

1 DARREN E. DONNELLY (CSB No. 194335)

2 ddonnelly@fenwick.com

3 BRYAN A. KOHM (CSB No. 233276)

4 bkohm@fenwick.com

5 FENWICK & WEST LLP

6 Silicon Valley Center

7 801 California Street

8 Mountain View, CA 94041

9 Telephone: 650.988.8500

10 Facsimile: 650.938.5200

11 Attorneys for Defendants

12 GRACENOTE INC., TRIBUNE COMPANY, and

13 TRIBUNE MEDIA SERVICES, LLC

14 UNITED STATES DISTRICT COURT

15 NORTHERN DISTRICT OF CALIFORNIA

16 OAKLAND DIVISION

17 BLUE SPIKE, LLC,

18 Plaintiff,

19 v.

20 GRACENOTE INC., *et al.*,

21 Defendants.

Case No. 4:15-CV-01494-YGR

**STIPULATION OF DISMISSAL  
AND ORDER**

22 WHEREAS on November 10, 2015, this Court entered a Stipulation and Order to Stay  
23 Case (“Stay Order,” ECF No. 76), staying this litigation pending the resolution of the appeal to  
24 the U.S. Court of Appeals for the Federal Circuit by Plaintiff Blue Spike, LLC (“Blue Spike”) of  
25 the judgment in Blue Spike, LLC v Google, Inc. Case No. 14-cv-01650-YGR (N.D. Cal),  
26 (“Google Action”), in which the Court found claims of U.S. Patent Nos 7,346,472, 7,660,700,  
27 7,949,494, 8,214,175 and 8,712,728 invalid for lack of patentable subject matter under 35 U.S.C.  
28 § 101;

STIPULATION OF DISMISSAL WITH  
PREDJUDICE

CASE No. 4:15-CV-01494-YGR

1 WHEREAS the Federal Circuit issued a Judgment summarily affirming the judgment in  
2 the Google Action in its entirety, see *Blue Spike, LLC v Google, Inc.* No. 2016-1054 (Fed. Cir.  
3 Oct 14, 2016); and

4 WHEREAS the Stay Order provided that “if a Google judgment or invalidity is affirmed,  
5 such affirmance is dispositive of this case,” and that should the Federal Circuit affirm the  
6 judgment in the Google Action, “Blue Spike expressly agrees that the Google judgment of  
7 invalidity and its subsequent affirmance will collaterally estop Blue Spike from disputing the  
8 invalidity of the five asserted patents or asserting these patents against Defendants, including for  
9 patent claims not expressly recited in the Google judgment.” (ECF No. 75 at 2);

10 NOW THEREFORE, the parties to this action, through their respective counsel of record  
11 hereby stipulate, and respectfully request that the Court order, as follows:

12 1. Based on the judgment in the Google action, Blue Spike’s claims in this action are  
13 hereby dismissed with prejudice, and Defendants’ counterclaims dismissed as moot, with each  
14 side to bear its own costs and attorneys’ fees.

15 2. In accordance with the agreement reflected in the Stay Order, Blue Spike and its  
16 subsidiaries are hereby collaterally estopped from disputing the invalidity of the five asserted  
17 patents or asserting these patents against Defendants and their subsidiaries, including for patent-  
18 in-suit claims not expressly recited in the Google judgment.

19 Dated: October 13, 2017

FENWICK & WEST LLP

21 By: /s/ Darren Donnelly  
22 Darren Donnelly

23 Attorneys for Plaintiff  
24 GRACENOTE INC., TRIBUNE  
25 COMPANY, and TRIBUNE MEDIA  
26 SERVICES, LLC.  
27  
28

1 Dated: October 13 , 2017

GARTEISER HONEA PLLC

2  
3 By: /s/ Randall Garteiser  
Randall Garteiser

4  
5 Attorneys for Plaintiff  
BLUE SPIKE, LLC

6  
7 **ATTESTATION**

8 I, Darren Donnelly, am the ECF User whose identification and password are being used to  
9 file this **STIPULATION** and **[PROPOSED] ORDER**. In Compliance with Civil Local Rule 5-  
10 1(i)(3), I hereby attest that all signatories have concurred in this filing.


11 Dated: October 13, 2017

/s/ Darren Donnelly  
Darren Donnelly

12  
13  
14  
15 **[PROPOSED] ORDER**

16 Pursuant to the stipulation it is SO ORDERED.

17  
18 Dated: October 13, 2017

  
Honorable Yvonne Gonzalez Rogers  
United States District Judge