloc USA, Inc. v. Microsoft Corp., 2011 U.S. App. LEXIS 11, at *76 (Fed. Cir. 2011). Thus, IconFind has no obligation to prove the '459 Patent is valid. That burden remains on Google.

Therefore, courts have recognized for decades that discovery of dates of conception and reduction to practice by a defendant in an infringement action must be subject to such special safeguards: "[if one side was] called upon to give the date of invention, while the opposing side was not called upon for prior use dates, there might readily be instances in which this information might be misused." A. B. Dick Co. v. Underwood Typewriter Co., 235 F. 300, 304-305 (S.D.N.Y. 1916); Beacon Folding Machine Co. v. Rotary Machine Co., 23 F.2d 345, 347 (D. Mass. 1927); see also Orthokinetics, Inc. v. Safety Travel Chairs, Inc., 806 F.2d 1565, 1570 (Fed. Cir. 1986).

In order to initially qualify as prior art, "a reference must have existed as of the date of invention, which is normally presumed to be the filing date of the application until an earlier date

is proved." Bausch & Lomb, Inc. v. Barnes-Hind/Hydocurve, Inc., 796 F.2d 443, 449 (Fed. Cir. 1986). Thus, if no prior art existed before the filing date of the patent application, then the filing date serves as the date of invention. Hyatt v. Boone, 146 F.3d 1348, 1352 (Fed. Cir. 1998). Importantly, not until a challenger establishes that prior art existed before the filing date (i.e., that the claim is not "new") through evidence that the claimed invention was publicly available before the filing date does it become the burden of the patentee to show that the claimed subject matter was invented prior to the date of publication. Mahurkar v. C.R. Bard, Inc., 79 F.3d 1572, 1576-1577 (Fed. Cir. 1996). Only at that time do terms such as the "date of invention," "date of conception" and "reduction to practice" come into play:

> The person "who first conceives, and, in a mental sense, first invents ... may date his patentable invention back to the time of its conception, if he connects the conception with its reduction to practice by reasonable diligence on his part, so that they are substantially one continuous act." Id. Stated otherwise, priority of invention "goes to the first party to reduce an invention to practice unless the other party can show that it was the first to conceive the invention and that it exercised reasonable diligence in later reducing that invention to practice."

Id., citing Price v. Symsek, 988 F.2d 1187, 1190 (Fed. Cir. 1993). Thus, a patentee needs to present rebuttal evidence regarding a "date of invention" prior to the filing date only after a challenger has presented prima facie case of invalidity. Id.

In short, a patent owner has two dates that can be used to establish a "date of invention." First, the filing of a patent application automatically serves as the date of invention (i.e. constructive conception and reduction to practice) of the claimed invention. Hyatt, 146 F.3d at 1352; see also Yasuko Kawai v. Metlesics, 480 F.2d 880, 885, 178 U.S.P.Q. 158, 162 (CCPA 1973) ("The act of filing the United States application has the legal effect of being, constructively at least, a simultaneous conception and reduction to practice of the invention"); see Hybritech Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 1376, (Fed. Cir. 1986)

("constructive reduction to practice occurs when a patent application on the claimed invention is filed").

Alternatively, a patent owner may present evidence based upon the "actual" invention date once a prima facie case of invalidity has been established. Hybritech at 1376. Therefore, until and unless Google meets its evidentiary and substantive burden for its invalidity claim by identifying prior art that existed before the respective claimed priority dates of the patent-in-suit, as further elaborated below, IconFind will also rely upon the constructive reduction to practice established by the priority filing date until Google presents evidence to the contrary.

IconFind notes that the actual dates of conception and reduction to practice may be earlier than the date set forth below depending upon Google's position on prior art under its claim constructions or the constructions adopted by the Court at Google's request as IconFind is not required to disclose its actual dates of conception and reduction to practice until and unless it is presented by Google with *prima facie* evidence of the existence of prior art that existed before the claimed priority dates. Thus, IconFind expressly reserves the right to supplement the dates of actual conception and reduction to practice.

Subject to these objections, IconFind states that the subject matter of '459 Patent was conceived and developed over time prior to the filing of U.S. Provisional Patent Application No. 60/311,379, filed on August 9, 2001, by the named inventors of the '459 Patent. IconFind is continuing its investigation concerning the dates of conception and reduction to practice of the asserted claims and reserves the right to supplement and/or to amend its contentions on dates of conception and reduction to practice based on information obtained in this investigation and/or in discovery. IconFind believes that the subject matter of the asserted claims was conceived and reduced to practice no later than the filing date of U.S. Provisional Patent Application No.

