

EXHIBIT 1

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IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF DELAWARE

PERSONALIZED USER MODEL, L.L.P.,
Plaintiff,
v.
GOOGLE, INC.,
Defendant.

: CIVIL ACTION
:
:
:
:
: NO. 09-525-LPS
:

Wilmington, Delaware
Wednesday, June 29, 2011
Telephone Conference

BEFORE: HONORABLE LEONARD P. STARK, U.S.D.C.J.

APPEARANCES:

MORRIS NICHOLS ARSHT & TUNNELL, LLP
BY: KAREN JACOBS LOUDEN, ESQ.

and

SNR DENTON, LLP
BY: MARK C. NELSON, ESQ.
(Dallas, Texas)

and

SNR DENTON, LLP
BY: CHRISTIAN E. SAMAY, ESQ.
(Short Hill, New Jersey)

Counsel for Plaintiff

Brian P. Gaffigan
Registered Merit Reporter

1 APPEARANCES: (Continued)

3 POTTER ANDERSON & CORROON, LLP
BY: DAVID E. MOORE, ESQ.

4 and

5 QUINN EMANUEL URQUHART OLIVER & HEDGES, LLP
6 BY: DAVID A. PERLSON, ESQ.
(San Francisco, California)

7 Counsel for Defendant

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11 PROCEEDINGS

12 (REPORTER'S NOTE: The following telephone

03:11:04 13 conference was held in chambers, beginning at 3:20 p.m.)

03:11:01 14 THE COURT: Good afternoon, everyone. This is

03:20:19 15 Judge Stark. Who is there, please? Counsel, it's Judge

03:20:26 16 Stark. Who is there, please?

03:20:27 17 MS. JACOBS LOUDEN: Good afternoon, your Honor.

03:20:28 18 For the plaintiff this is Karen Jacobs Loudon at Morxis

03:20:35 19 Nichols; and I have on the line with me Mark Nelson at and

03:20:36 20 Chris Samsay from SNR Denton.

03:20:39 21 THE COURT: Okay.

03:20:38 22 MR. MOORE: And on behalf of Google your Honor

03:20:46 23 David Moore from Potter Anderson; and with me on the line is

03:20:43 24 David Perlson from Quinn Emanuel.

03:20:45 25 THE COURT: Okay. And that's everybody?

03:20:48 1 MR. MOORE: Yes.

03:20:50 2 MS. JACOBS LOUDEN: Yes, it is.

03:20:51 3 THE COURT: Thank you. For the record, it is
03:20:53 4 our case of Personalized User Model LLP v Google Inc., our
03:21:00 5 Civil Action No. 09-525-LPS. The purpose of this call is to
03:21:06 6 discuss Google's request to compel production of certain
03:21:11 7 communications between the plaintiff's counsel and the two
03:21:17 8 inventors. As it is Google's request, let me hear first
03:21:22 9 from Google, please.

03:21:25 10 MR. PERLSON: Thank you, your Honor. This is
03:21:26 11 David Perlson.

03:21:27 12 Your Honor, this is really the same issue that
03:21:33 13 you were presented with at deposition of Mr. Twersky back
03:21:41 14 in May, I believe. Here, we're seeking communications with
03:21:48 15 counsel on, among the inventors on the same subject matter,
03:21:54 16 conception and the change in the interrogatory response for
03:21:58 17 which PUM itself is relying on communications of counsel.
03:22:02 18 While these aren't the same communications that were at
03:22:06 19 issue in that call, the reason we're entitled to them is
03:22:10 20 the same. PUM cannot pick and choose which attorney
03:22:15 21 communications on the subject that they can rely on.

03:22:19 22 I think it's notable that PUM in its response
03:22:24 23 doesn't even really try to argue that the issue presented
03:22:30 24 here absent these communications are any different as to the
03:22:35 25 communications of which you already ruled on. Instead, PUM

03:22:36 1 largely repeats the same arguments it made before. You
03:22:44 2 know, like before, it tries to go in and explain what its
03:22:50 3 story is as to the change in the interrogatory response and
03:22:53 4 the testimony related thereto, but that is the story that
03:22:59 5 we should be entitled to test given that they, through that
03:23:04 6 story, have injected communications with counsel and with
03:23:07 7 the inventors on the issue of conception and change of the
03:23:11 8 interrogatory. That's what these relate to.

03:23:14 9 I'll note just a couple things about the story
03:23:18 10 they're telling which is incomplete in their letter brief.
03:23:22 11 For one thing, they suggest that this issue of the SRI
03:23:27 12 ownership was sort of first at play in this January 19th
03:23:31 13 letter where Google informed plaintiff of its ownership,
03:23:36 14 that it inquired the ownership interest of SRI. But this
03:23:42 15 issue was before that.

