

EXHIBIT 3-3

NOTE PAUL ALLEN WAS THE ONE WHO SUPPLIED SEED CAPITAL TO BERSCA DE / NOW IN PART OF AOL THE MAY HAVE BOUGHT GOOGLE PATE IPO SHARES OF COMMON STOCK NOW SELLING GOOGLE PURSUANT TO AN AGREEMENT HE IS NOW RAINING GOOGLE

Judge Sets Back Paul Allen Patent Suit

By Don Clark

Rillohatre investor Paul Allen's patent lawsuit against some of the biggest names in high technology ran into a stalling block as a federal judge in Seattle dismissed the complaint for not describing his allegations specifically enough.

U.S. District Judge Marsha Peckham on Friday set a Dec. 28 deadline for the plaintiff, a company controlled by Mr. Allen called Interval Licensing LLC, to file an amended complaint. A spokesman for Mr. Allen said it plans to do so soon, calling the judge's order a "procedural issue" that won't halt the case.

The suit, filed in August, names tech companies Google

Inc., its YouTube subsidiary, Apple Inc., Facebook Inc., Yahoo Inc., AOL Inc., eBay Inc. and Netflix Inc., as well as office-Mark Inc. and Staples Inc., as defendants.

The complaint accuses them of infringing four patents covering technology developed at Interval Research Corp., a Palo Alto, Calif., lab and technology incubator that Mr. Allen financed but that closed down about a decade ago. Mr. Allen is a co-founder of Microsoft Corp.

The suit attracted attention for the defendants' high profiles as well as because the patents relate to features used by many e-commerce and Internet-search services.

One patent, for example, covers technology that allows a

website to offer suggestions for items related to what a user is viewing. Another covers the way readers can quickly locate stories related to a particular subject.

The defendants vowed to fight the suit. Google and Apple filed motions to dismiss the complaint because it doesn't specify which of the defendants' goods or services infringe the Interval patents.

"The allegations in the complaint are spartan," Judge Peckham wrote, siding with the defendants.

Standards for specificity of allegations in civil cases have been heightened in recent years as a result of a Supreme Court ruling, said Alan Fisch, a partner at the law firm Kaye Scholer Fier in

Washington. He doesn't expect Mr. Allen's attorneys to have trouble rewriting the complaint to meet those standards.

"I would see this as a temporary setback or speed bump on the road that will be litigated," said Mr. Fisch, who isn't involved in the case.

Apple and eBay declined to comment on Judge Peckham's ruling and the other defendants couldn't be reached.

A spokesman for Mr. Allen, David Postman, said a scheduling conference in the case will take place as planned Monday. "The case is staying on track," he said. Judge Peckham's ruling was reported earlier by the website Grokham.

—Dionne Starey
contributed to this article.

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GUTTER COLUMN A-3

2012 DEC AGMUS? Google? Paul Allen?

DATE: *WST* *DEC 15, 2010*

Rivals Say Google Plays Favorites

Search Giant Displays Its Own Health, Shopping, Local Content Ahead of Competing Sites

By Anne Herratt

Google Inc. increasingly is promoting some of its own content over that of rival websites when users perform an online search, prompting competing websites to cry foul.

The Internet giant is displaying links to its own services—such as local business information or its Google Health service—above the links to other, non-Google content found by its search engine.

Google, which is developing more content or specialized search sites in hopes of boosting ad revenue, says that prominently displaying links to them is more useful to Web searchers than just displaying links to sites that rank highly in its search system. But the moves mean Google increasingly is at odds with websites that rely on the search engine for visitors.

Those companies say their links are being pushed lower on the results page to make room for the Google sites. Critics include executives at travel site TripAdvisor.com, health site

WebMD.com and local-business reviews sites Yelp.com and Citysearch.com, among others.

"There is no denying that today Google is competing [with many websites] for the same Web traffic and the same advertising dollars," said Jay Herratti, chief executive of CityGrid Media, a unit of IAC/InterActive Corp. that owns Citysearch and sister sites Urbanspoon.com and InsiderPages.com.

