

Exhibit C

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

OVERTURE SERVICES, INC.,)
a Delaware Corporation,)
Plaintiff,)
vs.) CO2-01991 JSW
GOGGLE INC., a California)
Corporation,)
Defendant.)

The videotaped deposition of JOHN G. RAUCH, taken before DEBORAH A. MILLER, a Notary Public within and for the County of DuPage, State of Illinois, and a Certified Shorthand Reporter of said state, at Suite 3600, 455 North Cityfront Plaza Drive, Chicago, Illinois, on the 23rd day of July, A.D. 2003, at 9:08 a.m.

ORIGINAL

07
09:08

1 THE VIDEOGRAPHER: This is Ben Stanson of
2 Legal Video Services, Incorporated, 205 West
3 Randolph Street, Chicago, Illinois. I'm the
4 operator of this camera. This is the videotaped
5 deposition of John G. Rauch. It's being taken
6 pursuant to Federal Rules of Civil Procedure on
7 behalf of the plaintiff.

09:08

8 We are on the record on July 23rd,
9 2003. The time is 9:08 a.m. as indicated on the
10 video screen. We are at 455 Cityfront Plaza in
11 Chicago, Illinois. This case is captioned
12 Overture Services, Incorporated, versus Google
13 Incorporated, Case No. CO2-019910 JSW (EDL).

09:09

14 Will the attorneys please identify
15 themselves for the video record.

16 MS. DURIE: Daralyn Durie for defendant
17 Google.

18 MR. BERENZWEIG: Jack Berenzweig for the
19 plaintiff Overture Services.

09:09

20 And I'd like to make a correction.
21 This deposition is being taken by the defendant,
22 not by the plaintiff.

23 THE VIDEOGRAPHER: Sorry. Thank you.

24 MR. WHITE: Do you want to announce me on

1 (WHEREUPON, the record was
2 read by the reporter.)

3 MR. BERENZWEIG: I object to the form of the
4 question.

10:22 5 MS. DURIE: I'll reask it.

6 BY MS. DURIE:

7 Q. Did you understand the beta system to
8 constitute an experimental use as of the time of
9 your initial conversation with Mr. Naughton?

10:22 10 A. Can you explain what you mean by
11 "experimental use"?

12 Q. Okay. Do you have an understanding of
13 the term "experimental use" in the context of the
14 patent laws?

10:22 15 A. I do.

16 Q. What is your understanding?

17 A. Some public use of an invention on an
18 experimental basis more than a year prior to
19 filing a patent application can be, I guess, an --
10:23 20 an exclusion from a statutory bar.

21 Q. Okay. Let's use that definition.

22 A. Okay.

23 Q. Did you have an understanding from your
24 initial conversation with Mr. Naughton that the

13 1 beta system was an experimental use?

2 A. Not an experimental use as we've
3 described it here.

4 Q. Fine. Have you ever come to that
10:23 5 conclusion?

6 MR. BERENZWEIG: Which conclusion?

7 MS. DURIE: Fair enough.

8 BY MS. DURIE:

9 Q. Have you ever come to the conclusion
10:23 10 that the beta system that existed more than one
11 year prior to the filing date was an experimental
12 use as you have defined it?

13 A. I haven't analyzed it closely. As I
14 understand the law to be on the issue of
10:24 15 experimental use, so I haven't come to such a
16 conclusion.

17 Q. I take it then that you did not tell
18 the examiner that the beta system that existed at
19 GoTo more than one year prior to the filing date
10:24 20 was an experimental use as you have defined it?

21 A. That's correct.

22 Q. Do you recall whether when you first
23 saw what has been marked as Exhibit 10 you made
24 any efforts to ascertain why you had not been

14 1 provided with a copy of it earlier?

2 A. I don't recall any such efforts, no.

3 Q. Okay. Do you recall whether when you
4 first saw Exhibit 27 you made any efforts to
10:25 5 ascertain why you had not been provided with a
6 copy of it earlier?

7 A. No, I don't recall such efforts.

8 Q. Would it be your normal practice if you
9 learned that you had not been provided with a
10:25 10 client's press release in putting together an
11 initial IDS to make an inquiry as to why that
12 information had not been provided to you?

13 MR. BERENZWEIG: May I hear that question
14 back, please.

15 (WHEREUPON, the record was
16 read by the reporter.)

17 MR. BERENZWEIG: Your question is limited to
18 the witness' practice?

19 MS. DURIE: Yes.

20 BY THE WITNESS:

21 A. I think it depends on the nature of the
22 press release.


23 BY MS. DURIE:

24 Q. Let us assume that the press release is

1 my hand and affix my seal of office at Chicago,
2 Illinois, this 28th day of July, 2003.

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Notary Public, DuPage County, Illinois.

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My commission expires 3/01/06.

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C.S.R. Certificate No. 84-3889.



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