03:23:44 16 I mean at Mr. Konig's deposition, I had asked
03:23:50 17 him questions regarding his employment agreement at SRI, you
03:23:56 18 know, whether there was agreement to assign intellectual
03:23:57 19 property. We subpoenaed SRI on December 20th, last year,
03:24:06 20 for information and produced documents, including his
03:24:08 21 employment agreement, to January 12th, 2011. So the story
03:24:13 22 they're telling is incomplete.

03:24:15 23 And they additionally say that PUM would have
03:24:20 24 met to clarify conception even earlier than January 19th,
03:24:25 25 but seeing such as the Markman hearing and Mr. Twersky being

03:24:28 1 out of the country prevented that. But that's also not
03:24:32 2 consistent with the facts.

03:24:35 3 First of all, Mr. Twersky although he flip
03:24:39 4 flopped on this issue at his deposition initially, both he
03:24:45 5 and at PUM's own interrogatory response say they were aware
03:24:47 6 of this issue in December, after the depositions, the
03:24:51 7 beginning of December. There is no reason why this stuff
03:24:53 8 couldn't have been dealt with then; and he didn't leave --
03:24:56 9 Mr. Twersky didn't leave for Israel until December 21st.
03:25:02 10 There were several weeks they could have dealt with before
03:25:04 11 then. So the story both is evolving and changing, and I
03:25:09 12 think we are entitled to test it.

03:25:09 13 Again, as I just mention, as we detailed in
03:25:14 14 the briefs, Mr. Twersky has now more than once changed his
03:25:20 15 testimony on key things like conception and the explanation
03:25:24 16 regarding PUM's change of the asserted conception date, but
03:25:30 17 it's of note in their brief, plaintiff is saying that
03:25:36 18 Mr. Konig, they say, has never wavered on his testimony
03:25:40 19 about the date of conception.

03:25:42 20 Well, that is not accurate. Their own brief
03:25:46 21 shows it's not accurate. They say at his December 2nd
03:25:50 22 deposition, he testified that he conceived of the invention
03:25:53 23 between August 9th, 1999 and December 1999. And then later,
03:25:58 24 he testified that it was on or around September 21st, 1999.
03:26:05 25 Obviously, there is a big difference between on or around

1 September 21st, 1999 and between August and December 1999,
2 in particular, given the fact Mr. Konig was still working at
3 SRI until August 6th.

4 And even in Mr. Konig's declaration from
5 March 3rd tells something different. This time, he says I
6 have always believed the inventions claimed in the patent in
7 suit were conceived some time between August 6th, 1999 and
8 August 31st, 1999. But then he goes on to say: After
9 reviewing documents with my counsel from the relevant time
10 frame, I am confident that the inventions were conceived in
11 September 1999.

12 So like Mr. Twersky, Mr. Konig as well is
13 clearly being influenced by what his counsel is -- the
14 documents they're showing him and also what they're telling
15 him. It's clear that the subject matter of this was not
16 simply discussed in the two in-person meetings that were the
17 subject of your Honor's prior ruling, but as the law that
18 PUM provided us that we, as an exhibit, showed, there were
19 several communications on this subject, at least 18 of
20 which. PUM has also told us that they haven't really logged
21 all of the communications that we're seeking here.

22 So it seems like there might even be further
23 communications, which would, for example, communications in
24 December, go to test the veracity of plaintiff's interrogatory
25 response that Mr. Twersky was aware of the inconsistency and

1 conception, and immediately after his deposition in December,
2 he went back and forth on that at his deposition, and just the
3 veracity of both of the inventors and of the story that PUM is
4 trying to tell regarding this change.

5 It's critical. It's a critical issue to not
6 only the motion for summary judgment that Google is seeking
7 leave to file, but if that's denied, and if it goes forward,
8 It will be front and center at trial. They shouldn't be
9 able to point to these discussions with attorneys, the ones
10 that they like as a reason for this change in the conception
11 date, and with all the others.

12 We should be able to say, as we will argue and
13 we believe is the case, that this change was motivated by
14 the ownership issue. And we should, as their rebuttal to
15 that story involves communications with counsel on the
16 issue of conception and on the issue of how they change
17 their interrogatory response, we should be entitled to full
18 disclosure of those communications.

19 THE COURT: I want to make sure I understand
20 exactly what it is that you are looking to have produced as
21 a result your request today.

22 MR. PERLSON: Sure.

23 THE COURT: Is it simply the three categories of
24 communications set forth at the bottom of what is listed as
25 page 4 of your letter?

1 MR. PERLSON: Correct, your Honor. That's
2 correct. I think there was reference in PUM's letter that
3 we're seeking for communications months earlier, and I'm not
4 sure what that is in reference to. But you are right, what
5 you are pointing to is what we're seeking.

6 THE COURT: So do you put a time frame on it? Or
7 it could be at any time, but, for instance, the communications
8 have to relate to the scheduling of the January 19th and
9 February 7th meetings, the subjects discussed at those
10 meetings and PUM's preparation of its Fourth Supplemental
11 Response to Interrogatory No. 1. That is, if it relates to
12 those subject matters, you're not putting a date/time frame
13 on it?