Mr. Herratti said he believes Google's moves are hurting the growth of his sites, though adds it is hard to measure the impact.

TripAdvisor LLC Chief Executive Stephen Kaufer said the traffic his site gets from Google's search engine dropped by more than 10%, on a seasonally adjusted basis, since mid-October—just before Google announced the latest change to the way its search engine shows information about local businesses. TripAdvisor.com, whose top source of traffic is Google, reviews hotels and other businesses frequented by travelers.

"Google does seem to be Pleasantry to page 44



Local Push | Google Jobs Search Results With Its New Place Service



Yelp CEO Jeremy Stoppelman: Google is trying to leverage its distribution power.



TripAdvisor CEO Stephen Kaufer: Google does seem to be chasing us and I don't like it one bit.

Google Promotes Own Content

Continued from page B1.

chasing us and I don't like it one bit," said Mr. Kaufer, adding that he has been negotiating with Google for about two months to try to improve his situation.

"We built Google for users, not websites, and our goal is to give users answers," a Google spokeswoman said in a statement. "Sometimes the most useful answer isn't '10 blue links,' but a map for an address query, or a series of images for a query like 'pictures of Egyptian pyramids.' We often provide these results in the form of 'quick answers' at the top of the page, because our users want a quick answer."

She declined to comment on any specific criticisms or any discussions with other websites.

The complaints underscore how crucial Google searches are to virtually every business online, and the increasingly close scrutiny of how Google operates. In November, the European Union's top antitrust authority said it began a formal inquiry into whether Google manipulates its search results to disadvantage competing Web services, or give preferential placement to Google's own services.

The EU received a complaint from a shopping-search site that claimed it and other similar sites saw their traffic drop after Google began promoting its own Product Search service above conventional search results.

Google said it has never intentionally hurt competing services. It has also said the complaints to the EU were made by companies with ties to rival Microsoft Corp.

The latest complaints by Web competitors don't focus on Google's underlying search algorithms—which show links that are supposed to be most relevant to a particular query—but the way it displays links to its own services. The company insists it is simply helping users.

The issue isn't entirely new. The company for several years has used prominent links to services such as Google Finance and Google Maps to boost their popularity, with varying results.

But Google's recent moves seem to be prompting more complaints from competitors. Since last fall, Google has pointed users to business listings, called "Place pages," when they search for things such as "New York spa." Such searches often bring up results that list specific businesses but also include large red pin symbols for each of them. Clicking on those

pins often takes users to the local business's website or a Google Place page that shows details about the business.

Links to some non-Google local-business review websites appear lower on the results page.

Links to Place pages have become more prominent in recent months, and Google has introduced new ad initiatives associated with the changes.

Over the past year or so Google has also directed people who search for mortgages or credit cards to Google's own marketplace for such offers, an effort that competes with websites like Bankrate.com. A spokesman for Bankrate Inc. declined to comment.

And last year, Google began showing links to Google Health pages when people type ailments such as "cancer" or "emphysema." The Google Health pages

Google says it simply is trying to make relevant information easier for Web searchers to find.

organize information such as causes, symptoms and news. Links to those pages appear above regular search results.

"It's contrary to the notion of a natural search," said Adam Grossberg senior vice president of corporate communications at WebMD Health Corp. He said his company hadn't seen negative repercussions but is watching closely.

Google plans to use similar methods to steer search-engine traffic to two services begun last month, company representatives said.

The first, Hotpot, lets people rate businesses, museums or public places and share those ratings with friends, similar to Yelp and other such sites. The second service, Boutiques.com, is aimed at online shoppers of apparel and accessories.

Google's promotion of its own content over others' has been one of many issues raised during the federal antitrust review of the company's acquisition of ITA Software Inc., people involved in the discussions have said. ITA is the underlying search engine for travel sites like Kayak.com, and Google said it intends to use ITA technology to develop its own travel-search site. Analysts expect Google to show links to the new site on top of results for travel-related searches.

Google executives have said the government will conclude that online travel will remain competitive after the acquisition closes, and that the deal shouldn't raise antitrust concerns because Google doesn't compete with ITA.

