

# **EXHIBIT P**

# HellerEhrman

ATTORNEYS

January 23, 2004

*Via Facsimile & U.S. Mail*

Andrew C. Byrnes  
AByrnes@hewm.com  
Direct (650) 324-7021  
Main (650) 324-7000  
Fax (650) 324-0638

05392.0150

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

**Re: Overture v. Google: Discovery Issues**

Dear Christine:

On January 7, Google served its Response to Overture's Fifth Set of Document Requests, which relate to Google's relationship and interactions with Terra Lycos.

Google stated that it would produce non-privileged documents responsive to Requests Nos. 92-95 (pre-filing), 99, 102-106, 107-110 (pre-filing), and 112 that have not already been produced. Google has not produced any documents since serving its response. Please produce any responsive documents immediately or confirm in writing that all responsive documents have been produced.

Google objected to Requests Nos. 96-98, 100, 101, 111, and 113-115 on a number of grounds and concluded that "[i]f Overture serves a narrowed request that includes an appropriate subject matter limitation, Google will consider that request in due course." Federal Rule of Civil Procedure 34(b) requires that Google produce documents to which it proffers no objection. Overture should not have to serve additional requests to obtain documents that Google acknowledges should be produced. Please identify what Google believes is the "appropriate subject matter," and produce immediately any non-privileged responsive documents relating to that subject matter. Overture reserves its right to seek the Court's assistance to compel Google to produce all documents responsive to these requests.

With respect to Requests Nos. 92-95 (post-filing), 99, 107-110 (post-filing), and 112, Google objected that at least some if not all responsive documents relate to damages and therefore "will be produced in the damages phase of discovery." I have not yet received a response to Overture's proposal of January 21 to agree to a date certain after the claim construction hearing on which the parties would exchange damages documents. If I do not receive a response by Monday, Overture will be forced to seek the Court's assistance in setting such a date, *i.e.*, April 1, 2004. Once a date has been set, whether by the parties'

Heller Ehrman White & McAuliffe LLP 275 Middlefield Road Menlo Park, CA 94025-3506 [www.hewm.com](http://www.hewm.com)

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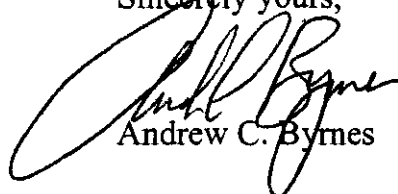
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Christine P. Sun  
January 12, 2004  
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agreement or by the Court, Overture expects that documents responsive to these requests will be included in Google's production.

Please respond at your earliest convenience.

Sincerely yours,



Andrew C. Byrnes

cc: Jason C. White, Esq. (by fax)

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## Facsimile Transmittal

275 Middlefield Road  
Menlo Park, CA 94025-3506  
Main (650) 324-7000  
Fax (650) 324-0638

**To:** Christine P. Sun; Kecker & Van Nest  
**Telephone:** 415.391.5400 **Fax:** 415.397.7188  
**To:** Jason C. White; Brinks Hofer Gilson & Lione  
**Telephone:** 312.321.4225 **Fax:** 312.321.4299  
**From:** Andrew C. Byrnes  
**Telephone:** 650.324.7021  
**Direct Fax:** 650.324.6078  
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