

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 (JJF)
)
GOOGLE, INC.,)
)
Defendant.)

**PLAINTIFF PERSONALIZED USER MODEL, L.L.P.'S RESPONSES TO DEFENDANT
GOOGLE, INC.'S FIRST SET OF INTERROGATORIES (NOS. 1-16)**

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.") objects and responds to Defendant Google, Inc.'s ("Google" or "Defendant") First Set of Interrogatories to Plaintiff (Nos. 1-16) ("the interrogatories") as follows:

GENERAL OBJECTIONS

1. P.U.M. incorporates by reference its General Objections to Google's First Set of Requests for Production of Documents to Plaintiff (Nos. 1-56).

2. P.U.M. objects to the interrogatories and to the "Definitions" and "Instructions" contained therein to the extent they attempt to impose discovery obligations on P.U.M. that exceed or are inconsistent with the requirements of the Federal Rules of Civil Procedure or the Local Rules of the District of Delaware.

3. P.U.M. objects to the interrogatories to the extent that they are premature. Google has yet to produce any discovery in this matter. P.U.M., therefore, has not completed its discovery, investigation, research, and/or trial preparation. The following responses are based solely on the information that is presently available and specifically known to P.U.M. The following responses are given without prejudice to P.U.M.'s right to produce evidence of any

fact(s) that P.U.M. may later discover. P.U.M. reserves the right to supplement the following responses and to change any and all answers therein pursuant to the Federal Rules of Civil Procedure as additional facts are ascertained, analyses are made, legal research is completed, contentions are made, or as a result of the court's legal determination of issues, including without limitation the construction of the asserted claims.

4. P.U.M. objects to the interrogatories to the extent they seek information or documents that are in the public domain or equally available to Defendant on the basis that it is equally convenient for Defendant to compile and/or obtain such material.

5. P.U.M. objects to the interrogatories to the extent they are not confined to a relevant time period and as such are overly broad and unduly burdensome, and seek information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

6. P.U.M. objects to the interrogatories to the extent that the interrogatories seek information constituting or reflecting attorney-client communications on the grounds of attorney-client privilege. The inadvertent disclosure of any privileged information shall not constitute a waiver of privilege or of any other ground for objecting to discovery with respect to such response. P.U.M. is willing to exchange privilege logs with Google at a mutually agreeable time in the future. P.U.M. also reserves its right to waive privilege as to certain documents in the future.

7. P.U.M. objects to the interrogatories to the extent that the interrogatories seek information constituting or reflecting work product, including, but not limited to, the thoughts and mental impressions of P.U.M.'s attorneys or its representatives in connection with the preparation, prosecution or analysis of any claim or defense by or against P.U.M. on the grounds of the work-product doctrine. The inadvertent disclosure of any information protected

by the work-product doctrine shall not constitute a waiver of the protection afforded by the doctrine or of any other ground for objecting to discovery with respect to such response.

8. P.U.M. objects to providing any confidential and/or trade secret information, including but not limited to confidential and/or trade secret information of non-parties that P.U.M. is under an obligation to maintain in confidence, and will produce such information only pursuant to D. Del. LR 26.2 until a Protective Order is entered by this Court.

9. P.U.M. objects to the interrogatories to the extent they seek the disclosure of information that is neither relevant to any claim or defense in this action, nor reasonably calculated to lead to the discovery of information relevant to any claim or defense, under Rule 26(b)(1) of the Federal Rules of Civil Procedure.

10. P.U.M. objects to the interrogatories to the extent they seek information that is not in the possession, custody or control of P.U.M.

11. P.U.M. objects to the interrogatories to the extent: (a) the discovery sought by any such request is unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive; and/or (b) compliance with any such request would be unduly burdensome, expensive, or oppressive.

12. P.U.M. objects to the interrogatories as premature to the extent that they seek information that is the subject of expert opinion and expert reports and/or to the extent that responding to them requires the construction of claim terms of the patents-in-suit.

13. P.U.M.'s responses to the interrogatories are made without waiving: (a) the right to object, on the grounds of competency, relevancy, materiality, privilege, or admissibility as evidence for any purpose in this action or any other action; and (b) the right to object on any ground to other discovery requests involving or relating to the subject matter of these interrogatories.

14. P.U.M.'s responses to the interrogatories do not constitute an admission or acknowledgment that the information sought is within the proper scope of discovery.

