

# HellerEhrman

ATTORNEYS

January 27, 2004

*Via Facsimile & U.S. Mail*

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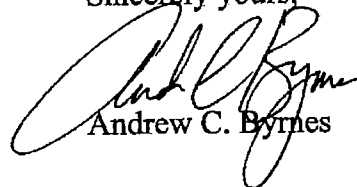
Christine P. Sun  
Keker & Van Nest LLP  
710 Sansome Street  
San Francisco, CA 94111-1704

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

Dear Christine:

By phone on January 21, which discussion was memorialized in my letter to you on January 22, Overture proposed, as a compromise regarding damages discovery, that the parties set a date certain after the claim construction hearing on which they would exchange damages discovery. During our telephone conversation yesterday afternoon, you counterproposed that Google provide "summary financial data" in early April followed by phased production of the remainder of damages discovery at unspecified later dates. As I mentioned to you yesterday and previously, particularly given the fact that the case will have been pending for 23 months at the time of the Markman hearing, Overture cannot accept any proposal that does not specify a date certain shortly after the Markman hearing by which damages discovery will be produced. If Google is not willing to provide such a date by noon tomorrow, please be advised that Overture will seek the Court's assistance by filing a motion to compel tomorrow afternoon.

Sincerely yours,



Andrew C. Byrnes

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