The vast majority of Google's revenue comes from ads placed next to search results. But growth in that core business has slowed from several years ago. Meanwhile, Google has developed websites that go deeper into categories like comparison shopping.

Bing, Microsoft Corp.'s search engine, also points users in some cases to its local-business pages, finance or airfare services. But Bing's influence is smaller—it handles less than 30% of U.S. Web searches, including those on Yahoo Inc. sites, compared to Google's 66%, according to ComScore figures for October.

At least one site, MayoClinic.com, a Web publisher of health information, said Google's changes led to a small uptick in traffic. Brian Laing, a MayoClinic.com executive, attributes that to Google showing a link to MayoClinic.com next to the Google Health link for certain health queries, even if MayoClinic.com links don't show up on the first page of regular results—which are determined by a special ranking algorithm.

Google's expansion into local information has been a particular source of friction. This fall, Google made links to its millions of Place pages even more prominent on the first search results page, pushing sites such as TripAdvisor.com farther down the page for searches on "Berlin hotels," for instance.

Carter Maslan, a Google product management director, acknowledged "a little bit" of tension between Google and local-information sites. But he said the changes are meant to improve users' experience by getting them more information about businesses faster, and to provide links to review sites.

Yelp Inc. CEO Jeremy Stoppelman has complained about Google's use of Yelp content for Google Place pages and is negotiating with Google over the issue. He said Google "is trying to leverage its distribution power"—the search engine—"to take an inferior product and put it in front of the user."

Mr. Maslan said the company's data show that users have been happy with Google's changes to local-business searches.

AWFUL



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JOHN MCCAIN still can't make up his mind about who should decide the future of "don't ask, don't tell," when it should be decided, or if he's for or against it.

POLITICS

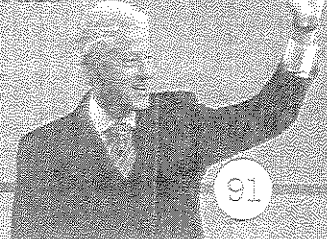
Is **BRISTOL PALIN's** fun on *Dancing With the Stars* due to her talent—or to the fact that call-in Tea Partiers are trying to score political points?

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AWESOME

BILL CLINTON's camp is coy about exactly he filmed a cameo for *The Hangover 2* on a speech-making trip to Thailand. Please be true.



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NEWSWEEK NOVEMBER 29, 2010 INTERNET



18

Google CEO **Eric Schmidt** gives a peek at a new phone that will ALSO ACT AS A CREDIT-CARD READER. Like Google needs access to any more of our info.



44

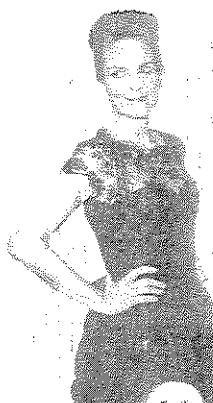
A gay couple in Texas gets MARRIED BY A D.C. PASTOR VIA SKYPE. Smart way to skirt local law, but that can't have been the ceremony they always dreamed of.

It was a long and winding road, but at long last, **THE BOATYER** and **ITUNES** come together right now. Fine, fine, we'll stop.



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THE CULTURE

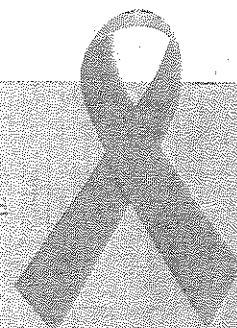


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PRESIDENTS OUT **TINA FEY's** remarks about Sarah Palin during Fey's acceptance speech for a humor award. 'Cause who cares what she has to say about her most famous character.

A rare piece of positive news for the beleaguered world of print! There's a new magazine! It's called **POLE SPIN**. (OK, so it's a niche publication.)

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For the first time in a half century, sufferers of lupus might soon have a cure. BUT DON'T GET YOUR HOPES UP. It's not something other than aspirin, steroids, or chemotherapy.

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PHOTOGRAPH BY ALAN...