

EXHIBIT N

HellerEhrman
ATTORNEYS

January 12, 2004

Via Facsimile & U.S. Mail

Andrew C. Byrnes
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05392.0150

Christine P. Sun
Keker & Van Nest LLP
710 Sansome Street
San Francisco, CA 94111-1704

Re: Overture v. Google: Discovery Issues

Dear Ms. Sun:

Thank you for your letter of January 9. I look forward to hearing from Mr. Grewal on or before Wednesday, January 14, regarding email document production. In addition, Overture agrees to supplement its discovery responses and document production, and provide an updated privilege log by February 13, so long as Google does the same.

With respect to damages discovery, the parties made their informal agreement deferring damages discovery until after the Markman hearing when that hearing was scheduled for October 22, 2003. Now that the hearing has been delayed for five months, due to Google's submission of an overlong claim construction brief, there is no reason to delay further that discovery. Indeed, by the time of the Markman hearing, Overture's complaint will have been pending for *23 months*. Please reconsider your objection to producing damages discovery at this time. If you do not agree to include damages discovery in your February 13 supplementation, we reserve our right to seek the Court's assistance.

The parties' as-of-yet unsuccessful attempts to schedule the 30(b)(6) deposition regarding GoTo.com's pre-critical date system do not justify continued delay in producing damages documents. We have on several occasions offered to provide a deponent in January. Robert Haslam's December 24, 2003 letter to Ms. Durie explained that, as newly substituted counsel, we were not able to prepare for and defend the deposition before the mediation, but would be able to provide you a deposition this month after the mediation. Last week, Patty Thayer of my firm reiterated the proposal to Michael Kwun. Mr. Kwun responded that the deposition might not be able to happen in January due to the deposing attorney's schedule. We remain willing to provide a 30(b)(6) deponent later this month. We would also like to discuss Google's taking the renewed deposition of Darren Davis this month. In any event, Heller Ehrman's understandable need to get up to speed on the case – and delay the 30(b)(6)

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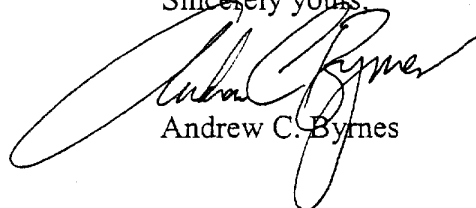
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deposition by a short time -- is no justification for Google's refusing to produce responsive damages documents.

I have recently been made aware of two additional outstanding discovery issues that require prompt resolution. First, my understanding is that Mr. Kwun agreed on Google's behalf to produce responsive documents, excluding source code, regarding Google's AdSense program, including its relationship to AdWords. Please confirm that you will produce any such documents no later than February 13. Second, with respect to Google's production of "search logs" and related documents pursuant to Overture's Request for Production No. 77, it is my understanding that Google's counsel agreed to the proposed three-step process set forth in Charles McMahon's October 7, 2003 letter to Mr. Kwun. Please confirm that you will produce the log entries and documents discovered during that process no later than February 13.

Finally, please note that I am resident in Heller Ehrman's Silicon Valley office. Please direct your response to the fax number above and/or the address below so that I receive your response as quickly as possible.

Sincerely yours,



Andrew C. Byrnes

cc: Jason C. White, Esq.

01/19/2004 10:12 FAX 000 324 0000

HELLER EHRMAN MID #4

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No. of Pages: 3 (including cover)
Date: January 8, 2004

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