15. P.U.M. objects to the definition of "P.U.M." (paragraph 1) to the extent such definition is overly broad and encompasses entities or persons over whom P.U.M. has no direction or control and calls for documents not relevant to the subject matter involved in the pending litigation in violation of Fed. R. Civ. P. 26(b)(1) and not within P.U.M.'s possession, custody or control. As used herein, "P.U.M." refers to P.U.M., and all of its current partners, agents, employees, consultants, attorneys, and others acting on behalf of P.U.M.

16. P.U.M. objects to the definition of "'040 Patent" (paragraph 2) to the extent such definition is overly broad and encompasses applications and/or patents that are not relevant to the subject matter involved in the pending litigation in violation of Fed. R. Civ. P. 26(b)(1). As used herein, "'040 patent" means U.S. Patent No. 6,981,040, entitled "Automatic, Personalized Online Information and Product Services."

17. P.U.M. objects to the definition of "'031 Patent" (paragraph 3) to the extent such definition is overly broad and encompasses applications and/or patents that are not relevant to the subject matter involved in the pending litigation in violation of Fed. R. Civ. P. 26(b)(1). As used herein, "'031 patent" means U.S. Patent No. 7,320,031, entitled "Automatic, Personalized Online Information and Product Services."

18. P.U.M. objects to the definition of "Document" (paragraph 6) to the extent such definition suggests a greater or different requirement in responding to these interrogatories than the requirements of the Federal Rules of Civil Procedure and the Local Rules of the District of Delaware.

19. P.U.M. objects to the definition of "Prior Art" to the extent that it is overly broad, unduly burdensome, vague and ambiguous (*e.g.*, "other items evidencing any of the foregoing"), or calls for facts not relevant under 35 U.S.C. §§ 102 and 103.

20. P.U.M. objects to the definition of "Identify" (paragraphs 11 through 15) and to the requirements for identification of information on the basis that such definition is overly broad, unduly burdensome, and vexatious. It is unreasonable and would require P.U.M. to exceed the requirements under the Federal Rules of Civil Procedure and the Local Rules of the District of Delaware in responding to this discovery.

21. P.U.M. objects to the "Instructions" at paragraphs 1-4 on the basis that these instructions are vague, ambiguous, overly broad, and unduly burdensome.

22. P.U.M. objects to identifying any privileged documents that were written or prepared on or after July 16, 2009, the date this action was initiated by P.U.M. P.U.M. will withhold, without scheduling, all privileged documents created or prepared by any of its employees, attorneys, agents, or representatives on or after July 16, 2009. The categorical identification of these documents is considered sufficient to satisfy any identification requirements necessary to properly assert privilege or immunity for those documents.

23. In addition to the foregoing General Objections, P.U.M. may also state Specific Objections to the interrogatories where appropriate, including objections that are not generally applicable to each specific interrogatory. By setting forth specific objections, P.U.M. does not intend to limit or restrict the General Objections set forth above.

SPECIFIC RESPONSES AND OBJECTIONS TO INTERROGATORIES

INTERROGATORY NO. 1:

For each claim of the PATENTS-IN-SUIT, describe in detail all facts RELATING TO its conception and reduction to practice, including IDENTIFYING the date of conception, the date of reduction to practice of its subject matter, all acts YOU contend represent diligence occurring between the dates of conception and reduction to practice, each person

involved in such conception, diligence and/or reduction to practice, where the invention was first reduced to practice, when, where, and to whom the invention was first disclosed, and IDENTIFYING each person, including third parties, who worked on the development of the alleged invention(s) described and claimed in the PATENTS-IN-SUIT, describing each person's role (e.g., producer, developer, tester, technician, researcher, etc.) and the dates and places each such person assisted, supervised, or was otherwise so involved.

RESPONSE TO INTERROGATORY NO. 1:

In addition to the foregoing general objections, P.U.M. specifically objects to this interrogatory as compound. P.U.M. further objects to this interrogatory as overly burdensome. Specifically, the patents-in-suit are presumed valid. Google has not at this time presented any evidence of anticipation such that would require that P.U.M. establish diligence between conception and reduction to practice. P.U.M. additionally objects to this interrogatory to the extent that it seeks a legal conclusion regarding the dates of "conception" and "reduction to practice," which are terms with specific legal meanings.

Subject to and without waiving the foregoing general or specific objections, P.U.M. responds that, pursuant to Fed. R. Civ. P. 33(d), P.U.M. will produce relevant non-privileged documents relating to the discovery and development of the inventions claimed in the patents-in-suit from which the information sought may be obtained. P.U.M. further identifies Messrs. Yochai Konig, Roy Twersky and Michael Berthold as individuals who conceived and worked on the development of the invention(s) described and claimed in the patents-in-suit. P.U.M. also responds that its investigation into the facts of this case is ongoing and P.U.M., accordingly, reserves its right to supplement its response to this interrogatory as discovery moves forward.