60/311,379, filed on August 9, 2001. IconFind also incorporates by reference IconFind's *Initial Infringement Contentions*, served via electronic transmission on July 1, 2011.

IconFind's investigation into the subject matter of this interrogatory is ongoing. IconFind will supplement its response to this interrogatory, if necessary, as fact and expert discovery progresses in accordance with Fed. R. Civ. P. 26(e).

INTERROGATORY NO. 3:

Describe in detail each and every product or service ever sold or marketed by PLAINTIFF, Lee H. Grant, or Susan A. Capizzi, or any other company controlled in whole or in part by or affiliated with any of the foregoing, that you contend is covered by any claim of the PATENT-IN-SUIT, by trade name, product numbers or codes, version numbers, build dates or any other identifying characteristics, and describe in detail why you contend that each product or service is covered by the claims of the PATENT-IN-SUIT and for each product or service, describe the circumstances and facts related to the first disclosure *(i.e.* first presentation, first demonstration, first advertisement, or first offer for sale) and the first sale of that product or service.

RESPONSE:

See General Objection Nos. 1, 3, 6, 7 and 8. IconFind objects to the phrases "or any other company controlled in whole or in part by or affiliated with any of the foregoing" as vague and ambiguous. IconFind also objects to this interrogatory as vague and ambiguous to the extent that it requests information concerning each and every product or service ever "marketed." IconFind also objects to this interrogatory as vague and ambiguous to the extent it requests information concerning what is "covered by the claims" of the '459 Patent. Subject to these objections – and to the extent this request can be understood – as presently advised, Plaintiff, Lee H. Grant, nor Susan Capizzi have never "sold" a product or service "covered by the claims" of the '459 Patent.

IconFind's investigation into the subject matter of this interrogatory is ongoing. IconFind will supplement its response to this interrogatory, if necessary, as fact and expert discovery progresses in accordance with Fed. R. Civ. P. 26(e).

INTERROGATORY NO. 4:

IDENTIFY all patents, patent applications, publications, web sites, products, services, and methods that predate the PRIORITY DATE and relate to any TECHNOLOGY-IN-SUIT that were at any time known, made known to, or considered by PLAINTIFF and/or the named inventor[s] of the PATENT-IN-SUIT and how and when they became known and considered by PLAINTIFF and/or the named inventor of the PATENT-IN-SUIT, and IDENTIFY all PERSONS who reviewed or considered them.

RESPONSE:

See General Objection Nos. 1, 3, 6, 7 and 8. IconFind objects to this interrogatory as improper under Fed.R.Civ.P. 33 for including numerous discrete subparts. IconFind objects to this interrogatory to the extent that it seeks information protected by the attorney-client privilege and/or work-product doctrine. IconFind also objects to this interrogatory as overly broad and unduly burdensome to the extent it requests information that "relates to any technology-in-suit." By identifying this information, IconFind does not represent or admit that it is "prior art," or that it is, or should be considered, material to the patentability of the inventions claimed in the '459 Patent in any way. Moreover, Google's invalidity contentions are not due to be served until August 15, 2011. (Dkt. No. 47). As such, IconFind reserves the right to supplement its response and incorporate by reference Google's invalidity contentions.

Subject to the foregoing, IconFind identifies the following documents by bates number pursuant to Fed.R.Civ.P. 33(d): IF000001-IF000017 and IF000018-IF000271. IconFind's investigation into the subject matter of this interrogatory is ongoing. IconFind will supplement its response to this interrogatory, if necessary, as fact and expert discovery progresses in accordance with Fed. R. Civ. P. 26(e).

INTERROGATORY NO. 5:

IDENTIFY and describe in detail all the manners or techniques by which the PATENT-IN-SUIT improved upon the PRIOR ART, added functionality that did not exist in the PRIOR ART, or provided a variation on or upgrade of the PRIOR ART and for each such claimed improvement, added functionality, or variation or upgrade, state whether PLAINTIFF contends it was a nonobvious or unpredictable improvement, addition of functionality, variation or upgrade and why.

