

# EXHIBIT 1

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

<b>PERSONALIZED USER MODEL, L.L.P.,</b>	)	
	)	
Plaintiff,	)	C.A. No. 09-525 (LPS)
	)	
v.	)	
	)	
<b>GOOGLE, INC.,</b>	)	
	)	
Defendant.	)	
	)	

**PLAINTIFF PERSONALIZED USER MODEL, L.L.P.’S FIFTEENTH  
SUPPLEMENTAL RESPONSES TO DEFENDANT GOOGLE, INC.’S FIRST SET OF  
INTERROGATORIES (NOS. 9-11)**

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 fifteenth supplemental responses to Defendant Google, Inc.’s (“Google” or “Defendant”) First Set of Interrogatories to Plaintiff (Nos. 9-11) as follows:

**GENERAL OBJECTIONS**

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

**SPECIFIC RESPONSES AND OBJECTIONS TO INTERROGATORIES**

**INTERROGATORY NO. 9:**

Identify each claim of the PATENTS-IN-SUIT that YOU assert is being INFRINGED by Google.

**RESPONSE TO INTERROGATORY NO. 9:**

In addition to the foregoing general objections, P.U.M. specifically objects to this interrogatory as premature because Google has not yet produced any formal discovery in this matter. P.U.M further responds that this interrogatory is premature because the Court has yet to construe certain claim terms/phrases of the patents-in-suit, the construction of which will ultimately determine whether the claim is ultimately asserted against Google. P.U.M. further

objects to this interrogatory because it seeks the discovery of information within the scope of Fed. R. Civ. P. 26(b)(4)(A) and, therefore, constitutes an improper and premature attempt to conduct discovery of expert opinion.

Subject to and without waiving the foregoing general or specific objections, P.U.M.'s investigation into the facts of Google's infringement is ongoing and P.U.M., accordingly, reserves its right to supplement its response to this interrogatory, including incorporation of its expert reports served in accordance with the Federal Rules of Civil Procedure and the Court's Scheduling Order.

**SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9:**

P.U.M. incorporates by references its general and specific objections set forth above. Subject to and without waiving the foregoing general and specific objections, P.U.M. responds that Google infringes claims 1-18, 20-24, 30-49, 51-55, and 61-62 of the '040 patent, claims 1-9 of the '031 patent, and claims 1-29 of the '276 patent.

P.U.M. specifically reserves its right to supplement this Interrogatory Response upon Google's supplementation and P.U.M.'s analysis of Google's production of technical documents and source code.

**SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9:**

P.U.M. incorporates by references its general and specific objections set forth above. Subject to and without waiving the foregoing general and specific objections, P.U.M. responds that Google infringes claims 1-5, 7-8, 11-12, 16, 18, 21-24, 30-36, 38-39, 42-43, 47, 49, 52-55, and 61-62 of the '040 patent; claims 1-4 of the '031 patent; and claims 1-29 of the '276 patent.

P.U.M. specifically reserves its right to supplement this Interrogatory Response upon Google's further supplementation and P.U.M.'s analysis of Google's production of technical documents and source code.

**THIRD SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9:**

P.U.M. incorporates by references its general and specific objections set forth above. Subject to and without waiving the foregoing general and specific objections, P.U.M. responds

that Google infringes claims 1, 2, 3, 5, 7, 8, 11, 16, 21, 32, 33, 34, 36, 38, 39, 42, 47, and 52 of the '040 Patent; claim 4 of the '031 Patent; and claims 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 14, 15, 21, 22, 23, and 24 of the '276 Patent.

Per the Court's September 8, 2010 Order, P.U.M. will further supplement its response to this Interrogatory to identify 15 asserted claims once it receives Google's Invalidity contentions and Google further supplements its production of technical documents and source code in accordance with the Court's amended schedule.

**FOURTH SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9:**

P.U.M. incorporates by references its general and specific objections set forth above. Subject to and without waiving the foregoing general and specific objections, P.U.M. responds that Google infringes claims 1, 11, 21, 22, and 34 of the '040 Patent; and claims 1, 3, 5, 6, 7, 14, 21, 22, 23, and 24 of the '276 Patent.

P.U.M. specifically reserves its right to supplement this Interrogatory Response upon Google's further supplementation and P.U.M.'s analysis of Google's production of technical documents and source code.

**FIFTH SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9:**

P.U.M. incorporates by references its general and specific objections set forth above. Subject to and without waiving the foregoing general and specific objections, P.U.M. responds that Google infringes claims 1, 11, 22, and 34 of the '040 Patent; and claims 1, 3, 5, 6, 7, 14, 21, 22, 23, and 24 of the '276 Patent.

**INTERROGATORY NO. 10:**

Identify, with respect to each ASSERTED CLAIM of the PATENTS-IN-SUIT, every one of Google's products that you allege infringes each such claim, by explaining fully and completely how each such product allegedly infringes each such claim, including, without limitation, an explanation of whether such alleged infringement is literal or by equivalents; an explanation of how 35 U.S.C. § 112 is satisfied if applicable (including without limitation identification of corresponding structures in the patent specification and the ACCUSED PRODUCTS and an explanation of how they are the same or equivalent); an explanation of whether such alleged infringement is direct (i.e., under 35 U.S.C. § 271(a)) or indirect (i.e., under 35 U.S.C. §§ 271 (b) and (c)); and if indirect, an identification of each third party whose alleged infringement is direct. Provide claim charts as part of YOUR answer.

**RESPONSE TO INTERROGATORY NO. 10:**

In addition to the foregoing general objections, P.U.M. specifically objects to this interrogatory as compound. P.U.M. will count this interrogatory as three separate interrogatories. With respect to the portion of this interrogatory directed toward Google's products, P.U.M. incorporates its objections and response from interrogatory no. 9. This interrogatory is premature because Google has not yet provided any formal discovery in this matter. Much of the specific information relating to "fully and completely explaining how each [Google] product" or service infringes is currently in Google's possession, custody and control. P.U.M. also objects to this interrogatory as premature because the Court has not yet conducted a claim construction hearing and issued its claim construction order. P.U.M. further objects to this interrogatory because it seeks the discovery of information within the scope of Fed. R. Civ. P. 26(b)(4)(A) and, therefore, constitutes an improper and premature attempt to conduct discovery of expert opinion.

Subject to and without waiving the foregoing general and specific objections, P.U.M. responds that Google has operated one or more infringing products/services (including, at least, personalized search and advertising) on its website [www.google.com](http://www.google.com) and possibly others and has intentionally encouraged others to use its website through advertising, downloading of the Google toolbar, and touting the advantages of its personalized services. P.U.M.'s investigation is ongoing and P.U.M. specifically reserves the right to supplement this response as discovery is obtained from Google, including incorporation of its expert reports when completed in accordance the Federal Rules of Civil Procedure and the Court's Scheduling Order.

With respect to the portion of this interrogatory directed toward 35 U.S.C. §112, the patents-in-suit are presumed valid. P.U.M., therefore, specifically objects to Google's attempt to shift its burden to prove invalidity to P.U.M.

Subject to and without waiving the foregoing general and specific objections, P.U.M. responds that the Patent Office previously determined that the patents-in-suit satisfy 35 U.S.C. §112.

With respect to the portion of this interrogatory directed toward indirect infringement, P.U.M. specifically object to this interrogatory as premature. This portion of the interrogatory is premature because Google has not yet provided any formal discovery in this matter. Much of the specific information relating to third-party users of Google's services, Google's licensees, and/or third-parties that contract with Google to supply Google local, personalized content and/or services are currently in Google's possession, custody and control. P.U.M. also objects to this interrogatory as premature because the Court has not yet conducted a claim construction hearing and issued its claim construction order. P.U.M. further objects to this interrogatory because it seeks the discovery of information within the scope of Fed. R. Civ. P. 26(b)(4)(A) and, therefore, constitutes an improper and premature attempt to conduct discovery of expert opinion.

Subject to and without waiving the foregoing general and specific objections, P.U.M. responds that Google has operated one or more infringing products/services (including, at least, personalized search and advertising) on its website www.google.com and possibly others and has intentionally encouraged others to use its website through advertising, downloading of the Google toolbar, and touting the advantages of its personalized services. P.U.M.'s investigation is ongoing and P.U.M. specifically reserves the right to supplement this response as discovery is obtained from Google, including incorporation of its expert reports when completed in accordance the Federal Rules of Civil Procedure and the Court's Scheduling Order.

**SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 10:**

P.U.M. incorporates by references its general and specific objections set forth above. Subject to and without waiving the foregoing general and specific objections, and pursuant to the parties' agreement (a) that P.U.M. will supplement its response to this Interrogatory to identify the accused Google products/services, (b) that such supplementation is without prejudice to P.U.M. identifying additional accused products/services in the future once Google's produces (and P.U.M. completes its analysis of) confidential documents/information in this lawsuit identifying all of its personalized search products/services and discloses the detailed

functionality of those products/services, P.U.M. responds that at least the following Google products and/or services infringe the patents-in-suit:

(i) Google Search, regardless of whether the user is, or is not, logged in, and also including at least Google Search in conjunction with iGoogle, Google Chrome, Google Toolbar, Bookmarks, YouTube, and Web History;

(ii) Google Adwords in conjunction with Google Search (Adwords for Search);

(iii) Google Adwords for content (AdSense), including, but not limited to, AdSense in conjunction with partner websites, Gmail, and YouTube; and

(iv) Other Google services that provide personalized content, for example, Google Recommended News.

P.U.M. specifically reserves its right to supplement this Interrogatory Response upon receiving and analyzing Google's confidential information, including source code, for Google's personalized search and personalized information products, including at least those identified above.

**SECOND SUPPLEMENTAL INTERROGATORY RESPONSE TO NO. 10:**

P.U.M. incorporates by references its general and specific objections set forth above. Subject to and without waiving the foregoing general and specific objections, P.U.M. responds that at least the following Google products and/or services infringe the patents-in-suit:

(i) Google Search, regardless of whether the user is, or is not, logged in, and also including at least Google Search in conjunction with iGoogle, Google Chrome, Google Toolbar, Bookmarks, YouTube, and Web History;

(ii) Google Adwords in conjunction with Google Search (Adwords for Search);

(iii) Google Adwords for content (AdSense), including, but not limited to, AdSense in conjunction with partner websites, Gmail, and YouTube; and

(iv) Other Google services that provide personalized content, for example, Google Recommended News and Google Reader.

P.U.M. specifically reserves its right to supplement this Interrogatory Response upon further receiving and analyzing Google's confidential information, including source code, for Google's personalized search and personalized information products, including at least those identified above.

**THIRD SUPPLEMENTAL INTERROGATORY RESPONSE TO NO. 10:**

P.U.M. incorporates by references its general and specific objections set forth above. Subject to and without waiving the foregoing general and specific objections, P.U.M. responds that at least the following Google products and/or services infringe the patents-in-suit:

(i) Google Search, regardless of whether the user is, or is not, logged in, and also including at least Google Search in conjunction with iGoogle, Google Chrome, Google Toolbar, Bookmarks, YouTube, and Web History;

(ii) Google Adwords in conjunction with Google Search (Adwords for Search or Search Ads);

(iii) Google Adwords for content (AdSense), including, but not limited to, the CUBAQ and IBA portions of AdSense and YouTube; and

(iv) Other Google services that provide personalized content, for example, Google's soon to be launched topic based News Personalization.

P.U.M. specifically reserves its right to supplement this Interrogatory Response upon further receiving and analyzing Google's confidential information, including source code, for Google's personalized search and personalized information products, including at least those identified above.

**INTERROGATORY NO. 11:**

For each of Google's products or processes identified in response to Interrogatory No. 10, identify in claim chart form, with particularity, the structure or steps in the ACCUSED PRODUCT that YOU claim correspond to each element of each ASSERTED CLAIM of the PATENTS-IN-SUIT and whether such correspondence is literal or under the doctrine of equivalents, and identify any DOCUMENTS or other resources used to determine the response to this interrogatory.

**RESPONSE TO INTERROGATORY NO. 11:**

P.U.M. incorporates its objections and response to interrogatory no. 10.



**FIRST SUPPLEMENTAL RESPONSE TO NO. 11:**

P.U.M. specifically incorporates its general and specific objections from its Supplemental Response to Interrogatory No. 10. Subject to and without waiving the foregoing general and specific objections, and pursuant to the parties' agreement (a) that P.U.M. supplement this Interrogatory by providing a claim chart for one claim of each asserted patent for each accused product/service or accused product/service group, and (b) that such supplementation is without prejudice to P.U.M. identifying and charting additional claims against the identified accused products/service and/or additional accused products/services in the future once Google's produces (and P.U.M. completes its analysis of) confidential documents/information in this lawsuit identifying all of its personalized search products/services and discloses the detailed functionality of those products/services, P.U.M. attaches claim charts A-I and accompanying exhibits in response to this Interrogatory.

P.U.M. further responds that Google has yet to produce any source code in this case and only recently produced its first documents in this case. P.U.M., therefore, specifically reserves its right to supplement this Interrogatory Response upon receiving and analyzing Google's confidential information, including source code, for Google's personalized search and personalized information products, including at least those identified in P.U.M.'s Supplemental Response to Interrogatory No. 10.

**SECOND SUPPLEMENTAL RESPONSE TO NO. 11:**

Per the parties' agreement, P.U.M. further supplements its response to this Interrogatory. P.U.M. further responds that Google is producing documents and source code on a rolling basis and has yet to produce many of the technical documents and source code files specifically requested by P.U.M. Additionally, based on P.U.M.'s review of Google's documents and source code thus far produced, it is clear that Google has yet to produce other relevant documents and source code that are referenced in the documents and source code thus far produced. P.U.M. will, therefore, be requesting in future letters the production of additional documents and source code. For these reasons, P.U.M. specifically reserves its right to supplement this Interrogatory

Response (as well as its response to Interrogatory No. 9 identifying asserted claims) upon receiving and reviewing documents and source code, either recently produced or that will be produced in the future relating to the accused instrumentalities. Moreover, P.U.M. reserves the right to reassert claims that it has not currently charted.

Notwithstanding the foregoing and incorporated-by-reference general and specific objections, P.U.M. further supplements its response to this Interrogatory by attaching charts A through L. These charts further supplement P.U.M.'s previously-provided claim charts (A through I), which were based entirely on publicly-available information. The supplemental charts provide numerous citations to Google Confidential -- Attorney's Eyes Only documents and source code. The cited document and source code, however, are not the only Google documents and/or source code that may support P.U.M.'s infringement contentions. P.U.M., therefore, reserves its right to rely on other, non-cited Google documents and source code as support for any of the claim elements. Moreover, as noted above, discovery in this case is only recently underway. Google has only recently produced additional documents and source code and has yet to produce other, relevant documents and source code. P.U.M. has also not yet taken deposition testimony from Google. P.U.M., therefore, reserves its right to amend, modify, and/or expand these contentions as discovery continues, including, but not limited to, identifying additional Google structures as meeting certain claim limitations, both literally and/or under the doctrine of equivalents.

To conserve resources (and to comply with the protective order) with respect to copies of source code, P.U.M. does not attach the Bates numbered documents or copies of the source code to these supplemental charts. P.U.M. does attach new, publicly available documentation (*i.e.*, publicly available documents that were not attached to P.U.M.'s original claim charts) as exhibits.

**THIRD SUPPLEMENTAL RESPONSE TO NO. 11:**

Notwithstanding the foregoing and incorporated-by-reference general and specific objections, P.U.M. supplements its response to this Interrogatory by attaching charts M through

N. The supplemental charts provide citations to Google Confidential -- Attorney's Eyes Only documents. The cited documents, however, are not the only Google documents and/or source code that may support P.U.M.'s infringement contentions. P.U.M., therefore, reserves its right to rely on other, non-cited Google documents and source code as support for any of the claim elements. Moreover, as noted above, discovery in this case is ongoing. Google has yet to make a substantive production of documents and source code relating to Google Reader. P.U.M. has also not yet taken deposition testimony from Google relating to Reader. P.U.M., therefore, reserves its right to amend, modify, and/or expand these contentions as discovery continues, including, but not limited to, identifying additional Google structures as meeting certain claim limitations, both literally and/or under the doctrine of equivalents.

To conserve resources, P.U.M. does not attach the Bates numbered documents. P.U.M. does attach new, publicly available documentation (*i.e.*, publicly available documents that were not attached to P.U.M.'s original claim charts) as exhibits.