INTERROGATORY NO. 2:

IDENTIFY all patents, patent applications, publications, web sites, products, services, and methods, that predate December 28, 1999 and RELATE TO providing automatic, personalized information services to a computer user that were at any time known, made known to, or considered by PLAINTIFF, UTOPIA, and/or any of the named inventors of the PATENTS-IN-SUIT, and how and when they became known and considered by PLAINTIFF, UTOPIA,

and/or the named inventors of the PATENTS-IN-SUIT, and IDENTIFY all PERSONS who reviewed or considered them.

RESPONSE TO INTERROGATORY NO. 2:

In addition to the foregoing general objections, P.U.M. specifically objects to this interrogatory as compound. P.U.M. further objects to this interrogatory on the grounds that the phrase "considered by" is vague and ambiguous. P.U.M. still further objects to the phrase "RELATE TO providing automatic, personalized information services to a computer user" as vague and ambiguous because whether such a reference falls within this phrase is a matter of subjective interpretation. The subjective nature of this interrogatory also renders it overly broad and unduly burdensome.

Subject to and without waiving the foregoing general or specific objections, P.U.M. responds (without admitting whether any of the identified references actually relate to providing automatic, personalized information services to a computer user) that the following references were known to one or more of Roy Twersky, Yochai Konig, Michael Berthold, Marek Alboszta, Rena Kaminsky, Ron Jacobs, Katherina Wong Schuster, James Salter, Barbara Burgess or Bharat Barot at some point in time:

<p>Ricardo Baeza-Yates and Berthier Ribeiro-Neto, <i>Modern Information Retrieval</i>, Addison Wesley, 1999;</p> <p>T. Cover and J. Thomas, <i>Elements of Information Theory</i>, Wiley, 1991;</p> <p>Vladimir S. Cherkassky and Filip M. Mulier, <i>Learning from Data: Concepts, Theory, and Methods, in Adaptive and Learning Systems for Signal Processing, Communications and Control</i>, Simon Haykin, series editor, Wiley & Sons, March, 1998;</p> <p>http://dmoz.org/;</p> <p>www.inxight.com;</p> <p>Christopher D. Manning and Hinrich Schutze, <i>Foundations of Statistical Natural Language Processing</i>, MIT Press, 1999;</p> <p>H. Bourlard and N. Morgan, <i>Connectionist Speech Recognition: A Hybrid Approach</i>, Kluwer Academic Publishers, 1994;</p> <p>J. Hertz, A. Krogh, R. Palmer, <i>Introduction to The Theory of Neural Computation</i>, Addison-Wesley, 1991;</p> <p>K. Fukunaga, <i>Statistical Pattern Recognition</i>, Academic Press, 1990;</p> <p>P. Lee, <i>Bayesian Statistics</i>, Oxford University Press, 1989;</p> <p>R. Duda and P. Hart, <i>Pattern Classification and Scene Analysis</i>, Wiley, 1973;</p> <p>Christopher D. Manning and Hinrich Schutze, <i>Foundations of Statistical Natural Language Processing</i>, MIT Press, 1999;</p> <p>R. Sedgewick, <i>Algorithms in C++</i>, Parts 1-4, Addison-Wesley, 1998.</p>	<p>Cited in the specification of U.S. Provisional Application No. 60/173,392</p>
<p>US Patent Nos. 5,704,017; 5,754,939; 5,867,799; 5,918,014; 5,933,827; 5,983,214; 5,999,975; 6,006,218; 6,029,161; 6,041,311;</p> <p>Mobasher, B., Automatic personalization based on web usage mining, http://maya.cs.depaul.edu/about.mobasher/personalization;</p> <p>Ph.D. thesis of Steven J. Nowlan, "Soft Competitive Adaptation: Neural Network Learning Algorithms Based on Fitting Statistical Mixtures", School of Computer Science, Carnegie Mellon University, Pittsburgh, Pa., 1991</p>	<p>Cited in the specification of the '040 patent</p>
<p>U.S. Patent Nos. 5,964,839; 5,991,735; 6,567,850;</p>	<p>Cited by the Examiner in the prosecution of the '040 patent</p>
<p>6,828,992; 6,647,425; 6,230,204; 6,182,133.</p>	<p>Cited by the Examiner in the prosecution of 12/008,148</p>

PRETSCHNER, ALEXANDER, "Ontology Based Personalized Search", Master's Thesis, Department of Electrical Engineering and Computer Science, University of Kansas, (1998), 125 pgs.	Cited by Applicants in an IDS in the prosecution of 12/008,148
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INTERROGATORY NO. 3:

State whether PLAINTIFF contends there are secondary considerations that should be considered by the Court in connection with its determination pursuant to 35 U.S.C. § 103 of the validity of the PATENTS-IN-SUIT, and if the answer is anything other than an unqualified negative, identify each such secondary consideration and describe in detail PLAINTIFF'S contentions as to why each such secondary consideration demonstrates obviousness or non-obviousness and all facts in support thereof.