RESPONSE:

See General Objection Nos. 1, 3, 6, 7 and 8. IconFind objects to this interrogatory to the extent that it seeks information protected by the attorney-client privilege and/or work-product doctrine. IconFind also objects to this interrogatory as overly broad and unduly burdensome to the extent it requests information that "relates to any technology-in-suit." IconFind also objects to this interrogatory as vague and ambiguous to the extent it requests information concerning "all the manners or techniques by which the patent-in-suit improved upon the prior art, added functionality that did not exist in the prior art, or provided a variation on or upgrade of the prior art …" By identifying this information, IconFind does not represent or admit that it is "prior art," or that it is, or should be considered, material to the patentability of the inventions claimed in the '459 Patent in any way.

Moreover, this interrogatory is also premature because discovery has only recently commenced and IconFind believes that information relating to the subject matter of this interrogatory is in the possession, custody or control of Google. IconFind has served written discovery requests on Google to obtain information that is relevant to the subject matter of this interrogatory, but, to date, no information has been provided. Additionally, pursuant to the Joint Status Report (Dkt. No. 47) in this case, Google's invalidity contentions are not due until August 15, 2011. Accordingly, IconFind reserves the right to supplement and/or to amend its response to this interrogatory once it receives adequate responses to its discovery requests and/or Google's invalidity contentions. IconFind further objects to this interrogatory as premature at this time to

the extent that is seeks identification and opinions of IconFind's expert(s) prior to the period provided in the parties' Joint Status Report. (Dkt. No. 47). Finally, IconFind reserves the right to supplement and/or to amend its response to this interrogatory based on any Court Order on claim construction.

Subject to, limited by and without waiving these objections, IconFind responds as follows: a patent is "presumed valid" pursuant to 35 U.S.C. § 282. "'The burden of establishing invalidity of a patent or any claim thereof shall rest on the party asserting such invalidity.' … This burden 'exists at every stage of the litigation.'" Abbott Labs. v. Sandoz, Inc., 544 F.3d 1341, 1346 (Fed. Cir. 2008) (citations omitted). As such, Google bears the burden of establishing invalidity by clear and convincing evidence. Google has failed to articulate, much less provide a factual basis for, its allegations that the patents-in-suit are invalid for obviousness. IconFind will respond more fully to this interrogatory if and when Google provides this information.

Moreover, IconFind objects to this interrogatory to the extent it is compound and constitutes multiple interrogatories in an improper attempt to exceed the limitation on interrogatories set by the Federal Rule of Civil Procedure 33. IconFind is willing, however, to confer with Google in an effort to resolve any disagreements between the parties relating to the scope, breadth and relevancy of Interrogatory No. 5.

INTERROGATORY NO. 6:

For each element of each ASSERTED CLAIM of the PATENT-IN-SUIT, identify, in claim chart form, the portions of the specification YOU contend provide WRITTEN DESCRIPTION support, an ENABLING DISCLOSURE, and a disclosure of the BEST MODE contemplated by the inventor.

RESPONSE:

See General Objection Nos. 1, 3, 6, 7 and 8. IconFind objects to this interrogatory to the extent that it seeks information protected by the attorney-client privilege and/or work-product

doctrine. IconFind also objects to this as vague and ambiguous to the extent it requests information concerning the legal concepts of "written description support," "enabling disclosure" and "best mode." Moreover, this interrogatory is also premature because discovery has only recently commenced and IconFind has served written discovery requests on Google to obtain information that is relevant to the subject matter of this interrogatory, but, to date, no information has been provided. Additionally, pursuant to the Joint Status Report (Dkt. No. 47) in this case, Google's invalidity contentions are not due until August 15, 2011. Accordingly, IconFind reserves the right to supplement and/or to amend its response to this interrogatory once it receives adequate responses to its discovery requests and/or Google's invalidity contentions. IconFind further objects to this interrogatory as premature at this time to the extent that is seeks identification and opinions of IconFind's expert(s) prior to the period provided in the parties' Joint Status Report (Dkt. No. 47). Finally, IconFind reserves the right to supplement and/or to amend its response to this interrogatory based on any Court Order on claim construction.

