

# EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

PERSONALIZED USER MODEL, L.L.P., )  
)  
Plaintiff, )  
)  
v. )  
)  
GOOGLE, INC., )  
)  
Defendant. )  
C.A. No. 09-525 (LPS)  
\_\_\_\_\_  
GOOGLE, INC., )  
)  
Counterclaimant, )  
)  
v. )  
)  
PERSONALIZED USER MODEL, L.L.P. )  
and YOCHAI KONIG, )  
)  
Counterclaim-Defendants. )

**PLAINTIFF PERSONALIZED USER MODEL, L.L.P.’S  
FOURTEENTH SUPPLEMENTAL RESPONSES TO DEFENDANT  
GOOGLE, INC.’S FIRST SET OF INTERROGATORIES (NOS. 3-4, 14)**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure and the Local Rules of the District of Delaware, Plaintiff Personalized User Model, L.L.P. (“P.U.M.”) provides its fourteenth supplemental responses to Defendant Google, Inc.’s (“Google” or “Defendant”) First Set of Interrogatories to Plaintiff (Nos. 3-4, 14) as follows:

**GENERAL OBJECTIONS**

1. P.U.M. incorporates by reference its General Objections to Google’s First Set of Interrogatories (Nos. 1-16).

## **SPECIFIC RESPONSES AND OBJECTIONS TO INTERROGATORIES**

### **INTERROGATORY NO. 3:**

State whether PLAINTIFF contends there are secondary considerations that should be considered by the Court in connection with its determination pursuant to 35 U.S.C. § 103 of the validity of the PATENTS-IN-SUIT, and if the answer is anything other than an unqualified negative, identify each such secondary consideration and describe in detail PLAINTIFF'S contentions as to why each such secondary consideration demonstrates obviousness or non-obviousness and all facts in support thereof.

### **RESPONSE TO INTERROGATORY NO. 3:**

In addition to the foregoing general objections, P.U.M. specifically objects to this interrogatory as premature because (i) Google has not provided the basis for its alleged defense of obviousness and must first overcome the presumption of validity before secondary considerations become relevant, (ii) no discovery of Google or third-parties has yet been taken in this case, and (iii) to the extent P.U.M. has specifically undertaken investigations of other companies' infringement, such investigations and their results are privileged.

Subject to and without waiving the foregoing general or specific objections, P.U.M. identifies Google's success as evidence of both commercial success and long-felt need. P.U.M. further identifies Google's attempts to obtain patent protection for the personalization of web search as evidence of long-felt need, failure of others and, potentially, copying of P.U.M.'s patented technology since the P.U.M. '040 patent is cited in these pending patent applications. Additionally, Google's acquisition of Kaltix Corp. and Outride, Inc. is further evidence of the commercial success of personalized search. P.U.M. further responds that it will produce non-privileged documents further evidencing non-obviousness. Additionally, P.U.M. responds that the investigation into the facts of this case is ongoing, P.U.M., accordingly, reserves its right to supplement its response to this interrogatory once additional information is obtained from Google, among others.

**SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 3:**

P.U.M. incorporates by reference its general and specific objections set forth above. Subject to and without waiving the foregoing general and specific objections, P.U.M. further identifies the interest of others in purchasing the patented technology from Utopy (see for example the document Bates numbered PUM0086370), Google's commercial success, numerous statements by Google in the press and in presentations (both written and via video) emphasizing the advantages and importance of personalization, a long felt need in the industry to be able to provide more personalized advertising and search results to Internet users based upon their respective interests and location, and statements in Google's U.S. patent applications, including, but not limited to, Application No. 10/676,711, regarding the disadvantages of the prior art as evidence of the failure of others. Additionally, P.U.M. responds that the investigation into the facts of this case is ongoing, and therefore, reserves its right to supplement its response to this interrogatory once additional information is obtained from Google, among others.