14 MR. PERLSON: Well, I think at this time, your
15 Honor, what we're seeking is communications between I guess
16 December 1st, which I guess is the date of the prior
17 interrogatory response and the changed interrogatory
18 response. Perhaps better said, communications immediately
19 following Mr. Twersky's deposition.

20 I suppose it's possible that something in those
21 communications could cause us to come back later to say that
22 we need something earlier, but, at this point, that's the
23 date. I think Twersky's deposition was on December 3rd,
24 2010, and then the interrogatory was changed I think
25 February 8th or 12th or something like that, and it would be

1 in between these two days.

2 THE COURT: So if I ask you to put a time frame
3 on it, it's December 1st, 2010 through February something,
4 2011?

5 MR. PERLSON: I'm sorry. Let me just get the
6 exact dates of the interrogatory responses.

7 December 3rd, which would be immediately
8 following Mr. Twersky's deposition. Actually, I'm sorry.
9 December 2nd, following Konig's deposition, which apparently
10 is where this issue of the inconsistency first showed up,
11 and then their interrogatory response, which was on I
12 believe February 8th.

13 THE COURT: Okay.

14 MR. PERLSON: That's right. February 8th. I
15 apologize for not having full command of the dates, your
16 Honor.

17 THE COURT: Among the things you are looking
18 for then are all of the subjects that were discussed at the
19 January 19th and February 7th meetings? If I'm right, you
20 are seeking all of the subjects, tell me why you need to
21 know all of the subjects.

22 MR. PERLSON: Well, I guess it would be all of
23 the subjects regarding the conception and the change in
24 interrogatory response. I guess perhaps we should have been
25 more precise because I do believe at one of these meetings

1 there was some discussion of who should be designated for
2 the 30(b)(6) topics, and we wouldn't be interested in that.

3 THE COURT: And with respect to the preparation
4 of the Fourth Supplemental Response to Interrogatory No. 1,
5 why do you need all communications relating to the
6 preparation of that amended supplemental response?

7 MR. PERLSON: Well, because I suspect, your
8 Honor, that they would make the subject of the response -- I
9 mean the response itself is a response that changed the
10 conception date and then purports to provide an explanation
11 for that change and the communications regarding that change
12 and the story, all of which relate to the key issue, why
13 this conception date was changed, and to rebut the very
14 story that PUM seeks to tell, through that interrogatory
15 response, similar ones which include communications with
16 counsel.

17 THE COURT: But it's just communications between
18 counsel and the inventors that relate to the supplemental
19 interrogatory response. That is, you are only seeking the
20 communication between counsel and the inventors on that
21 topic; correct?

22 MR. PERLSON: That's right. It's the conception
23 and the change of response in conception.

24 And, your Honor, to the clear, to the extent
25 that, for example, the SRI ownership issue was discussed in

1 reference to that, that certainly would be within play. But
2 that's the general scope of what we're looking for.

3 THE COURT: Okay. Let me hear from PUM, please.

4 MR. NELSON: Thank you, your Honor. This is
5 Mark Nelson speaking on behalf of PUM.

6 While not surprisingly, we don't agree with
7 counsel's statements. And to start off where counsel for
8 Google began, this is a completely different issue. The
9 issue in front of your Honor at the depositions was the
10 meetings and why the interrogatory response was changed and
11 why Mr. Twersky changed his testimony.

12 Google took the discovery per your Honor's order
13 on that, and Mr. Twersky testified that he didn't understand
14 the legal meaning of conception. He met with counsel who
15 told him the legal meaning of conception and, upon that
16 understanding, realized his testimony was wrong and
17 testified in the second deposition then differently.

18 Because of that, there is no sword and shield
19 issue here, your Honor. They've had the discovery that your
20 Honor ordered them, and the fact that they don't agree with
21 the testimony on conception or think it's changing doesn't
22 put all this other not even arguably but completely
23 privileged information at issue.

24 This situation I think is somewhat analogous
25 and maybe quite analogous to your Honor's decision in the

1 Joy Global case where you had a situation where there was
2 testimony elicited voluntarily in that case with respect to
3 counsel had testified and given advice that something was an
4 ERISA plan. The movant in that case then moved for all the
5 other communications surrounding that testimony between
6 counsel and the people involved in that plan, and your Honor
7 ruled that that was not a waiver situation. That the fact
8 that there was testimony elicited of attorney-client
9 communication of that general nature didn't create a waiver.

10 Here we have a similar issue. Mr. Twersky again
11 testified I didn't understand the legal meaning of conception
12 when I gave my responses in December. I now understand it.
13 I understand it because basically counsel told it to me, and
14 given that understanding, I'm now testifying differently.

15 We see no reason to open the door to what could
16 be sort of an ever expanding scope of requests for Google to
17 dig deeper and deeper and deeper into privilege.

