IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

PERSONALIZED USER MODEL, L.L.P.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 09-525-LPS
	)	
GOOGLE INC.,	)	**JURY TRIAL DEMANDED**
	)	
Defendant.	)	

LOCAL RULE 7.1.2(b) NOTICE OF SUPPLEMENTAL AUTHORITY FOR DEFENDANT GOOGLE INC.'S CLAIM CONSTRUCTION BRIEFS

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Dated: December 23, 2010
994674/ 34638

On December 20, 2010, after claim construction briefing was complete, the United States Court of Appeals for the Federal Circuit issued an opinion that directly relates to the construction of several of the terms that are before this Court. The opinion is *Akamai Technologies, Inc. and Massachusetts Institute of Technology v. Limelight Networks, Inc.*, No. 2009-1372, slip op. (Fed. Cir. Dec. 20, 2010), which is attached hereto as Exhibit 1. This submission is made pursuant to Local Rule 7.1.2(b) (permitting citation to subsequent authorities after submission of reply briefs).

Akamai addresses the importance to claim construction of the use of the phrases "the invention" and "the present invention" in a patent specification, in particular where there is no disclosure in the specification of any meaning of the terms at issue other than that described as "the invention" or the "present invention." *Akamai*, slip op. at *25-30 (finding "a given object of a participating content provider is associated with an alphanumeric string" was properly construed as requiring "that the alphanumeric string include the embedded object's original URL" because "'the invention' is described as using strings including the object's original URL," which is the "the only method described" in the specification for the claimed association), at *36-37 (finding two terms at issue were properly construed to require "that the name server be selected by the alternative domain name system" because the patent repeatedly defines doing do so as "the 'invention" and "there is no support in the specification for any [other] method of choosing a particular name server" or a disclosure that any other method should be contemplated).

Akamai supports the arguments and authority recited by Google in connection with at least the following terms: learning machine, User Model specific to the user, user specific learning machine, parameters of a [user specific] learning machine, user, and document. (*See e.g.*, Google's Opening Brief on Claim Construction (D.I. 116) at 6, 9, 11-13, and 18-20; and Google's Responsive Brief on Claim Construction (D.I. 131) at 9, 15, and 16.) *Akamai* also refutes the oft-repeated

argument in Plaintiff's Responsive Claim Construction Brief (1 n.1, 8 n.14, 9 n.15, 14 n.22) that the reference to the "present invention" and "the invention" in the shared specification for the '040 and '276 patents merely describes a "preferred embodiment," and thus may not serve to limit the meaning of the claims. *Akamai*, slip op. at 29-30 (finding that although much of the description of "the invention" and "the present invention" occurred in a section referred to as a "preferred embodiment" or as a "preferred method," the language still served to limit the claims).

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CERTIFICATE OF SERVICE

I, Richard L. Horwitz, hereby certify that on December 23, 2010, the attached document was electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading.

I further certify that on December 23, 2010, the attached document was Electronically Mailed to the following person(s):

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