**FOURTH SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 11:**

P.U.M. further supplements its response to this Interrogatory with respect to Adwords and AdSense. P.U.M. further responds that Google is producing documents and source code on a rolling basis. For this reason, P.U.M. specifically reserves its right to supplement this Interrogatory Response upon receiving and reviewing documents and source code, either recently produced or that will be produced in the future relating to the accused instrumentalities.

Notwithstanding the foregoing and incorporated-by-reference general and specific objections, P.U.M. further supplements its response to this Interrogatory by attaching charts A through D. These charts further supplement P.U.M.'s previously-provided claim charts. The supplemental charts provide numerous citations to Google Confidential -- Attorney's Eyes Only documents and source code. The cited document and source code, however, are not the only Google documents and/or source code that may support P.U.M.'s infringement contentions. P.U.M., therefore, reserves its right to rely on other, non-cited Google documents and source code as support for any of the claim elements. Moreover, as noted above, discovery in this case

is ongoing. Google has only recently produced additional documents and source code and has yet to produce other, relevant documents and source code. P.U.M. also has only recently started taking deposition testimony from Google. P.U.M., therefore, reserves its right to amend, modify, and/or expand these contentions as discovery continues, including, but not limited to, identifying additional Google structures as meeting certain claim limitations, both literally and/or under the doctrine of equivalents.

To conserve resources (and to comply with the Protective Order) with respect to copies of source code, P.U.M. does not attach the Bates numbered documents or copies of the source code to these supplemental charts.

**FIFTH SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 11:**

P.U.M. further supplements its response to this Interrogatory with respect to Search. P.U.M. further responds that Google is producing documents and source code on a rolling basis. For this reason, P.U.M. specifically reserves its right to supplement this Interrogatory Response upon receiving and reviewing documents and source code, either recently produced or that will be produced in the future relating to the accused instrumentalities.

Notwithstanding the foregoing and incorporated-by-reference general and specific objections, P.U.M. further supplements its response to this Interrogatory by attaching charts E through F. These charts further supplement P.U.M.'s previously-provided claim charts. The supplemental charts provide numerous citations to Google Confidential -- Attorney's Eyes Only documents and source code. The cited document and source code, however, are not the only Google documents and/or source code that may support P.U.M.'s infringement contentions. P.U.M., therefore, reserves its right to rely on other, non-cited Google documents and source code as support for any of the claim elements. Moreover, as noted above, discovery in this case is ongoing. Google has only recently produced additional documents and source code and has yet to produce other, relevant documents and source code. P.U.M. also has only recently started taking deposition testimony from Google. P.U.M., therefore, reserves its right to amend, modify, and/or expand these contentions as discovery continues, including, but not limited to, identifying

additional Google structures as meeting certain claim limitations, both literally and/or under the doctrine of equivalents.

To conserve resources (and to comply with the Protective Order) with respect to copies of source code, P.U.M. does not attach the Bates numbered documents or copies of the source code to these supplemental charts.

**SIXTH SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 11:**

P.U.M. further supplements its response to this Interrogatory with respect to Search, AdWords (Search Ads), AdSense (Content Ads) and YouTube, and Google News. P.U.M. incorporates by reference its previously set forth general and specific objections. P.U.M. further states that Google has yet to produce relevant source code for YouTube, portions of the Smart Ads Selection System (SmartASS) relating to Content Ads, portions of the Mustang system relating to calculating a Quick Score and a Full Score relating to Content Ads. Additionally, Google's search witnesses have not been able to answer questions relating to the algorithms used in the Kaltix twiddleservlet and the K2 twiddleservlet, the algorithms used to combine the boosts from those twiddleservlets, and the algorithm(s) used to combine the Kaltix and K2 boosts and apply the corresponding boost to the earlier calculated information retrieval (IR) score. P.U.M. has a 30(b)(6) deposition notice outstanding on that issue, as well as other outstanding deposition notices. Google, moreover, has not supplemented its document production with documents relating to these issues or its soon-to-be or recently launched topic based News personalization. P.U.M. anticipates that facts it learns later in this litigation may be responsive to this Interrogatory and reserves its right to supplement this Interrogatory at appropriate points throughout this litigation without prejudice and/or to otherwise make available to Google such information. P.U.M. also reserves its right to change, modify, and/or enlarge the following response based on additional information, further analysis, and/or in light of other events such as rulings by the Court. P.U.M. reserves the right to rely on or otherwise use any such amended response for future discovery, trial or otherwise.

Notwithstanding the foregoing and incorporated-by-reference general and specific objections, P.U.M. further supplements its response to this Interrogatory by attaching charts A through D. These charts further supplement P.U.M.'s previously-provided claim charts. Although the supplemental charts provide numerous citations to Google Confidential -- Attorney's Eyes Only documents and deposition testimony, these citations are only exemplary. P.U.M. specifically reserves its right to rely on other, not-cited documents, testimony, source code, and things to support its infringement position. P.U.M., likewise, reserves its right not to rely on certain exemplary cited documents, testimony, or materials previously-cited in earlier versions of its infringement contentions. Moreover, as noted above, discovery in this case is ongoing. As set forth above, Google has yet to produce relevant documents, source code, and witnesses. P.U.M., therefore, reserves its right to amend, modify, and/or expand these contentions as discovery continues, including, but not limited to, identifying additional Google structures as meeting certain claim limitations, both literally and/or under the doctrine of equivalents.

To conserve resources (and to comply with the Protective Order) with respect to copies of source code, P.U.M. does not attach the Bates numbered documents or copies of the source code to these supplemental charts.

Dated: April 22, 2011

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

\s\ Karen Jacobs Louden  
Karen Jacobs Louden  
1201 North Market Street, 18th Floor  
P.O. Box 1347  
Wilmington, DE 19899-1347  
(302) 658-9200  
klouden@mnat.com

Attorneys For Plaintiff  
Personalized User Model, L.L.P.

OF COUNSEL

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

Jennifer D. Bennett  
SNR DENTON US LLP  
1530 Page Mill Road, Suite 200  
Palo Alto, CA 94304-1125  
(650) 798-0300

April 22, 2011

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on April 22, 2011, I electronically served the foregoing:

**PLAINTIFF PERSONALIZED USER MODEL, L.L.P.'S FIFTEENTH  
SUPPLEMENTAL RESPONSES TO DEFENDANT GOOGLE, INC.'S FIRST SET OF  
INTERROGATORIES (NOS. 9-11)**

/s/ Jennifer D. Bennett

Jennifer D. Bennett  
SNR DENTON US LLP  
1530 Page Mill Road, Suite 200  
Palo Alto, CA 94304-1125  
(650) 798-0300

Attorneys For Plaintiff  
Personalized User Model, L.L.P.

14947273\W-1



# **EXHIBIT 2**



Patent eBusiness

- [Electronic Filing](#)
- [Patent Application Information \(PAIR\)](#)
- [Patent Ownership](#)
- [Fees](#)
- [Supplemental Resources & Support](#)

Patent Information

- [Patent Guidance and General Info](#)
- [Codes, Rules & Manuals](#)
- [Employee & Office Directories](#)
- [Resources & Public Notices](#)

Patent Searches

- [Patent Official Gazette](#)
- [Search Patents & Applications](#)
- [Search Biological Sequences](#)
- [Copies, Products & Services](#)

Other

- [Copyrights](#)
- [Trademarks](#)
- [Policy & Law](#)
- [Reports](#)

Patent Application Information Retrieval

[Order Certified Application As Filed](#) [Order Certified File Wrapper](#) [View Order List](#)

95/001,699	AUTOMATIC, PERSONALIZED ONLINE INFORMATION AND PRODUCT SERVICES			51575A-94111
<a href="#">Select New Case</a>	<a href="#">Application Data</a>	<a href="#">Transaction History</a>	<a href="#">Image File Wrapper</a>	<a href="#">Continuity Data</a>
		<a href="#">Address &amp; Attorney/Agent</a>	<a href="#">Display References</a>	