18 Mr. Konig has been consistent. Mr. Konig has
19 never testified that conception happened earlier during
20 the period that he was at SRI, and his testimony has been
21 entirely consistent on that. They can take his deposition
22 per your Honor's order on what happened at these meetings as
23 well.

24 There is just simply no reason that the Court
25 should grant the extraordinary relief that Google is seeking

1 here, not only going into attorney-client communications but
2 also going into work product with respect to any draft of
3 the interrogatories -- of the supplement interrogatory
4 response that were circulated. We see no justification for
5 that.

6 I think one thing counsel said in its argument
7 here is telling in respect to your question regarding what
8 they were seeking. He qualified it as: Well, at the time
9 we're seeking.

10 PUM sees this as sort of an ever expanding set
11 of arguments trying to get further and further into the
12 privileged communications between counsel and its clients
13 and who knows where else it might go. Our position is there
14 simply is no justification for this.

15 If your Honor will remember at the beginning or
16 during the Twersky deposition, PUM tried to sort of put this
17 issue to bed by offering to let Google inquire as to what
18 happened at the two meetings and with a restriction on there
19 that your Honor ultimately didn't grant, prohibiting them
20 from seeking a waiver based on that testimony, but trying to
21 get this information out there to avoid just this situation
22 where Google comes back to the Court and asks for more and
23 then comes back to the Court and asks for more again.

24 And I guess just to wrap up, there is no sword
25 and shield here issue here, to the extent there ever was

1 one. They fully had the opportunity to explore what
2 happened in those meetings resulting in Mr. Twersky changing
3 his testimony and the supplemental interrogatory response.

4 And we think that the Joy Global case is good law and the
5 Court should adopt the same logic it adopted in that case.

6 THE COURT: All right. Thank you, Mr. Nelson.

7 Mr. Perlson, is there any response?

8 MR. NELSON: Yes. Real quickly, your Honor, on
9 a few of these points.

10 First of all, the Joy Global case is, perhaps
11 there is language. The result in the case perhaps is useful
12 to PUM. Actually, what the case says is that there is no
13 waiver where the disclosing party has not interjected the
14 advice of counsel as an element of the claim in the case
15 and/or where the advice of counsel isn't interjected by the
16 party asserting it. And this is on I guess in the Westlaw
17 version on page 6.

18 Well, that is not the case here. I mean they've
19 put this squarely at issue themselves by putting this change
20 in testimony and the explanation thereof as the reason why
21 they changed their story.

22 Mr. Konig -- or Mr. Twersky is going to get up
23 at trial and it's going to be an issue, and he is going to
24 have to come up with some sort of explanation, and it's not
25 just going to be that he was explaining what conception was

1 as plaintiff's counsel said. That is just half of the
2 story. What he omitted is the plaintiff also said that it
3 was the documents that was shown to him by counsel in a
4 meeting with counsel that caused him to change his testimony.

5 And Mr. Konig similarly has said that it was the
6 documents that were shown to him by counsel that have gotten
7 him to get from this August to December date to an August to
8 October date to a September 21st date.

9 And just as we were entitled to ask questions
10 about what happened in the meetings -- you know, there are
11 18 e-mails surrounding those meetings on these issues. They
12 could be just as influenced by what was said in those
13 e-mails as they would have been at the meeting and they
14 likely were. And there shouldn't be some sort of arbitrary
15 cutoff on that issue.

16 And then, finally, as to the issue of the
17 compromise on the subject matter waiver, they raised that
18 issue at the hearing before, and the relief was granted
19 anyways. We have no intention of trying to string this
20 along in any way, but for the same reason I couldn't agree
21 to their compromise before, we can't agree to it now.
22 Because we don't know what we're going to see.

23 THE COURT: Okay. Thank you. I am prepared to
24 give you my ruling here.

25 Having reviewed the materials submitted and

1 recalling the teleconference during the deposition and
2 listened to the argument today, I am going to grant in part
3 and deny in part the relief sought by Google.

4 The Court finds that there has been a limited
5 waiver of attorney-client privilege and work product
6 protection as well, and it results from the change in the
7 testimony and interrogatory responses on the important issue
8 of the date of conception regarding the invention and
9 subject in the patents in suit. As the Court held, during
10 the deposition, Google is entitled to some discovery on the
11 reasons for that changed testimony given that the contention
12 from PUM is that the testimony changed at least in part as a
13 result of the participation and input and discussion with
14 counsel and information provided by counsel to the inventors.

15 The Court reaches this conclusion without
16 accepting or rejecting Google's theory essentially of an
17 alleged conspiracy or a suggestion there was something
18 untoward in counsel's role in its interactions with the
19 inventors. The Court again is neither accepting nor
20 rejecting that theory, but the Court does find, as I have
21 said, there is a limited waiver and that Google is entitled
22 to some additional discovery to test what it has learned in
23 the depositions.

