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CM/ECF and HAND DELIVERY

The Honorable Leonard Stark
United States District Court
844 King Street
Wilmington, DE 19801

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

Dear Judge Stark:

Defendant Google Inc. respectfully requests that the Court reschedule trial in this matter because Google's trial team has another trial scheduled for March 10, 2014.

On September 30, 2013, the parties in this case submitted a Joint Status Report (D.I. 529) stating that they would be ready for trial in May 2014. (*Id.* at 1-3.) Google explained in its portions of the Joint Status Report that "Google's counsel has trial commitments that preclude its availability for trial before May 2014" (*id.* at 3), and PUM agreed to postpone the trial date until May 2014 on this basis (*id.* at 1). Google further stated in its portions of the Joint Status Report that "[s]hould the Court so desire, Google is happy to provide detail regarding these commitments or have a teleconference to discuss them." (*Id.* at 3, n. 2.)¹

As Google informed PUM prior to filing the Joint Status Report, virtually every member of the Quinn Emanuel team representing Google in this case (Charles Verhoeven, David Perlson, Antonio Sistos, Joshua Sohn, and Margaret Kammerud²) is scheduled to be in trial in *TracBeam v. Google Inc.*, No. 6:13-cv-93 (E.D. Tex.) beginning March 10, 2014. Google explained this to PUM when the parties met and conferred regarding preparing the Joint Status Report. Google explained that on September 12, 2013, the parties in the *TracBeam* case jointly filed a motion to amend the case schedule to move the trial date from November 12, 2013 to May 12, 2014.³ Google explained to PUM that if *TracBeam* was not set at or near May 12, 2014 as requested by the parties in that case, Google would be available for trial in this case at or near May 12, 2014. On September 26, 2013, the *TracBeam* Court issued an order setting trial for

¹ Google provided PUM with the details of these conflicts in advance of filing the Joint Status Report.

² As PUM is aware, each of these attorneys has been working on this matter since early in the case, with Messrs. Verhoeven, Perlson, and Sistos, having appeared in September 2009.

³ Although not filed until September 12, 2013, the parties in *TracBeam* had been negotiating the revised schedule for a few weeks prior to filing.

March 10, 2014. Google advised PUM of this development and Google and PUM accordingly jointly proposed trial in this matter be in May 2014. (*Id.*, 1-3.)

Google also advised PUM that Mr. Verhoeven is scheduled to be lead trial counsel in *ViaSat v. Space Systems/Loral*, No. 12-cv-0260 (S.D. Cal.) beginning March 18, 2014 and lasting for two weeks. At a summary judgment hearing in *ViaSat* on October 29 (the day after this court set trial for March 10, 2014), Mr. Verhoeven's co-counsel raised the conflict with the Court. The Court scheduled a conference call for October 30 to discuss the scheduling conflict. Mr. Verhoeven asked the Court to move the *ViaSat* trial date to May 2014 to avoid the conflict. Later that day, the Court issued an order re-stating that the *ViaSat* trial is set for March 18, 2014, and asking that this Court be made aware of the conflict. (Ex. A.) Google did not include the details of *TracBeam* and *ViaSat* conflicts in its portions of the Joint Status Report because PUM agreed to jointly propose May 2014 as a trial date in light of Google's conflicts.

Google is now aware that this Court is not available for trial in May 2014, and cannot accommodate a trial of this length until July or August 2014. (D.I. 537 at 3.) If the Court can accommodate a trial of this length in mid- to late-April 2014, Google can be available at that time.⁴ Alternatively, Google is available for trial as of August 4, 2014. Google understands that PUM believes that this is too late. But, this conflict will preclude Google from having its chosen trial counsel represent it at trial in this matter, *TracBeam*, and *ViaSat*, in particular lead trial counsel in the three cases, the partner responsible for the day to day management of this matter and *TracBeam*, and the attorney with the most technical expertise and knowledge of the accused Google products and systems in this matter and *TracBeam*. To proceed with trial in this matter on March 10, 2014 would be incredibly prejudicial to Google. Accordingly, Google respectfully requests that this Court reschedule trial in this matter for mid- to late-April 2014 or August 4, 2014. To the extent the Court does not reschedule trial now, Google respectfully requests that the Court consider doing so if another date becomes available on the Court's calendar, such as a date in May 2014.

Respectfully,

/s/ Richard L. Horwitz

Richard L. Horwitz

RLH/drt

cc: Clerk of the Court (via hand delivery)
Counsel of Record (via electronic mail)

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⁴ Google's trial counsel previously had a trial conflict in April 2014 and therefore did not initially propose that time frame for trial. But, that conflict no longer exists.