

# EXHIBIT C

**HellerEhrman**  
ATTORNEYS

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**Facsimile Transmittal**

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**To:** Christine P. Sun, Esq., Keker & Van Nest  
**Telephone:** 415.391.5400 **Fax:** 415.397.7188

**From:** Michael P. Wickey  
**Telephone:** (650) 324-7158

**No. of Pages:** 3 (including cover)  
**Date:** July 7, 2004 1373/15246-0047

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**Message:**

Please see attached.

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ATTORNEYS

July 7, 2004

*Via Facsimile*

Michael P. Wickey  
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Christine P. Sun, Esq.  
Keker & Van Nest LLP  
710 Sansome Street  
San Francisco, California 94111

**Re: Overture v. Google**

Dear Christine:

I am writing to memorialize our telephone call of earlier today regarding issues surrounding Google's recently filed motion to compel documents and testimony protected by the attorney-client privilege and/or the attorney work product immunity. I reiterated Overture's position that Google failed adequately to meet and confer about the substance of Google's motion before its filing, particularly in light of the eight month gap between your last conversation with my co-counsel on these topics in November of last year, during which time Overture added new lead counsel (Heller Ehrman) in the matter. Overture's silence regarding a draft motion attached to Google's mediation brief during intense settlement negotiations cannot reasonably be taken as an unwillingness to resolve these matters without court action. In particular, it is the moving party's responsibility to initiate and complete a good faith meet and confer process.

In an attempt to settle the issues raised by your motion, I raised with you the possibility of discussing additional discovery in the areas of both the "criteria for inventorship" discussed by Mr. Rauch at his deposition on page 68 and following; and the question of whether the PTO was given all prior art found during the search conducted or known to GoTo.com's attorney's at the time, as mentioned in paragraph 9 of Mr. Davis's "102 declaration." You indicated that, although Google is primarily interested in documents and testimony related to the characterization of Overture's pre-critical date system during prosecution, you would take this proposal under consideration.

Finally, I also asked you whether you felt that Google's motion, as filed, complied with paragraph 1 of Magistrate Judge Laporte's May 2, 2003 Order Re Discovery Procedures, requiring a party moving to compel to attach to its motion a declaration setting forth the meet and confer efforts undertaken to comply with Fed. R. Civ. P. 37 and Civil L.R. 37-1(a), as

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Christine P. Sun, Esq.  
July 7, 2004  
Page 2

well as setting forth the final positions of each party at the end of that process. You suggested that you would be filing a supplemental declaration shortly to cure this deficiency.

I look forward to hearing back from you regarding the issues we discussed today.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael P. Wickey". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael P. Wickey

07/07/2004 21:57 FAX 650 324 0638

HELLER EHRMAN MID #2

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\*\*\* TX REPORT \*\*\*  
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