

EXHIBIT A

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

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

JOINT STATUS REPORT

Pursuant to the Court's September 9, 2013 Order (D.I. 522), the parties believe that the jury trial will require 10 calendar days (48 hours total) and request that it commence in **[insert date]**.

PUM'S POSITION ON "CONCEPTION" AND STATUTE OF LIMITATION ISSUES

It is PUM's position that the issue of whether the statute of limitations bars Google's counterclaims and defenses of patent ownership, lack of standing, and breach of contract should be tried to the Court in advance of the jury trial. The question of whether equitable tolling of the statute of limitations applies is a legal issue for the Court. *See, e.g., William A. Graham Co. v. Haughey*, 646 F.3d 138, 150 (3d Cir. 2011) (finding that equitable tolling is "legal precept"); *Gregorovich v. E.I. du Pont de Nemours*, 602 F. Supp. 2d 511, 519 (D. Del. 2009) (noting that "the court must determine whether the . . . statute of limitations is subject to the principles of equitable tolling"). Equitable tolling is dispositive here because, if Google cannot show that its breach of contract and ownership counterclaims and associated defenses are subject to equitable tolling, then the statute of limitations clearly would bar them. If Google's ownership claims are time barred, then there would be no need to try any ownership and breach of contract issues, which have nothing to do with the infringement and validity issues

before the jury on the patents-in-suit.

In addition, Google contends that the issue of whether the parties intended the patent law or layman's definition of "conception" is to be decided by the Court on summary judgment. As will be explained in PUM's response to Google's Motion for Reconsideration, PUM disagrees, because ambiguity about the contract's meaning is an issue of fact to be resolved by the jury. *See, e.g., GMG Capital Investments, LLC v. Athenian Venture Partners I, L.P.*, 36 A.3d 776, 783 (Del. Supr. 2012) ("[W]here reasonable minds could differ as to the contract's meaning, a factual dispute results and the fact-finder must consider admissible extrinsic evidence."). If, however, Google were correct that the meaning of "conception" is for the Court to decide, that issue should be tried to the Court together with PUM's statute of limitations defense in advance of the jury trial.¹

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¹ To the extent Google's claims are not time barred, factual issues would remain for the jury to decide concerning whether, in fact, the invention was "conceived" during Dr. Konig's employment, and whether it was "related to" SRI's business or "resulted from" work performed by Dr. Konig for SRI.

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