

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.)	
_____)	

**PERSONALIZED USER MODEL, L.L.P.’S ALTERNATIVE CROSS-MOTION
FOR LEAVE TO SUBSTITUTE LEVINO LTD. AS PLAINTIFF**

Plaintiff Personalized User Model, L.L.P. (“PUM”) hereby cross-moves for leave to substitute Levino Ltd. as plaintiff should the Court decide to grant Google Inc.’s Motion to Dismiss PUM’s Patent Infringement Claims for Lack of Subject Matter Jurisdiction (D.I. 301).

PUM is the real party in interest in this action. It acquired legal title to the patents-in-suit from Levino by an assignment executed years before this action was filed. Nevertheless, if the Court concludes there is a technical defect in the assignment and, instead, that PUM’s general partner Levino, the assignor, still holds the patents, Levino should be substituted as plaintiff, pursuant to Federal Rule of Civil Procedure 17(a)(3). Substitution under Rule 17(a)(3) would be the appropriate method to cure PUM’s mistaken, but good faith, belief that it had standing to

bring this suit. Substitution is also proper because it would not delay the resolution of this litigation, nor would it prejudice Google in any way.

Further grounds for PUM's cross-motion are set forth in its Answering Brief in Opposition to Google Inc.'s Motion to Dismiss and Opening Brief in Support of Its Alternative Cross-Motion, filed herewith.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Karen Jacobs Louden

OF COUNSEL:

Marc S. Friedman
SNR Denton US LLP
1221 Avenue of the Americas
New York, NY 10020-1089
(212) 768-6700

Jimmy M. Shin
Jennifer D. Bennett
Matthew P. Larson
SNR Denton US LLP
1530 Page Mill Road, Suite 200
Palo Alto, CA 94304-1125
(650) 798-0300

Mark C. Nelson
Robert J. Needham
SNR Denton US LLP
2000 McKinney Avenue, Suite 1900
Dallas, TX 75201
(214) 259-0900

Christian E. Samay
SNR Denton US LLP
101 JFK Parkway, Suite 410
Short Hills, NJ 07078
(973) 912-7171

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Karen Jacobs Louden (#2881)
Jeremy A. Tigan (#5239)
1201 N. Market Street
P.O. Box 1347
Wilmington, DE19899-1347
(302) 658-9200
klouden@mnat.com
jtigan@mnat.com
*Attorneys for Personalized User Model, L.L.P.
and Yochai Konig*

CERTIFICATE OF SERVICE

I hereby certify that on August 12, 2011, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF which will send electronic notification of such filing to all registered participants.

Additionally, I hereby certify that true and correct copies of the foregoing were caused to be served on August 12, 2011, upon the following individuals in the manner indicated:

BY E-MAIL

Richard L. Horwitz
David E. Moore
POTTER ANDERSON & CORROON LLP
1313 N. Market St., 6th Floor
Wilmington, DE 19801

BY E-MAIL

Brian C. Cannon
QUINN EMANUEL URQUHART
& SULLIVAN, LLP
555 Twin Dolphin Dr., 5th Floor
Redwood Shores, CA 94065

Charles K. Verhoeven
David A. Perlson
Antonio R. Sistos
Andrea Pallios Roberts
Joshua Lee Sohn
QUINN EMANUEL URQUHART
& SULLIVAN, LLP
50 California Street, 22nd Floor
San Francisco, CA 94111

/s/ Karen Jacobs Louden

Karen Jacobs Louden (#2881)