24 Specifically, the Court will permit and hereby
25 orders that PUM produce the written communications between

1 counsel and the inventors relating to the scheduling of the
2 January 19th and the February 7th meetings and the subjects
3 discussed at those meetings to the extent those subjects
4 relate to conception and the changed testimony or changed
5 interrogatory responses relating to the date of conception.

6 The Court is denying defendant's request to
7 further compel communications regarding PUM's preparation of
8 its Fourth Supplemental Response to Interrogatory No. 1.
9 This simply goes too far in reaching into attorney work
10 product.

11 There has been reference to the Joy Global
12 decision. In the Court's view, that was a very different
13 case with very different facts, including the distinction
14 that the issue here as to why did the witnesses change or
15 arguably change their testimony regarding the date of
16 conception is, by plaintiff's own acknowledgment, in part
17 the result of input from counsel for the plaintiff.

18 The Court would add that it is not inclined to
19 revisit this issue or allow more discovery on this topic.
20 Certainly, we hope that this additional discovery will be
21 the end of this particular dispute.

22 I don't want to hear any more argument but is
23 there any question about what I have ruled, Mr. Perlson?

24 MR. PERLSON: I just have one question. There is
25 going to be further depositions, and to the extent that we

1 have testimony, as for testimony regarding communications,
2 on the subject matter that you have allowed written
3 communications, I think that we just want a clarification that
4 we would be able to get into that at the depositions as well
5 so that we don't have to talk to you further again.

6 THE COURT: Yes. Thank you. That was part of
7 your request, and I intended to make clear though I
8 understand I did not make clear.

9 So the ruling with respect to the waiver and
10 the scope of the document production that is required also
11 applies to testimony at depositions that may be forthcoming.

12 Is there anything further, Mr. Perlson?

13 MR. PERLSON: Nothing further, your Honor.

14 THE COURT: Mr. Nelson?

15 MR. NELSON: Just one thing, your Honor.

16 I think I understand the ruling, but to the
17 extent that there were drafts of the four supplemental
18 responses that were work products that were provided to the
19 inventors, my understanding of your ruling is that that
20 draft would not be included in your ruling, but I want to
21 clarify that.

22 THE COURT: Well, certainly we did not discuss
23 what to do about a communication that falls within Category
24 A and not Category C. Give me your argument as to why it
25 should not be within the scope of what you need to produce.

1 MR. NELSON: Well, our view is that that is
2 attorney work product, your Honor. That would not be
3 produced because there has been no showing necessary to --
4 there has been no showing to grant such an extraordinary
5 remedy. Your Honor has ruled that they're entitled to go
6 into the other areas of communications here that your Honor
7 ruled on, but my understanding of the ruling was it was not
8 including other work product. Therefore, I don't see the
9 justification why they would need those sorts of materials.

10 THE COURT: Okay. Mr. Perlson, would you care
11 to respond to that?

12 MR. PERLSON: Well, your Honor, I think that the
13 main reason why we're getting these is because they changed
14 their interrogatory response from one thing to the other,
15 and we're supposed to get communications relating to the
16 conception date and the change of the interrogatory responses.
17 If that interrogatory response changed five times, the dates
18 the drafts were sent back and forth, I think that is just as
19 relevant as any other communications.

20 We have shown a reason why we would need it.
21 Whether it's work product or attorney-client privilege, it
22 is certainly not information that we can get from any other
23 source. So I think that the work product objections should
24 fall with the client-privilege objections.

25 THE COURT: I agree with Mr. Nelson on this one.

1 I am drawing a line between attorney-client privilege and work
2 product, and the defendant has every iteration that has been
3 filed of the interrogatory response and can see and can show,
4 for instance, to a jury how those interrogatory responses
5 changed. The defendant further had, and will have, additional
6 discovery as to communications between the attorneys and the
7 inventors relating to the meetings around the time of the
8 preparation of the supplemental interrogatory.

9 So to the extent that drafts of the supplemental
10 interrogatory response are attached to an e-mail, for
11 instance, relating to the scheduling of the meeting, that
12 attachment need not be produced under my order today.

13 Is there anything else, Mr. Nelson?

14 MR. NELSON: No, your Honor.

15 THE COURT: All right. I want to turn briefly
16 to the pending motion by Google for leave to file an early
17 summary judgment motion relating to the ownership issues.
18 I believe that is DI 196. Having reviewed that request,
19 the Court is hereby denying that motion for leave to file
20 an early summary judgment motion. This is very much a
21 discretionary decision largely informed by case scheduling
22 issues and issues of judicial economy and efficiency.

23 At this point, the Court sees no reason to
24 depart from the schedule that it set out for dealing with
25 all case dispositive issues, and to do so all at the same

1 time, which under the current governing schedule will be
2 following expert discovery, which will be following the time
3 that the Court issues its Markman opinion in this case.

