

HellerEhrman

ATTORNEYS

January 20, 2004

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

Via Facsimile and First Class Mail

05392.0150

Daralyn Durie, Esq.
Keker & Van Nest, L.L.P.
710 Sansome Street
San Francisco, CA 94111-1704

Re: Overture Services, Inc. v. Google Inc.

Dear Ms. Durie:

I write to inform Google that Overture, upon further thought, has revised its proposed constructions of two claim terms: "search listing" and "search list result." We will revise the joint claim construction statement accordingly.

Search Listing: Overture's revised proposed construction is "a collection of information that can be included in a search result list and which may be paid or unpaid." As Google advocated, Overture has omitted the phrase "that includes at least one search term" from its construction. In addition, to clarify for the jury the unobjectionable proposition that a listing may be paid or unpaid, we have added "which may be paid or unpaid" to our definition. We hope that these changes will moot any dispute between the parties regarding this term.

Search Result List: Overture's revised proposed construction is "a series of search listings that is obtained as a consequence of the examination of data." Upon further thought and review of the relevant dictionary definitions, Overture has come to agree with Google that a "series" of listings accords better with the ordinary meaning of "list" than a "set" of listings. In addition, Overture believes that the "obtained as a consequence of the examination of data" better adheres to the dictionary definitions of "search" and "result," and moots Google's concern that Overture's previously proposed construction would be confusing to the jury.

Heller Ehrman White & McAuliffe LLP 333 Bush Street San Francisco, CA 94104-2878 www.hewm.com

San Francisco Silicon Valley Los Angeles San Diego Seattle Portland Anchorage New York Washington D.C. Madison, WI
Hong Kong Singapore *Affiliated Offices:* Milan Paris Rome

HellerEhrman
ATTORNEYS

Daralyn Durie, Esq.
January 20, 2004
Page 2

Please do not hesitate to contact me if you have questions regarding the above.

Sincerely yours,

Andrew C. Byrnes
Andrew C. Byrnes

cc: Jason White, Esq. (by fax)