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November 12, 2013

BY E-FILING

The Honorable Leonard P. Stark
United States District Court
for the District of Delaware
844 North King Street
Wilmington, DE 19801

Re: *Personalized User Model, L.L.P. v. Google, Inc.*
C.A. No. 09-525 (LPS)

Dear Judge Stark:

We write in response to Google's November 7, 2013 letter concerning the March 10, 2014 trial date (D.I. 538), which Google sent without any discussion with or notice to PUM. As the Court is aware, this matter will have been pending nearly five years before even the liability phase of this case is heard. When PUM received the Court's ruling on October 28 on Google's motion for reconsideration setting a March 10, 2014 trial date, PUM asked that its clients, fact witnesses and expert witnesses adjust their schedules, if necessary, to ensure their attendance, and this was done. PUM is prepared to begin trial on March 10, 2014 as Your Honor directed.


PUM thus opposes Google's request for a postponement of the trial date and respectfully requests that the trial commence March 10, 2014 as Your Honor directed. However, should the Court be inclined to reschedule the trial for April, PUM respectfully requests that trial not be scheduled before April 28. Certain of PUM's fact witnesses (the co-inventors) and trial team are unavailable and cannot prepare for trial during some of the Passover holiday, which is April 14-22, 2104. Certain of PUM's client representatives also are unavailable during that entire period. And, PUM's infringement expert, Dr. Pazzani, is unavailable April 22-24, 2014.

In any event, Google's suggestion that it cannot otherwise be available until August (nearly a year after the Court's summary judgment ruling) should again be rejected. The Court already considered, and rejected, Google's assertions about its lack of availability.

(D.I. 537 at 3-4).¹ PUM further notes that the *ViaSat* court did not refuse to reschedule the trial date in that matter in its Order, but merely noted that it would “prefer” to keep the March 18, 2014 trial date, and that the case has only been pending since February 1, 2012. D.I. 538, Ex. A.

As a result, PUM requests that Google’s letter request be denied.

Respectfully,


Karen Jacobs (#2881)

cc: Clerk of the Court (by hand)
All Counsel of Record (by e-mail)

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¹ Google only explains its conflict with March 10, 2014 and provides no good cause why it cannot otherwise be available before August. Google largely relies on Mr. Verhoeven’s availability in its letter, but Google provides no evidence that Mr. Verhoeven cannot be available before August 2014. Rather, PUM understood from prior discussions that Google claimed unavailability, for example, for an entire month due to a teaching engagement of one of its hired experts.