**SECOND SUPPLEMENTAL RESPONSE TO NO. 3:**

P.U.M. incorporates by reference its general and specific objections set forth above. Subject to and without waiving the foregoing general and specific objections, P.U.M. further identifies Google's commercial success as evidence of nonobviousness. Google's commercial success is demonstrated in Google's Financial results. For example, in its Third Quarter 2010 Financial Results, Google reported revenues of \$7.29 billion for the quarter ended September 30, 2010, an increase of 23% compared to the third quarter of 2009, including, Google-owned sites generated revenues of \$4.83 billion, or 67% of total revenues (representing a 22% increase over third quarter 2009 revenues of \$3.96 billion) and Google's partner sites generated revenues, through AdSense programs, of \$2.20 billion, or 30% of total revenues (representing a 22%

increase from third quarter 2009 network revenues of \$1.80 billion). Further evidence can be found in Google 2009 Form 10-K touting Google's "Search Personalization-gives users more relevant results based on their previous signed-on search history or, alternatively, based on anonymous cookies stored on their access device if they are signed-out," and reported annual revenues of \$23,650,563,000, up from \$21,795,550,000 in 2008 and \$16,593,986 in 2007.

Additionally, P.U.M. responds that the investigation into the facts of this case is ongoing, numerous depositions need to be taken, and therefore, reserves its right to supplement its response to this interrogatory once additional information is obtained from Google, among others.

**THIRD SUPPLEMENTAL RESPONSE TO NO. 3:**

P.U.M. incorporates by reference its general and specific objections set forth above. Subject to and without waiving the foregoing general and specific objections, P.U.M. identifies at least the following secondary considerations relating to non-obviousness: (i) Google's commercial success as set forth in, for example, P.U.M.'s Second Supplemental Response to Interrogatory No. 3 above; (ii) Google's statements, for example, statements made by Sergy Brin, one of Google's founders, in a Nature article from 2000, as evidence of long felt need and failure of others. For example, "Brin predicts that in five years the search engine as we know it will no longer exist, or be marginal. In its place will come 'intelligent' programs that search by using their experience of the needs and interests of their users." Rajagopalan agrees: "In future there will be automatic feedback loops based on what search results you have selected in the past in relation to this or that query, or how long you stayed at particular web pages." See PUM 0092080. Numerous other Google videos and press releases also emphasize the importance of personalization; (iii) Google's failure to develop personalized search and other aspects of

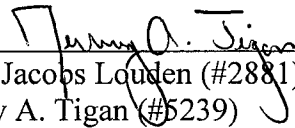
personalization for many years after recognizing this long-felt need is further evidence of non-obviousness; (iv) Google's acquisition of at least Kaltix and Outride, Inc. to advance its own personalization efforts and technology both demonstrates Google's failure to develop such technology on its own and Google's recognition of its need for such technology (*see* Depositions of Glen Jeh, Uygur Ozetkin and Andre Rohe, for example); (v) Google's attempts to obtain patent protection for various aspects of personalized search and advertising further evidence long-felt need, failure of others, and potentially, Google's copying of P.U.M.'s patented technology since the P.U.M. '040 patent is cited in some of Google's pending applications. Certain of the patents and/or applications (*e.g.*, U.S. Application No. 10/676,711 identify the disadvantages of the prior art (but not P.U.M.'s patents), which further demonstrates the failure of others, as do the failures of memory and collaborative filtering systems generally; (vi) the pioneering nature of the asserted patents is further evidence of their non-obviousness as it the interest of others in purchasing the patented technology from Utopy (*see, e.g.*, Bates No. PUM0086370); and (vii) the success of Utopy in attracting investment and developing its product(s) also is evidence of non-obviousness.

P.U.M. further responds that its investigation is on-going regarding this issue. Google, for example, has yet to produce documents relating to its acquisition of Kaltix (as well as any documentation relating to Google's early personalization efforts). P.U.M., accordingly, reserves its right to supplement this response once additional information is obtained from Google and/or others.

January 11, 2011 a pum@polarengineering.com account,

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April 1, 2011

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 1, 2011, copies of the foregoing were caused to be served upon the following in the manner indicated:

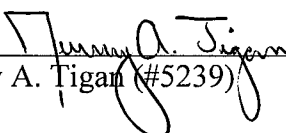
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