4 It is also the case here that the issue Google
5 wishes to brief on an early basis is the issue related to
6 the ownership rights, if any, and what impact those rights
7 would have, which is tied up at least in part with the
8 conception date issues that we have been discussing this
9 afternoon. Clearly, there is a dispute on those issues, and
10 that is an additional reason not to alter the schedule that
11 has been in place from the beginning but rather to defer the
12 issue on the merits until such time as all discovery is
13 complete and all of the case dispositive matters can be
14 taken up at the same time.

15 So for all those reasons, again, the Court is
16 denying Google's motion for leave to file an early summary
17 judgment motion.

18 Before we break, is there anything else that we
19 need to discuss Mr. Perlson? Mr. Perlson? Are you there,
20 Mr. Perlson?

21 MR. PERLSON: Sorry. No, your Honor.

22 THE COURT: And Mr. Nelson, is there anything
23 further?

24 MR. NELSON: No, your Honor. I just wanted to
25 alert the Court to one thing that will likely be coming and

1 I suspect it will be unopposed.
2 There are still some open discovery issues
3 with respect to some user account information that PUM is
4 seeking. My understanding is that Mr. Samay and Mr. Perlson
5 talked earlier today and were trying to work out basically a
6 stipulated agreement by which the Court would then order
7 that production for some internal Google reasons that
8 Mr. Perlson can speak to if he wants to. But I just want to
9 alert the Court that that might be coming because it's
10 important to us to continue to get that discovery moving and
11 then closed down.

12 So that's it.

13 THE COURT: Okay. Mr. Perlson, was there
14 anything that you wished to address at this time?

15 MR. PERLSON: No, your Honor. I think we're in
16 agreement. I will be submitting and they will be submitting
17 an unopposed motion, too.

18 THE COURT: All right. Thank you all very much
19 for your time. Good-bye.

20 (Telephone conference ends at 3:54 p.m.)

21 I hereby certify the foregoing is a true and accurate
22 transcript from my stenographic notes in the proceeding.

23 /s Brian P. Gaffigan
24 Official Court Reporter
25 U.S. District Court

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EXHIBIT 2

Margaret P. Kammerud

From: Samay, Christian E. [christian.samay@snrdenton.com]
Sent: Thursday, July 07, 2011 8:55 AM
To: David Perlson; Nelson, Mark C.; Andrea P Roberts; Larson, Matthew P.
Cc: Google-PUM; 'rhorwitz@Potteranderson.com'; 'dmoore@potteranderson.com'; PUM; 'Louden, Karen Jacobs'
Subject: RE: PUM v. Google

David:

This responds to your email below.

First, with respect to redactions, we have not redacted anything relating to conception. The redactions pertain to unrelated subject matter, such as, for example, whether to consent to Google's motion to amend the complaint.

Second, with respect to the additional documents on PUM's privilege log, your email ignores that Google's request was not granted in full. We have produced all materials required to be produced by the Court's order, and do not intend to produce additional materials. As was discussed at the conference, Google itself defined the categories of materials it was seeking. Judge Stark granted Google's request to the extent that the documents fell within the first two categories enumerated in Google's letter, but denied it to the extent they fell within the third category. (See Tr. 16:24-17:10). The documents that we have not produced relate solely to the third category.

We trust that this addresses your concerns.

Christian

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From: David Perlson [mailto:davidperlson@quinnemanuel.com]
Sent: Wednesday, July 06, 2011 10:32 AM
To: Samay, Christian E.; Nelson, Mark C.; Andrea P Roberts; Larson, Matthew P.
Cc: Google-PUM; 'rhorwitz@Potteranderson.com'; 'dmoore@potteranderson.com'; PUM; 'Louden, Karen Jacobs'
Subject: RE: PUM v. Google

Christian, it was Mark's email suggested we could discuss these matters with you. In any event, when do you think the call will be? We would really liked to get this wrapped up.

At a minimum, we would like answers to the following inquires today, all of which should be easy for PUM to provide:

--an explanation of the redactions

--whether more documents will be produced pursuant to the Court's order

--as to the documents that were logged, but not produced:

-Is PUM representing that these documents do not at all relate to "conception and the changed testimony or changed interrogatory responses relating to the date of conception" which the Court specifically did allow?

- how the Court's ruling regarding work product is applicable to the withheld documents that were logged as only covered by attorney-client privilege.

David

From: Samay, Christian E. [mailto:christian.samay@snrdenton.com]
Sent: Wednesday, July 06, 2011 10:24 AM
To: David Perlson; Nelson, Mark C.; Andrea P Roberts; Larson, Matthew P.
Cc: Google-PUM; 'rhorwitz@Potteranderson.com'; 'dmoore@potteranderson.com'; PUM; 'Louden, Karen Jacobs'
Subject: RE: PUM v. Google

David:

i will speak to Mark and Karen and propose a time for at least two of us to call you but it will not be today.