Transaction History

Date	Transaction Description
08-17-2012	Right of Appeal Notice
05-23-2012	Ready for Examiner Action after ACP
04-10-2012	Third Party Requester Comments after Action Closing Prosecution
04-10-2012	Certificate of Service
03-12-2012	Patent Owner Comments after Action Closing Prosecution
03-12-2012	Certificate of Service
03-12-2012	Affidavit(s), Declaration(s) and/or Exhibit(s) Filed
02-10-2012	Action Closing Prosecution.
12-23-2011	Information Disclosure Statement considered
12-23-2011	Information Disclosure Statement considered
01-27-2012	Information Disclosure Statement considered
01-30-2012	Information Disclosure Statement (IDS) Filed
01-30-2012	Information Disclosure Statement Filed
01-30-2012	Certificate of Service
01-27-2012	Information Disclosure Statement Filed
01-27-2012	Certificate of Service
01-27-2012	Information Disclosure Statement (IDS) Filed
01-23-2012	Certificate of Service
01-23-2012	Third Party Requester Comments after Non-final Action
12-23-2011	Information Disclosure Statement Filed
12-23-2011	Response after non-final action - owner - timely
12-23-2011	Certificate of Service
12-23-2011	Information Disclosure Statement (IDS) Filed
12-23-2011	Information Disclosure Statement (IDS) Filed
10-24-2011	Non-final action mailed
09-20-2011	Inter partes Reexamination Ordered
07-29-2011	Information Disclosure Statement considered
08-25-2011	Change in Power of Attorney (May Include Associate POA)
08-25-2011	Correspondence Address Change
08-22-2011	Certificate of Service
08-18-2011	Change in Power of Attorney (May Include Associate POA)
08-17-2011	Case docketed to examiner
08-17-2011	Case Docketed to Examiner in GAU
08-12-2011	Case Docketed to Examiner in GAU
09-06-2011	Notice of Reexam Published in Official Gazette
08-05-2011	Reexam Litigation Search Conducted
08-04-2011	Completion of pre-processing - released to TC
08-03-2011	Notice of reexamination request filing date
08-03-2011	Notice of assignment of reexamination request
08-03-2011	Reexamination requested by third party requester

08-04-2011 Title Report  
08-05-2011 Reexamination Formalities Notice Mailed  
08-05-2011 Reexamination Formalities Notice Mailed  
07-29-2011 Information Disclosure Statement Filed  
07-29-2011 Receipt of Original Inter Partes Reexam Request  
07-29-2011 Information Disclosure Statement (IDS) Filed

---

*If you need help:*

- *Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail [EBC@uspto.gov](mailto:EBC@uspto.gov) for specific questions about Patent Application Information Retrieval (PAIR).*
- *Send general questions about USPTO programs to the [USPTO Contact Center \(UCC\)](#).*
- *If you experience technical difficulties or problems with this application, please report them via e-mail to [Electronic Business Support](#) or call 1 800-786-9199.*

You can suggest USPTO webpages or material you would like featured on this section by E-mail to the [webmaster@uspto.gov](mailto:webmaster@uspto.gov). While we cannot promise to accommodate all requests, your suggestions will be considered and may lead to other improvements on the website.

---

[Home](#) | [Site Index](#) | [Search](#) | [eBusiness](#) | [Help](#) | [Privacy Policy](#)

# **EXHIBIT 3**



**Patent eBusiness**

- [Electronic Filing](#)
- [Patent Application Information \(PAIR\)](#)
- [Patent Ownership](#)
- [Fees](#)
- [Supplemental Resources & Support](#)

**Patent Information**

- [Patent Guidance and General Info](#)
- [Codes, Rules & Manuals](#)
- [Employee & Office Directories](#)
- [Resources & Public Notices](#)

**Patent Searches**

- [Patent Official Gazette](#)
- [Search Patents & Applications](#)
- [Search Biological Sequences](#)
- [Copies, Products & Services](#)

**Other**

- [Copyrights](#)
- [Trademarks](#)
- [Policy & Law Reports](#)

**Patent Application Information Retrieval**

[Order Certified Application As Filed](#) [Order Certified File Wrapper](#) [View Order List](#)

95/001,699	AUTOMATIC, PERSONALIZED ONLINE INFORMATION AND PRODUCT SERVICES				51575A-94111	
<a href="#">Select New Case</a>	<a href="#">Application Data</a>	<a href="#">Transaction History</a>	<a href="#">Image File Wrapper</a>	<a href="#">Continuity Data</a>	<a href="#">Address &amp; Attorney/Agent</a>	<a href="#">Display References</a>

**Transaction History**

Date	Transaction Description
08-17-2012	Right of Appeal Notice
05-23-2012	Ready for Examiner Action after ACP
04-10-2012	Third Party Requester Comments after Action Closing Prosecution
04-10-2012	Certificate of Service
03-12-2012	Patent Owner Comments after Action Closing Prosecution
03-12-2012	Certificate of Service
03-12-2012	Affidavit(s), Declaration(s) and/or Exhibit(s) Filed
02-10-2012	Action Closing Prosecution.
12-23-2011	Information Disclosure Statement considered
12-23-2011	Information Disclosure Statement considered
01-27-2012	Information Disclosure Statement considered
01-30-2012	Information Disclosure Statement (IDS) Filed
01-30-2012	Information Disclosure Statement Filed
01-30-2012	Certificate of Service
01-27-2012	Information Disclosure Statement Filed
01-27-2012	Certificate of Service
01-27-2012	Information Disclosure Statement (IDS) Filed
01-23-2012	Certificate of Service
01-23-2012	Third Party Requester Comments after Non-final.Action
12-23-2011	Information Disclosure Statement Filed
12-23-2011	Response after non-final action - owner - timely
12-23-2011	Certificate of Service
12-23-2011	Information Disclosure Statement (IDS) Filed
12-23-2011	Information Disclosure Statement (IDS) Filed
10-24-2011	Non-final action mailed
09-20-2011	Inter partes Reexamination Ordered
07-29-2011	Information Disclosure Statement considered
08-25-2011	Change in Power of Attorney (May Include Associate POA)
08-25-2011	Correspondence Address Change
08-22-2011	Certificate of Service
08-18-2011	Change in Power of Attorney (May Include Associate POA)
08-17-2011	Case docketed to examiner
08-17-2011	Case Docketed to Examiner in GAU
08-12-2011	Case Docketed to Examiner in GAU
09-06-2011	Notice of Reexam Published in Official Gazette
08-05-2011	Reexam Litigation Search Conducted
08-04-2011	Completion of pre-processing - released to TC
08-03-2011	Notice of reexamination request filing date
08-03-2011	Notice of assignment of reexamination request
08-03-2011	Reexamination requested by third party requester

08-04-2011 Title Report  
08-05-2011 Reexamination Formalities Notice Mailed  
08-05-2011 Reexamination Formalities Notice Mailed  
07-29-2011 Information Disclosure Statement Filed  
07-29-2011 Receipt of Original Inter Partes Reexam Request  
07-29-2011 Information Disclosure Statement (IDS) Filed

---

*If you need help:*

- Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail [EBC@uspto.gov](mailto:EBC@uspto.gov) for specific questions about Patent Application Information Retrieval (PAIR).
- Send general questions about USPTO programs to the [USPTO Contact Center \(UCC\)](#).
- If you experience technical difficulties or problems with this application, please report them via e-mail to [Electronic Business Support](#) or call 1 800-786-9199.

You can suggest USPTO webpages or material you would like featured on this section by E-mail to the [webmaster@uspto.gov](mailto:webmaster@uspto.gov). While we cannot promise to accommodate all requests, your suggestions will be considered and may lead to other improvements on the website.

---

[Home](#) | [Site Index](#) | [Search](#) | [eBusiness](#) | [Help](#) | [Privacy Policy](#)

# **EXHIBIT 4**

1                   IN THE UNITED STATES DISTRICT COURT  
2                                   FOR THE COUNTY OF DELAWARE

3 -----  
4 PERSONALIZED USER MODEL, LLP, )

5                                   Plaintiff, )

6                                   vs.                                   ) No. 09-525-LPS

7 GOOGLE, INC.                                   )

8                                   Defendant. )

9 -----

10  
11  
12                   Videotaped Deposition of Yochai Konig, Volume  
13 III, taken at 525 Market Street, San Francisco,  
14 California, commencing at 10:02 a.m., Thursday,  
15 January 26, 2012, before Ashley Soevyn, CSR 12019.

