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 9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA  
 11 OAKLAND DIVISION

13 GOOGLE INC.,  
 14 Plaintiff,  
 15 v.  
 16 ROCKSTAR CONSORTIUM US LP and  
 MOBILESTAR TECHNOLOGIES LLC,  
 17 Defendants.  
 18

CASE NO. 13-cv-5933-CW  
**JOINT STIPULATION AND ~~PROPOSED~~  
 ORDER REGARDING DISCOVERY OF  
 ELECTRONICALLY STORED  
 INFORMATION FOR PATENT  
 LITIGATION**

21 Upon stipulation of the parties, the Court ORDERS as follows:

- 22 1. This Order supplements all other discovery rules and orders. It streamlines  
 23 Electronically Stored Information (“ESI”) production to promote a “just, speedy, and inexpensive  
 24 determination of this action, as required by Federal Rule of Civil Procedure 1.”  
 25 2. This Order may be modified in the Court’s discretion or by stipulation. The parties  
 26 shall jointly submit any proposed modifications within 30 days after the Federal Rule of Civil  
 27 Procedure 16 Conference.

1 3. As in all cases, costs may be shifted for disproportionate ESI production requests  
2 under Federal Rule of Civil Procedure 26. Likewise, a party's nonresponsive or dilatory discovery  
3 tactics are cost-shifting considerations.

4 4. A party's meaningful compliance with this Order and efforts to promote efficiency  
5 and reduce costs will be considered in cost-shifting determinations.

6 5. The parties agree to comply with the District's E-Discovery Guidelines  
7 ("Guidelines") and have employed the District's Model Stipulated Order Re: the Discovery of  
8 Electronically Stored Information and Checklist for Rule 26(f) Meet and Confer regarding  
9 Electronically Stored Information.

10 6. General ESI production requests under Federal Rules of Civil Procedure 34 and 45  
11 shall not include email or other forms of electronic correspondence (collectively "email"). To  
12 obtain email parties must propound specific email production requests.

13 7. Email production requests shall be propounded for specific issues only, rather than  
14 general discovery of a product or business.

15 8. Email production requests shall be phased to occur after the parties have exchanged  
16 initial disclosures and basic documentation about the patents, the prior art, the accused  
17 instrumentalities, and the relevant finances. While this provision does not require the production  
18 of such information, the Court encourages prompt and early production of this information to  
19 promote efficient and economical streamlining of the case.

20 9. Email production requests shall identify the custodian, search terms, and time  
21 frame. The parties shall cooperate to identify the proper custodians, proper search terms and  
22 proper timeframe as set forth in the Guidelines. Each party will provide a list of likely email  
23 custodians, a specific identification<sup>1</sup> of the twenty most significant listed email custodians in view  
24 of the following: the pleaded claims and defenses infringement contentions and accompanying

25  
26 \_\_\_\_\_  
27 <sup>1</sup> A "specific identification" requires a short description of why the custodian is believed to be  
28 significant.

1 documents pursuant to P.R. 3-1 and 3-2, invalidity contentions and accompanying documents  
2 pursuant to P.R. 3-3 and 3-4, and preliminary information relevant to damages.

3           10. Each requesting party shall limit its email production requests to a total of twelve  
4 custodians per producing party for all such requests. The parties may jointly agree to modify this  
5 limit without the Court’s leave. The Court shall consider contested requests for additional  
6 custodians, upon showing a distinct need based on the size, complexity, and issues of this specific  
7 case. Cost-shifting may be considered as part of any such request.

8           11. Each requesting party shall limit its email production requests to a total of twenty  
9 search terms per custodian per party. The parties may jointly agree to modify this limit without  
10 the Court’s leave. The Court shall consider contested requests for additional search terms per  
11 custodian, upon showing a distinct need based on the size, complexity, and issues of this specific  
12 case. The Court encourages the parties to confer on a process to test the efficacy of the search  
13 terms. The search terms shall be narrowly tailored to particular issues. Indiscriminate terms, such  
14 as the producing company’s name or its product name, are inappropriate unless combined with  
15 narrowing search criteria that sufficiently reduce the risk of overproduction. A conjunctive  
16 combination of multiple words or phrases (*e.g.*, “computer” and “system”) narrows the search and  
17 shall count as a single search term. A disjunctive combination of multiple words or phrases (*e.g.*,  
18 “computer” or “system”) broadens the search, and thus each word or phrase shall count as a  
19 separate search term unless they are variants of the same word. Use of narrowing search criteria  
20 (*e.g.*, “and,” “but not,” “w/x”) is encouraged to limit the production and shall be considered when  
21 determining whether to shift costs for disproportionate discovery. Should a party serve email  
22 production requests with search terms beyond the limits agreed to by the parties or granted by the  
23 Court under to this paragraph, this shall be considered in determining whether any party shall bear  
24 all reasonable costs caused by such additional discovery.

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1 12. Nothing in this Order prevents the parties from agreeing to use technology assisted  
2 review and other techniques insofar as their use improves the efficacy of discovery. Such topics  
3 should be discussed under the District's E-Discovery Guidelines.

4 IT IS SO STIPULATED.

5 DATED: August 4, 2014 Respectfully submitted,

6 QUINN EMANUEL URQUHART & SULLIVAN, LLP

7 By /s Matthew S. Warren  
8 Matthew S. Warren  
9 Attorneys for Google Inc.

10 McKOOL SMITH HENNIGAN,P.C.

11 By /s Joshua W. Budwin  
12 Joshua W. Budwin  
13 Attorneys for Rockstar Consortium US LP and  
14 MobileStar Technologies LLC

15 **ATTESTATION**

16 I, Matthew S. Warren, am the ECF User whose userid and password authorized the filing  
17 of this document. Under Civil Local Rule 5-1(i)(3), I attest that Joshua W. Budwin has concurred  
18 in this filing.


19 DATED: August 4, 2014 /s Matthew S. Warren  
20 Matthew S. Warren

21 **[PROPOSED] ORDER**

22 The Court having considered the stipulation of the parties, the Court orders that the parties'  
23 agreement is approved.

24 PURSUANT TO THE PARTIES' STIPULATION, IT IS SO ORDERED.

25 Dated: August 5, 2014

26   
27 Honorable Claudia Wilken  
28 United States District Judge