-Christian

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From: David Perlson [mailto:davidperlson@quinnemanuel.com]
Sent: Wednesday, July 06, 2011 10:21 AM
To: David Perlson; Nelson, Mark C.; Andrea P Roberts; Larson, Matthew P.
Cc: Samay, Christian E.; Google-PUM; 'rhorwitz@Potteranderson.com'; 'dmoore@potteranderson.com'
Subject: RE: PUM v. Google

Christian, will you be responding in writing this morning or did you want to discuss by phone. Please let us know.

David

From: David Perlson
Sent: Tuesday, July 05, 2011 7:15 PM
To: 'Nelson, Mark C.'; Andrea P Roberts; 'Larson, Matthew P.'
Cc: 'Samay, Christian E.'; Google-PUM; 'rhorwitz@Potteranderson.com'; 'dmoore@potteranderson.com'
Subject: RE: PUM v. Google

Mark, we don't see how these documents can be withheld.

Is PUM representing that these documents do not at all relate to "conception and the changed testimony or changed interrogatory responses relating to the date of conception" which the Court specifically did allow?

Further, the entry for each of the documents in the log (attached) was identical and only claimed attorney client privilege. Thus, we do not see how the Court's ruling regarding work product is even applicable to these documents. We need an explanation on this too.

Also, we need an explanation for the redactions and to know whether further documents are forthcoming.

We are happy to confer with Christian on these issues tomorrow.

From: Nelson, Mark C. [mailto:mark.nelson@snrdenton.com]
Sent: Tuesday, July 05, 2011 6:41 PM
To: Andrea P Roberts; David Perlson; Larson, Matthew P.
Cc: Samay, Christian E.; Google-PUM; 'rhorwitz@Potteranderson.com'; 'dmoore@potteranderson.com'
Subject: Re: PUM v. Google

Andrea, i am on vacation at the moment and will not be available tomorrow morning. However, the documents that were not produced were not produced because they were not included in the Court's Order. The Court granted your motion in part and denied it in part. The documents that were logged, but not produced fell into category C of you letter, which Judge Stark denied. Feel free to discuss this in greater detail with Christian. If after that discussion, you feel a meet and confer is still necessary, i can be available with a little advance notice.

Regards,

Mark

From: Andrea P Roberts [mailto:andreaproberts@quinnemanuel.com]
Sent: Tuesday, July 05, 2011 07:39 PM
To: Andrea P Roberts <andreaproberts@quinnemanuel.com>; David Perlson <davidperlson@quinnemanuel.com>; Larson, Matthew P.
Cc: Samay, Christian E.; Nelson, Mark C.; Google-PUM <Google-PUM@quinnemanuel.com>; Richard L. Horwitz <rhorwitz@Potteranderson.com>; David E. Moore <dmoore@potteranderson.com>
Subject: RE: PUM v. Google

Counsel, please provide a time tomorrow morning when you are available to meet and confer on this issue.

Thanks,

Andrea

From: Andrea P Roberts
Sent: Tuesday, July 05, 2011 10:48 AM
To: David Perlson; Larson, Matthew P.
Cc: Samay, Christian E.; Nelson, Mark C.; Google-PUM; Richard L. Horwitz; David E. Moore
Subject: RE: PUM v. Google

Counsel,

Please provide a response to David's email below. Additionally, please let us know if and when additional documents will be produced. For example, it does not appear that PUM's July 1 production includes all of the documents listed on PUM's June 10 privilege log. The latter lists 9 communications on February 8, but the former only includes one. We look forward to your prompt response.

Thank you,

Andrea

Andrea Pallios Roberts

Quinn Emanuel Urquhart & Sullivan, LLP

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-----Original Message-----

From: David Perlson

Sent: Friday, July 01, 2011 5:30 PM

To: Larson, Matthew P.

Cc: Andrea P Roberts; Samay, Christian E.; Nelson, Mark C.; Google-PUM; Richard L. Horwitz;
David E. Moore

Subject: Re: PUM v. Google

Counsel, please promptly explain the basis for the redactions.

David

On Jul 1, 2011, at 3:48 PM, "Larson, Matthew P." <matthew.larson@snrdenton.com> wrote:

> Counsel:

>

> Please see the attached correspondence.