16  
17  
18  
19  
20  
21  
22  
23  
24                   Job No. CS376754

25                   Pages 526 - 593



1 APPEARANCES OF COUNSEL:

2  
3 FOR THE PLAINTIFF:

4  
5 SNR DENTON

6 BY: MARC S. FRIEDMAN, ESQ.

7 -AND JENNIFER BENNETT, ESQ.

8 1221 Avenue of the Americas

9 New York, New York 10020-1089

10 (212) 768-6767

11 marc.friedman@snrdenton.com

12  
13  
14 FOR THE DEFENDANT GOOGLE:

15  
16 QUINN EMANUEL

17 BY: DAVID A. PERLSON, ESQ.

18 50 California Street

19 22nd Floor

20 San Francisco, California 94111

21 (415) 875-6600

22 davidperlson@quinnemanuel.com

23  
24 ALSO PRESENT: Ben Gerald, Videographer

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

---000---

THE VIDEOGRAPHER: Good morning. My name 10:02:04  
is Benjamin Gerald of Veritext Deposition Services.  
The date today is January 26, 2012, and the time is  
approximately 10:02 a.m.

This deposition is being held in the office  
of SNR Denton, located at 525 Market Street, in the 10:02:28  
city of San Francisco, California. The caption of  
this case is Personalized User Model, LLP, versus  
Google, Incorporated, and related counterclaim, held  
in the United States District Court for the District  
of Delaware. 10:02:59

The name of the witness is Yochai Konig.  
This is Volume 3. At this time, will counsel and  
all present please identify themselves for the  
record?

MR. PERLSON: David Perlson from Quinn  
Emanuel on behalf of Google.

MR. FRIEDMAN: Marc Friedman and Jennifer  
Bennett from SNR Denton on behalf of the  
plaintiff.

THE VIDEOGRAPHER: Thank you. Our court  
reporter today is Ashley Soevyn of Veritext  
Deposition Services. Would the reporter please  
swear the witness? 10:03:40

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

THE REPORTER: Sure.

Yochai Konig,

the witness, having been administered an oath by the  
Court Reporter, testified as follows:

THE VIDEOGRAPHER: Thank you. You may  
proceed.

DIRECT EXAMINATION

BY MR. PERLSON:

Q. Good morning, Mr. Konig.

A. Good morning.

Q. You -- I know that this is the third time  
that we've talked in the case, but it's been a while  
since the last one, so I'll go over the ground rules  
again because I imagine you probably haven't had a  
deposition since then.

A. No, I haven't.

10:03:59

Q. Okay. Well, you understand that you're  
under oath and that you're testifying, and that oath  
is the same here as if you would be testifying in  
court.

A. Yes.

Q. I'm going to try to be as clear as  
possible, but if you don't understand something,  
please let me know, okay?

# **EXHIBIT 5**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE UNITED STATES DISTRICT COURT  
FOR THE COUNTY OF DELAWARE

-----  
PERSONALIZED USER MODEL, LLP, )  
Plaintiff, )  
vs. ) No. 09-525-LPS  
GOOGLE, INC. )  
Defendant. )  
-----

Videotaped Deposition of Roy Twersky, Volume  
III, taken at 525 Market Street, San Francisco,  
California, commencing at 2:21 p.m., Thursday,  
January 26, 2012, before Ashley Soevyn, CSR 12019.

Job No. CS376754

Pages 470 - 496

1 APPEARANCES OF COUNSEL:

2  
3 FOR THE PLAINTIFF:

4  
5 SNR DENTON

6 BY: MARC S. FRIEDMAN, ESQ.

7 -AND JENNIFER BENNETT, ESQ.

8 1221 Avenue of the Americas

9 New York, New York 10020-1089

10 (212) 768-6767

11 marc.friedman@snrdenton.com

12  
13  
14 FOR THE DEFENDANT GOOGLE:

15  
16 QUINN EMANUEL

17 BY: DAVID A. PERLSON, ESQ.

18 50 California Street

19 22nd Floor

20 San Francisco, California 94111

21 (415) 875-6600

22 davidperlson@quinnemanuel.com

23  
24 ALSO PRESENT: Ben Gerald, Videographer

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

---000---

THE VIDEOGRAPHER: Good afternoon. My name 14:20:52  
is Benjamin Gerald of Veritext Deposition Services.  
The date today is January 26th, 2012, and the time 14:21:00  
is approximately 2:21 a.m.

MR. PERLSON: P.M.

MR. FRIEDMAN: P.M.

THE VIDEOGRAPHER: P.M.

This deposition is being held in the office  
of SNR Denton, located at 525 Market Street in city  
of San Francisco, California. The caption of this 14:21:26  
case is Personalized User Model, LLP, versus Google,  
Incorporated, and related counterclaims, held in the  
United States District Court for the District of  
Delaware.

The name of the witness is Roy Twersky.  
This is Volume 3. At this -- at this time, will 14:21:56  
counsel please identify themselves for the record?

MR. PERLSON: I'm David Perlson from Quinn  
Emanuel on behalf of Google.

MR. FRIEDMAN: Marc Friedman and Jennifer  
Bennett from SNR Denton on behalf of the  
plaintiff.

THE VIDEOGRAPHER: Thank you. Our court  
reporter is Ashley Soevyn. Will the reporter please

1 swear the witness?

2 THE REPORTER: Sure.

3

4 Roy Twersky,

5 the witness, having been administered an oath by the

6 Court Reporter, testified as follows:

7 THE VIDEOGRAPHER: You may proceed.

8

9 DIRECT EXAMINATION

10 BY MR. PERLSON:

11 Q. Good afternoon, Mr. Twersky. It's been a 14:22:30  
12 while since your last deposition, so --

13 A. Yes.

14 Q. -- I'll remind you of the ground rules  
15 here. You understand that you are under oath and  
16 your oath is the same as if you were testifying  
17 before the jury?

18 A. I do.

19 Q. And I will try to be as clear, as I can.  
20 And let me know, though, if I am not clear and  
21 I will do my best to rephrase the question, okay? 14:22:59

22 A. Sure.

23 Q. Okay. Do you understand why we're here for  
24 your Volume 3 of this deposition?

25 A. I do.



# **EXHIBIT 6**

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

# **EXHIBIT 7**

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

# **EXHIBIT 8**

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

# **EXHIBIT 9**

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



# **EXHIBIT 10**

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

# **EXHIBIT 11**

## FY 2012 July Ex Parte OG Report

### FISCAL YEAR 2012

Board of Patent Appeals and Interferences  
Receipts and Dispositions by Technology Centers for Ex Parte Appeals

#### FY 2012 Monthly Dispositions - July 2012

TECHNOLOGY CENTER	REPORTING PERIOD	PENDING BEGINNING OF MONTH	APPEALS RECEIVED MONTH	AFFIRMED	AFFIRMED IN PART	REVERSED	PANEL REHANDS	ADMINISTRATIVE
1600	7-1-2012 to 7-31-2012	1156	62	21	1	12	0	
1700	7-1-2012 to 7-31-2012	2833	140	104	19	67	0	
2100	7-1-2012 to 7-31-2012	4029	139	65	13	50	0	
2400	7-1-2012 to 7-31-2012	4051	130	57	11	35	0	
2600	7-1-2012 to 7-31-2012	3268	114	51	8	25	0	
2800	7-1-2012 to 7-31-2012	2139	71	30	6	13	0	
2900	7-1-2012 to 7-31-2012	70	0	0	0	1	0	
3600	7-1-2012 to 7-31-2012	4677	152	55	23	34	0	
3700	7-1-2012 to 7-31-2012	4453	151	61	40	74	0	
3900*	7-1-2012 to 7-31-2012	98	29	16	4	3	0	
Board Totals		26774	988	460	125	314	0	

- Board of Patent Appeals and Interferences
- Board of Trademark Appeals
- Training and Education
- Training Programs and Seminars
- Office of Governmental Affairs
- Office of Chief Counsel
- Boards and Counsel
  - Notices
  - Contact Information
  - FOIA Reading Room
  - Office of Enrollment and Discipline
  - Office of the Solicitor
  - Public Board Hearing Information
  - Board of Patent Appeals and Interferences (BPAI)
  - BPAI Board Procedures
  - BPAI Interference
  - BPAI Statistics
  - Process
  - Receipts
  - Perform
  - BPAI Calendar '12