Subject to, limited by and without waiving these objections, IconFind responds as follows: a patent is "presumed valid" pursuant to 35 U.S.C. § 282. "'The burden of establishing invalidity of a patent or any claim thereof shall rest on the party asserting such invalidity.' … This burden 'exists at every stage of the litigation.'" Abbott Labs. v. Sandoz, Inc., 544 F.3d 1341, 1346 (Fed. Cir. 2008) (citations omitted). As such, Google bears the burden of establishing invalidity by clear and convincing evidence. Google has failed to articulate, much less provide a factual basis for, its allegations that the patents-in-suit are invalid. IconFind will respond more fully to this interrogatory if and when Google provides this information.

Moreover, IconFind objects to this interrogatory to the extent it is compound and constitutes multiple interrogatories in an improper attempt to exceed the limitation on interrogatories set by the Federal Rule of Civil Procedure 33. IconFind is willing, however, to

confer with Google in an effort to resolve any disagreements between the parties relating to the scope, breadth and relevancy of Interrogatory No. 6.

INTERROGATORY NO. 7:

State PLAINTIFF's contentions as to what constituted the level of skill of a person of ordinary skill in the art of the subject matter of the PATENT-IN-SUIT as of the filing date of the PATENT-IN-SUIT.

RESPONSE:

See General Objection Nos. 1, 6, 7, and 8. IconFind objects to this interrogatory to the extent that it seeks information protected by the attorney-client privilege and/or work-product doctrine. IconFind further objects to this interrogatory as premature at this time to the extent that is seeks identification and opinions of IconFind 's expert(s) prior to the period provided in the parties' Joint Status Report. (Dkt. No. 47).

Subject to, limited by and without waiving these objections, IconFind responds as follows: the inventions claimed in the '459 Patent generally describe a method for categorizing network pages. In the context of the Internet, one problem with the organization of web pages was the lack of a standardized categorization system for the information contained on such web pages. The inventors set out to accomplish this goal by creating a method for categorizing network pages based upon the material on the page, including whether the pages contained commercial or non-commercial information, as well as the copyright status of the material on the page.

The USPTO classification for the '459 Patent is Class 707 ("Data Processing: Database, Data Mining, and File Management or Data Structures") Subclass 7 ("Sorting … Subject matter directed to data oriented accessing methods benefiting from the creation of ordered lists"). As presently advised, IconFind states that a person of ordinary skill in the art relating to the '459

Patent would have an associates degree in Computer Science or 2-3 years of work experience in computer programming or an equivalent combination of academic and work experience.

IconFind's investigation into the subject matter of this interrogatory is ongoing. IconFind will supplement its response to this interrogatory, if necessary, as fact and expert discovery progresses in accordance with Fed. R. Civ. P. 26(e).

INTERROGATORY NO. 8:

State whether PLAINTIFF, or anyone on behalf of PLAINTIFF, has requested or conducted an investigation and/or evaluation regarding the validity, patentability, enforceability., scope, and/or INFRINGEMENT of any claim of the PATENT-IN-SUIT, including the dates such activities took place, the persons or ENTITIES involved in such activities, the nature of such activities.

RESPONSE:

See General Objection Nos. 1, 2, 5, 6, 7 and 8. To the extent this interrogatory concerns whether IconFind had a basis to pursue its claims for infringement against Google, the details of any pre-filing investigation by or for IconFind necessarily includes information that is subject to the attorney-client privilege and contains the analyses, work product, mental impressions, conclusions, opinions and legal theories of IconFind's counsel. IconFind is not obligated to disclose this information. See Fed. R. Civ. P. 11, Notes to 1983 Amendment. Furthermore, IconFind intends to rely on the opinions of one or more experts to address the subject matter of this interrogatory. These opinions, and the support for them, will be disclosed in accordance with the Federal Rules of Civil Procedure and the Joint Status Report. (Dkt. No. 47).

IconFind also objects to this interrogatory to the extent it is compound and constitutes multiple interrogatories in an improper attempt to exceed the limitation on interrogatories set by the Federal Rule of Civil Procedure 33. IconFind is willing, however, to confer with Google in an effort to resolve any disagreements between the parties relating to the scope, breadth and relevancy of Interrogatory No. 8.

Respectfully submitted,

/s/Anna B. Folgers

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 1, 2011 the foregoing

PLAINTIFF'S OBJECTIONS AND RESPONSES TO GOOGLE INC.'S FIRST SET OF INTERROGATORIES (NOS. 1-8)

was served upon the following counsel of record via electronic transmission.

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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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