>

> Regards,

> Matt

>

>

>

> Matthew P. Larson

> SNR Denton US LLP

> D +1 650 798 0328

> matthew.larson@snrdenton.com<<mailto:matthew.larson@snrdenton.com>>

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>

> <Highly Confidential Outside Counsel Only PUM 0223369-82.pdf>

> <2011-07-01 Letter from M.Larson to A. Roberts transmitting PUM 0223369 - 0223382.pdf>

EXHIBIT 3

**THIS EXHIBIT HAS BEEN
REDACTED IN ITS ENTIRETY**

EXHIBIT 4

**Personalized User Model's Privilege Log
Personalized User Model LLC v. Google, Inc.**

PRIV #	From (Author)	To (Recipient)	Cc	Date	Description	Privilege Basis
PRIV 979	Jennifer Bennett, Esq.	Roy Twersky; Yochai Konig		1/18/2011	E-mail from attorney to client made in preparation and reflecting the substance of a confidential communication regarding ongoing litigation.	AC
PRIV 980	Yochai Konig	Jennifer Bennett, Esq.; Roy Twersky		1/18/2011	E-mail from client to attorney made in preparation and reflecting the substance of a confidential communication regarding ongoing litigation.	AC
PRIV 981	Jennifer Bennett, Esq.	Roy Twersky; Yochai Konig		1/18/2011	E-mail from attorney to client made in preparation and reflecting the substance of a confidential communication regarding ongoing litigation.	
PRIV 982	Roy Twersky	Jennifer Bennett, Esq.	Yochai Konig	1/18/2011	E-mail from client to attorney made in preparation and reflecting the substance of a confidential communication regarding ongoing litigation.	AC
PRIV 983	Yochai Konig	Marc Friedman, Esq.	Roy Twersky; Mark Nelson, Esq.; Jimmy Shin, Esq.; Jennifer Bennett, Esq.; Karen Jacobs Louden, Esq.	1/30/2011	E-mail from client to attorney made in preparation and reflecting the substance of a confidential communication regarding ongoing litigation.	AC
PRIV 984	Marc Feiedman, Esq.	Yochai Konig; Mark Nelson, Esq.	Jennifer Bennett, Esq.	1/31/2011	E-mail from attorney to client made in preparation and reflecting the substance of a confidential communication regarding ongoing litigation.	AC

**Personalized User Model's Privilege Log
Personalized User Model LLC v. Google, Inc.**

PRIV #	From (Author)	To (Recipient)	Cc	Date	Description	Privilege Basis
PRIV 985	Jennifer Bennett, Esq.	Roy Twersky	Yochai Konig	2/6/2011	E-mail from attorney to client made in preparation and reflecting the substance of a confidential communication regarding ongoing litigation.	AC
PRIV 986	Jennifer Bennett, Esq.	Yochai Konig	Roy Twersky; Yochai Konig	2/6/2011	E-mail from attorney to client made in preparation and reflecting the substance of a confidential communication regarding ongoing litigation.	AC
PRIV 987	Jennifer Bennett, Esq.	Roy Twersky	Roy Twersky; Yochai Konig; Mark Nelson, Esq.	2/6/2011	E-mail from attorney to client made in preparation and reflecting the substance of a confidential communication regarding ongoing litigation.	AC
PRIV 988	Jennifer Bennett, Esq.	Roy Twersky; Yochai Konig		2/8/2011	E-mail from attorney to client made in preparation and reflecting the substance of a confidential communication regarding ongoing litigation.	AC
PRIV 989	Jennifer Bennett, Esq.	Roy Twersky		2/8/2011	E-mail from attorney to client made in preparation and reflecting the substance of a confidential communication regarding ongoing litigation.	AC
PRIV 990	Yochai Konig	Jennifer Bennett, Esq.; Roy Twersky		2/8/2011	E-mail from client to attorney made in preparation and reflecting the substance of a confidential communication regarding ongoing litigation.	AC
PRIV 991	Jennifer Bennett, Esq.	Roy Twersky; Yochai Konig		2/8/2011	E-mail from attorney to client made in preparation and reflecting the substance of a confidential communication regarding ongoing litigation.	AC

**Personalized User Model's Privilege Log
Personalized User Model LLC v. Google, Inc.**

PRIV #	From (Author)	To (Recipient)	Cc	Date	Description	Privilege Basis
PRIV 992	Jennifer Bennett, Esq.	Roy Twersky; Yochai Konig		2/8/2011	E-mail from attorney to client made in preparation and reflecting the substance of a confidential communication regarding ongoing litigation.	AC
PRIV 993	Jennifer Bennett, Esq.	Roy Twersky		2/8/2011	E-mail from attorney to client made in preparation and reflecting the substance of a confidential communication regarding ongoing litigation.	AC
PRIV 994	Roy Twersky	Mark Nelson, Esq.; Mark Friedman, Esq.; Jimmy Shin, Esq.; Jennifer Bennett, Esq.; Yochai Konig		2/8/2011	E-mail from client to attorney made in preparation and reflecting the substance of a confidential communication regarding ongoing litigation.	AC
PRIV 995	Jennifer Bennett, Esq.	Roy Twersky; Yochai Konig		2/8/2011	E-mail from attorney to client made in preparation and reflecting the substance of a confidential communication regarding ongoing litigation.	AC
PRIV 996	Jennifer Bennett, Esq.	Roy Twersky		2/8/2011	E-mail from attorney to client made in preparation and reflecting the substance of a confidential communication regarding ongoing litigation.	AC