## FY 2012 July Ex Parte OG Report

### FISCAL YEAR 2012

Board of Patent Appeals and Interferences  
Receipts and Dispositions by Technology Centers for Ex Parte Appeals

#### FY 2012 Monthly Dispositions - July 2012

	AFFIRMED IN PART	REVERSED REMANDS	PANEL REMANDS	ADMINISTRATIVE REMANDS	DISMISSED/TOTAL	PENDING END MONTH	INCREASE OR DECREASE MONTHLY	PERCENT OF CASE MONTH
21	1	12	0	0	35	1183	27	4.4
04	19	67	0	1	191	2778	-55	10.4
55	13	50	0	0	125	4039	10	15.1
57	11	35	0	0	3	4075	24	15.2
51	8	25	0	2	4	3292	24	12.3
30	6	13	0	2	2	2157	18	8.0
0	0	1	0	0	0	69	-1	0.3
55	23	34	0	2	3	4172	35	17.6
51	40	74	0	2	1	4426	-27	16.5
16	4	3	0	0	0	104	6	0.4
160	125	314	0	9	19	26835	61	100.0

- Board of Patent Appeals and Interferences
- Board of Trademark Appeals
- Training and Education
- Office of Governmental Affairs
- Office of Global Engagement
- Boards and Counsel
  - Notices
  - Contact Information
  - FOIA Reading Room
  - Office of Enrollment and Discipline
  - Office of the Solicitor
  - Public Board Hearing Information
  - Board of Patent Appeals and Interferences (BPAI)
  - BPAI Board Procedures
  - BPAI Interference
  - BPAI Statistics
  - Process
  - Receipts
  - Reforms
  - BPAI Dashboard

Disposition	% Decisions Fiscal Year to Date
AFFIRMED	48.4%
AFFIRMED-IN-PART	14.5%
REVERSED	33.0%
PANEL REMANDS	0.0%
ADMINISTRATIVE REMANDS	1.7%
DISMISSED	2.5%
<b>TOTAL</b>	<b>100.0%</b>

With the exception of a limited number of appeals involving special circumstances, the Board of Patent Appeals and Interferences is currently deciding appeals received at the Board as follows:

- BIOTECH-Fiscal Year 2011
- CHEMICAL - Fiscal Year 2010
- ELECTRICAL - Fiscal Year 2009
- MECHANICAL - Fiscal Year 2009
- DESIGN - Fiscal Year 2010

\* Note that Technology Center 3900 is the Central Reexamination Unit (CRU).

>> Click here for a Printer Friendly Version of this spreadsheet in an Adobe Acrobat pdf format <<



- \* [Accessibility](#)
- \* [Privacy Policy](#)
- \* [Terms of Use](#)
- \* [Security](#)
- \* [Emergencies/Security Alerts](#)
- \* [Information Quality Guidelines](#)

- \* [Federal Activities Inventory Reform \(FAIR\) Act](#)
- \* [Notification and Federal Employee Antidiscrimination and Retaliation \(NoFEAR\) Act](#)
- \* [Budget & Performance](#)
- \* [Freedom of Information Act](#)

- \* [Department of Commerce NoFEAR Act Report](#)
- \* [Regulations.gov](#)
- \* [STOP!Fakes.gov](#)
- \* [Department of Commerce USA.gov](#)

- \* [Strategy Targeting Organized Piracy \(STOPI\)](#)
- \* [Careers](#)
- \* [Site Index](#)
- \* [Contact Us](#)
- \* [USPTO Webmaster](#)

# **EXHIBIT 12**



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Ex Parte Reexamination Filing Data - June 30, 2012

- 1. Total requests filed since start of ex parte reexam on 07/01/81.....12258^1
a. By patent owner 3857 32%
b. By other member of public 8236 67%
c. By order of Commissioner 165 1%

- 2. Number of filings by discipline
a. Chemical Operation 3309 27%
b. Electrical Operation 4663 38%
c. Mechanical Operation 4099 33%
d. Design Patents 187 2%

3. Annual Ex Parte Reexam Filings

Table with 8 columns: Fiscal Yr., No., Fiscal Yr., No., Fiscal Yr., No., Fiscal Yr., No. Rows include years from 1981 to 2012 YTD.

- 4. Number known to be in litigation.....3941.....32%

- 5. Decisions on requests.....11737

- a. No. granted..... 10755..... 92%
(1) By examiner 10633
(2) By Director (on petition) 122
b. No. denied .....982.....8%
(1) By examiner 947
(2) Reexam vacated 35

^1Of the requests received in FY 2012, 24 requests have not yet been accorded a filing date, and preprocessing of 13 requests was terminated for failure to comply with the requirements of 37 CFR 1.510. See Clarification of Filing Date Requirements for Ex Parte and Inter Partes Reexamination Proceedings, Final Rule, 71 Fed. Reg. 44219 (August 4, 2006).



6.	Total examiner denials (includes denials reversed by Director).....				1067
	a. Patent owner requester		493		46%
	b. Third party requester		574		54%
7.	Overall reexamination pendency (Filing date to certificate issue date)				
	a. Average pendency		25.4 (mos.)		
	b. Median pendency		19.6 (mos.)		
8.	Reexam certificate claim analysis:	Owner	3 <sup>rd</sup> Party	Comm'r	
		<u>Requester</u>	<u>Requester</u>	<u>Initiated</u>	<u>Overall</u>
	a. All claims confirmed	21%	23%	11%	22%
	b. All claims cancelled	9%	12%	23%	11%
	c. Claims changes	70%	65%	66%	67%
9.	Total <i>ex parte</i> reexamination certificates issued (1981 – present) .....				9090
	a. Certificates with all claims confirmed		2000		22%
	b. Certificates with all claims canceled		1037		11%
	c. Certificates with claims changes		6053		67%
10.	Reexam claim analysis – requester is patent owner or 3 <sup>rd</sup> party or Commissioner initiated.				
	a. Certificates – PATENT OWNER REQUESTER .....				3148
	(1) All claims confirmed		666		21%
	(2) All claims canceled		279		9%
	(3) Claim changes		2203		70%
	b. Certificates – 3 <sup>rd</sup> PARTY REQUESTER .....				5823
	(1) All claims confirmed		1322		23%
	(2) All claims canceled		724		12%
	(3) Claim changes		3777		65%
	c. Certificates – COMMISSIONER INITIATED REEXAM .....				159
	(1) All claims confirmed		18		11%
	(2) All claims canceled		35		23%
	(3) Claim changes		105		66%

# **EXHIBIT 13**



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Inter Partes Reexamination Filing Data – June 30, 2012

Table with 7 main categories: 1. Total requests filed since start of inter partes reexam on 11/29/99 (1659^1); 2. Number of filings by discipline (Chemical, Electrical, Mechanical, Design); 3. Annual Reexam Filings (table with columns for Fiscal Yr. and No. from 2000-2011 and 2012 YTD); 4. Number known to be in litigation (1116, 67%); 5. Decisions on requests (1530 total); 6. Overall reexamination pendency (Average: 36.1 mos., Median: 33.1 mos.); 7. Total inter partes reexamination certificates issued (377 total).

1 Of the requests received in FY 2012, 9 requests have not yet been accorded a filing date, and 9 requests have had preprocessing terminated, for failure to comply with the requirements of 37 CFR 1.915. See Clarification of Filing Date Requirements for Ex Parte and Inter Partes Reexamination Proceedings, Final Rule, 71 Fed. Reg. 44219 (August 4, 2006).

# **EXHIBIT 14**

# Ten Years of *Inter Partes* Patent Reexamination Appeals: An Empirical View

Eric J. Rogers<sup>1</sup>

## Introduction

*Inter Partes* Patent Reexamination is an administrative review process, with significant participation by the requestor, whereby an issued patent can be challenged as existing in error. If during a patent reexamination a patent claim is determined to be defective, then the remedies are to allow the patent owner the opportunity to correct the error(s) and to cancel any patent claim that remains invalid. The benefits of patent reexamination include: 1) providing a mechanism to clear up patents with cloudy validity that is administered by the U.S. Patent and Trademark Office, the only institution that can declare a patent valid;<sup>2</sup> 2) allowing a potential patent infringer to invalidate a patent and avoid costly litigation;<sup>3</sup> and 3) offering an alternative forum, presided over by experienced patent examiners,<sup>4</sup> to the federal courts for determining patent validity.

This raises questions: 1) How accurate are the patent examiners of the Central Reexamination Unit of the U.S. Patent and Trademark Office? 2) Do patent owners or third party requestors fare better? 3) Which types of appeals are more likely to be successful?

An analysis of the results of all the appeals of *Inter Partes* Patent Reexaminations completed in the first ten years reveals the historical reversal percentages of reexamination decisions. Based on the empirical data presented, the examiners' determinations are upheld more than three fourths of the time (e.g. 76-78% by individual grounds of rejection). The data presented here indicate that during appeals third party requestors tend to be more successful by about 14 percentage-points in maintaining patent claim rejections and adding new grounds of rejection compared to patent owners' tendency to successfully have patent claim rejections reversed. This is probably caused by a systemic disadvantage to patent owners rather than any special advantage to third party requestors.

Part I of this article reviews patent reexaminations in general. Part II focuses on the *Inter Partes* Patent Reexamination proceeding. Part III discusses appealing *Inter Partes* patent reexamination decisions to the Board of Patent Appeals and Interferences and describes empirical data regarding results of appeals. Part IV highlights for practitioners some advantages and disadvantages of *Inter Partes* Patent Reexamination. Finally, Part V looks to the future of *Inter Partes* Patent Review after the enactment of the America Invents Act of 2011.

## I. Background on Patent Reexamination

Patent reexamination (reexam) is an administrative proceeding conducted by the U.S. Patent and Trademark Office (USPTO) wherein a party may file a request, during the period of enforceability of a patent, to reevaluate the validity of one or more patent claims in light of published reference(s) cited by the requester as raising a substantial new question of patentability of the patented subject matter.<sup>5</sup> The patent owner (PO), any third party and the Director of the USPTO can request a reexam.<sup>6</sup>

Reexams may favor the rejection of claims as compared to EP Reexams, although in a minority of IP Reexam proceedings, the TPR stops participating.

The impact of narrowing amendments to the claims in a reexam is not clear – from the TPR’s point of view, it could be positive, negative or neutral. The amended claims could be irrelevant to any ongoing litigation or to potentially infringing conduct or, on the other hand, might have created intervening rights that protect the TPR’s past conduct. Often a narrowing amendment or a disavowal induced by reexam counts as a “win” for the TPR. On the other hand, the PO may utilize a narrowing amendment to survive the validity challenge while maintaining a claim scope broad enough to encompass the activities of the TPR and others.

### III. Appealing *Inter Partes* Patent Reexamination Decisions

In an IP Reexam, both the PO and TPR have an opportunity to appeal any adverse decision to the BPAI. The PO has the right to appeal any decision unfavorable to patentability, and the TPR has the right to participate in any appeal by the PO.<sup>124</sup> The TPR has the right to appeal any decision favorable to patentability, such as the non-adoption of any proposed grounds of rejection; the PO has the right to participate in the appeal.<sup>125</sup> Non-adopted grounds of rejection include both grounds proposed by the TPR and examiner-proposed grounds of rejection that were later withdrawn. During an appeal, claims are construed according to the broadest reasonable interpretation standard.<sup>126</sup> Like the reexam itself, any appeal is to be conducted with special dispatch.<sup>127</sup>

#### A. Methodology

Every appeal of an *Inter Partes* Reexam as of July 27, 2011 (the ten-year anniversary of the filing of the first IP reexam request) was examined by extracting data from the USPTO’s public Patent Application Information Retrieval database (PAIR). To do so, a database of completed IP reexam appeals was created. The database contained the results of each appeal, which were categorized as affirmed, reversed or affirmed-in-part; also, each appeal was labeled by which party (PO or TPR) had brought the appeal. For each appeal, the BPAI decision was compared to the CRU examiners’ grounds of rejection in the RAN. Then more detailed information was recorded for each appeal, e.g. dates and types of patented technology involved, was recorded in the database. The prosecution history was also searched for any appeals to the Federal Circuit and to determine whether the patent was involved in concurrent litigation. In addition, to both double check concurrent litigation and to determine subsequent litigation, each patent number was entered into Westlaw Next’s KeyCite Patent.

In order to understand the result of appeals, several approaches and metrics were used. The **case approach** is based on the overall BPAI decision. The case approach was used to calculate two metrics: appellate case results, and appellate case results minus PO appeals in which all the patent claims-at-issue remained rejected (reduced for when “all remained rejected”). The **appeals approach** is based on individual party appeals within the cases, which better handles cases with cross-appeals and merged-appeals. The appeals approach was used to calculate two metrics: individual party, appeal results, and individual party appeal results minus PO appeals where all the patent claims-at-issue remained rejected (reduced for when “all remained rejected”). These are the four metrics used for considering appeals.

In addition, an individual **ground-of-rejection approach** was used. This approach was also produced two metrics: 1) unadjusted grounds of rejection, and 2) grounds of rejection

reduced for when all the patent claims-at-issue remained rejected. Thus, six main metrics were used to answer the broad questions: #1 What percentage of appeals successfully resulted in the BPAI reversal of examiners' decisions or, similarly, #2 What percentage of appealed examiners' decisions were reversed?

Statistical testing was used to determine if a difference was either likely by chance (i.e. random) or unlikely by chance (i.e. systematic). Chi square statistical tests were used to compare observed and expected frequencies in one-, two- or three-sample cases. The probability (P) that any difference between observed and expected values had occurred by chance was determined after calculating the chi square ( $\chi^2$ ) test statistic and degrees of freedom (df). As is conventional, a probability value (P) of less than 0.05 was regarded as statistically significant, because this meant there was only a 1 in 20 (alpha = 0.05) chance of being wrong and assuming a systematic effect existed when the data were merely random (See Appendix I).

## **B. Empirical Data**

As of July, 27 2011, there were 101 IP Reexam proceedings that involved appeals to the BPAI that had been decided on the merits. Three of these proceedings involved the same patents because multiple IP Reexam proceedings can be merged together as a single BPAI decision per patent. Thus, these 101 proceedings represented 98 different patents. However, three proceedings involved two consecutive appeals, and thus these 101 proceedings involved 101 appeals, three of which were second appeals in the same proceeding. Thus, an empirical study was conducted of these 101 IP Reexam proceedings to answer how often the specialist examiners of the CRU were reversed by the BPAI.

### **1. The Case Approach: Affirmed/Reversed Percentages by Case**

Overall (Table 1, part 1), the majority of appellate cases (82% or 83 of 101) resulted in the BPAI agreeing with the examiners' patentability decisions (45.5% affirmed, 46 of 101; 36.6% affirmed-in-part, 37 of 101). The BPAI completely reversed examiners in only 17.8% of the cases. The data are presented in several large tables to allow efficient comparison of different approaches and metrics, rather than dividing the results into smaller tables as the text develops. Successive parts of the table will be referred to over the next few pages.

**Table 1. Total Affirmed/Reversal Percentages for *Inter Partes* Patent Reexaminations**

<b>1. All Cases (101 proceedings involving 98 patents)</b>	<b>Number (n)</b>	<b>Percentage (%)</b>
Total Cases	101	100
<b>Affirmed</b>	46	45
<b>Affirmed-in-Part</b>	37	37
<b>Reversed</b>	18	18
<b>2. All Appeals (including dissected cross-appeals and merged-appeals)</b>		
Total Appeals	124	100
<b>Affirmed</b>	59	48
<b>Affirmed-in-Part</b>	34	27
<b>Reversed</b>	31	25
<b>3. All Cases Reduced for When All Patent Claims Remained Rejected</b>		
Total Cases	101	100
<b>Affirmed</b>	51	50
<b>Affirmed-in-Part</b>	32	32
<b>Reversed</b>	18	18
<b>4. All Appeals Reduced for When All Patent Claims Remained Rejected</b>		
Total Appeals	124	100
<b>Affirmed</b>	72	58
<b>Affirmed-in-Part</b>	23	19
<b>Reversed</b>	29	23
<b>5. All Grounds of Rejection</b>		
Total Grounds of Rejection	744	100
<b>Affirmed</b>	526	71
<b>Reversed</b>	218	29
<b>6. All Grounds of Rejection Reduced for When All Patent Claims Remained Rejected</b>		
Total Grounds of Rejection	689	100
<b>Affirmed</b>	513	74
<b>Reversed</b>	176	26



# **EXHIBIT 15**

**Alex Binder**

---

**From:** Andrea P Roberts  
**Sent:** Thursday, August 30, 2012 8:28 AM  
**To:** Alex Binder  
**Subject:** FW: PUM v. Google

---

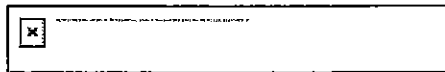
**From:** Bennett, Jennifer D. [<mailto:jennifer.bennett@snrdenton.com>]  
**Sent:** Thursday, March 08, 2012 2:58 PM  
**To:** Andrea P Roberts; PUM  
**Cc:** Google-PUM; [rhowitz@potteranderson.com](mailto:rhowitz@potteranderson.com); [dmoore@potteranderson.com](mailto:dmoore@potteranderson.com)  
**Subject:** PUM v. Google

Andrea,

I write in response to Google's March 1, 2012 announcement changing Google's privacy policy. It is clear from the publicly available information on the new policy that Google is monitoring and using information it collects about its users and combining all of the collected information in one place to provide personalized search results and ads to the user, and is therefore, highly relevant to the current case. Please immediately supplement Google's document production and produce all documents relating to Google's new policy and the ways in which Google monitors, collects and combines data regarding user's interactions to provide search results and ads to its users.

Thanks,

Jennifer D. Bennett  
Senior Managing Associate  
SNR Denton US LLP  
D +1 650 798 0325  
[jennifer.bennett@snrdenton.com](mailto:jennifer.bennett@snrdenton.com)  
[snrdenton.com](http://snrdenton.com)



---

SNR Denton is the collective trade name for an international legal practice. This email may be confidential and protected by legal privilege. If you are not the intended recipient, disclosure, copying, distribution and use are prohibited; please notify us immediately and delete this copy from your system. Please see [snrdenton.com](http://snrdenton.com) for Legal Notices, including IRS Circular 230 Notice.

---

# **EXHIBIT 16**

March 20, 2012

**BY E-MAIL**

Andrea Roberts  
Quinn Emanuel Urquhart & Sullivan LLP  
555 Twin Dolphin Shores Drive, 5th Floor  
Redwood Shores, CA 94065-2139

Re: Personalized User Model LLP v. Google Inc., C.A. No. 09-00525-LPS

Dear Andrea:

I write to follow-up on my March 8, 2012 email regarding Google's new privacy policy and in response to your March 15, 2012 email regarding the same. As I stated in my email, the publicly available information regarding Google's new policy indicates Google is combining information from user's interactions across different Google services/products and using this combined data to personalize the user's experience. For example, Google states, "Second, the new policy reflects our efforts to create one beautifully simple, intuitive user experience across Google. It makes clear that, if you have a Google Account and are signed in, we may combine information you've provided from one service with information from other services. In short, we can treat you as a single user across all our products." See for example, <http://www.google.com/intl/en/policies/faq/>. If this is true, as the policy suggests, documents relating to how Google combines user's interactions from different Google services/products to provide personalized search results and/or personalized advertisements is highly relevant to the case. Under the Federal Rules, Google is under a continuous obligation to supplement discovery and its document production. See, e.g., *Thiokol Corp. v. Alliant Techsystems, Inc.*, No. 95-706-JJF, slip op. at 10-11 (D. Del. Nov. 13, 1996); *Coming Inc. v. SRU Biosystems, LLC*, 223 F.R.D. 191, 194 n.3 (D. Del. 2004). Google has not done so to date and has refused to do so with respect to the above-requested information. It would be a waste of the resources of the parties and the Court to bring a separate lawsuit on the same subject matter. Please provide dates and times when Google is available to meet and confer on this issue.

Sincerely,

*Jennifer D. Bennett*  
Jennifer D. Bennett

# **EXHIBIT 17**

April 1, 2012

**BY E-MAIL**

Joshua Sohn  
Quinn Emanuel Urquhart & Sullivan LLP  
50 California Street, 22<sup>nd</sup> Floor  
San Francisco, CA 94111

Re: Personalized User Model LLP v. Google Inc., C.A. No. 09-00525-LPS

Dear Joshua:

I write in response to your March 27, 2012 letter regarding Google's new privacy policy. First, Google's refusal to supplement its document production because fact discovery is closed is misplaced. As I stated in my letter to Ms. Roberts, and as I am sure you know, under the Federal Rules of Civil Procedure, Google is under a continuous obligation to supplement its discovery responses, including its document production. See, e.g., *Thiokol Corp. v. Alliant Techsystems, Inc.*, No. 95-706-JJF, slip op. at 10-11 (D. Del. Nov. 13, 1996); *Corning Inc. v. SRU Biosystems, LLC*, 223 F.R.D. 191, 194 n.3 (D. Del. 2004).

Further, your letter confirms the relevance of Google's new privacy policy to the present case. Specifically, you state, "The changes to Google's privacy policy also make clear that Google can, for a given signed-in user, **combine information gathered in connection with one Google service and use that information with information from other Google services**. For the vast bulk of Google properties, this does not represent a change in Google privacy policy or how Google treats and deals with user data. The two notable exceptions to this relate to Web History (i.e., search history for signed-in users) and YouTube (i.e., Google's video sharing service that it acquired in 2007). Under the new policy, it is clear to users, including those of YouTube and Web History, that such cross-service sharing is permitted."

Google's change in its policy reflects Google's change to relevant aspects of the accused systems, (e.g., Web History in Google Search and You Tube). Clearly, any change in the way Google combines information with one service to use in other Google services is highly relevant to the case, including, but not limited to, relevant to claim elements from both the '040 and '276 Patents relating to transparently monitoring user interactions with data, monitoring multiple modes of interaction, updating user-specific data files, estimating parameters of learning machine based in part on data specific to the user.

If you still maintain that Google has no obligation to provide this information, please immediately provide dates and times when Google is available to meet and confer on this issue.

Sincerely,

*Jennifer D. Bennett*  
Jennifer D. Bennett

# **EXHIBIT 18**

April 13, 2012

**BY E-MAIL**

David Perlson  
Quinn Emanuel Urquhart & Sullivan LLP  
50 California Street, 22<sup>nd</sup> Floor  
San Francisco, CA 94111

Re: Personalized User Model LLP v. Google Inc., C.A. No. 09-00525-LPS

Dear David:

I write to follow-up on our meet and confer today regarding documents relating to Google's new privacy policy. As I stated during our call, there are several statements in Google's new privacy policy which indicates Google made changes to its Search and YouTube systems. For example, Google explains "[t]he changes to Google's privacy policy also make clear that Google can, for a given signed-in user, **combine information gathered in connection with one Google service and use that information with information from other Google services.** For the vast bulk of Google properties, this does not represent a change in Google privacy policy or how Google treats and deals with user data. The two notable exceptions to this relate to Web History (i.e., search history for signed-in users) and YouTube (i.e., Google's video sharing service that it acquired in 2007). Under the new policy, it is clear to users, including those of YouTube and Web History, that such cross-service sharing is permitted."

PUM is specifically interested in documents relating to the following:

1. Whether any information tracked and/or collected about a user while using Search, for example, queries, clicks on results, clicks on ads, results or ad impressions, or any derived information (i.e., odp, link, or rephil categories associated with such actions) is used by Google in other systems, for example, to determine which ads to display to a user on YouTube, or which videos to recommend; and
2. Whether any information tracked and/or collected about a user while viewing videos in YouTube or clicking on ads in YouTube, or any derived information (i.e., the categories associated with the ads that are clicked by the user) is used by Google in other systems, for example, in Google Search, to determine which search results or ads to display to a user.

As I stated in previous correspondence, and again during our call today, any documents relating to whether Google's change in its policy reflects Google's change to relevant aspects of the accused systems, (e.g., Web History in Google Search and You Tube), are highly relevant to the case. Please confirm as soon as possible whether these changes were made to Google's systems, and if so, whether Google will produce documents relating to such changes.

Sincerely,

*Jennifer D. Bennett*  
Jennifer D. Bennett



# **EXHIBIT 19**

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

# **EXHIBIT 20**

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

# **EXHIBIT 21**

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