RESPONSE TO INTERROGATORY NO. 3:

In addition to the foregoing general objections, P.U.M. specifically objects to this interrogatory as premature because (i) Google has not provided the basis for its alleged defense of obviousness and must first overcome the presumption of validity before secondary considerations become relevant, (ii) no discovery of Google or third-parties has yet been taken in this case, and (iii) to the extent P.U.M. has specifically undertaken investigations of other companies' infringement, such investigations and their results are privileged.

Subject to and without waiving the foregoing general or specific objections, P.U.M. identifies Google's success as evidence of both commercial success and long-felt need. P.U.M. further identifies Google's attempts to obtain patent protection for the personalization of web search as evidence of long-felt need, failure of others and, potentially, copying of P.U.M.'s patented technology since the P.U.M. '040 patent is cited in these pending patent applications. Additionally, Google's acquisition of Kaltix Corp. and Outride, Inc. is further evidence of the commercial success of personalized search. P.U.M. further responds that it will produce non-privileged documents further evidencing non-obviousness. Additionally, P.U.M. responds that the investigation into the facts of this case is ongoing, P.U.M., accordingly, reserves its right to

supplement its response to this interrogatory once additional information is obtained from Google, among others.

INTERROGATORY NO. 4:

IDENTIFY and describe in detail all the manners or techniques by which the PATENTS-IN-SUIT improved upon the PRIOR ART, added functionality that did not exist in the PRIOR ART, or provided a variation on or upgrade of the PRIOR ART and for each such claimed improvement, added functionality, or variation or upgrade, state whether PLAINTIFF contends it was a non-obvious or unpredictable improvement, addition of functionality, variation or upgrade and why and identify all facts in support thereof.

RESPONSE TO INTERROGATORY NO. 4:

In addition to the foregoing general objections, P.U.M. specifically objects to this interrogatory as overly broad, unduly burdensome, and premature. Google has yet to identify any Prior Art to P.U.M. This interrogatory is, therefore, premature. This interrogatory is also unduly burdensome because Google's definition of "Prior Art" is overly broad. As Google well knows, the patents-in-suit are presumed to be valid. Google's attempt to shift the burden to P.U.M. to identify things not disclosed in the Prior Art is improper. P.U.M. still further objects to this interrogatory because to the extent Google identifies Prior Art, it analyzes the art itself and thus the information is equally as available to Google as it is to P.U.M. To the extent Google seeks P.U.M.'s experts' analysis of the art, the interrogatory is premature 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. P.U.M. still further objects to this interrogatory as improperly seeking attorney work product, to the extent the interrogatory seeks P.U.M.'s attorneys' opinions regarding Prior Art.

Subject to and without waiving the foregoing general or specific objections, P.U.M. identifies the file histories for the patents-in-suit as potentially containing reference to improvements over prior art submitted to the Patent Office. P.U.M. reserves its to supplement this response as discovery continues in this case, including the incorporation of its expert reports

served in accordance with the Federal Rules of Civil Procedure and the Court's Scheduling Order, and inventor, expert or other testimony relating to this interrogatory.

INTERROGATORY NO. 5:

State PLAINTIFF's contentions as to what constituted the level of skill of a person of ordinary skill in the art of the subject matter of the PATENTS-IN-SUIT as of their respective filing dates.

RESPONSE TO INTERROGATORY NO. 5:

In addition to the foregoing general objections, P.U.M. 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. reserves its right to supplement its response to this interrogatory, including incorporation of its expert reports served in accordance the Federal Rules of Civil Procedure and the Court's Scheduling Order, and inventor, expert or other testimony regarding a person of ordinary skill in the relevant art.

INTERROGATORY NO. 6:

Describe in detail each and every investigation and/or evaluation by PLAINTIFF, or anyone on behalf of PLAINTIFF, REGARDING the validity, patentability, enforceability, scope, and/or INFRINGEMENT of any claim of the PATENTS-IN-SUIT, including IDENTIFYING the dates such activities took place, the persons or entities involved in such activities, the nature of such activities, and whether any decision was made or action taken by or on behalf of PLAINTIFF in whole or in part as a result of such activities.

RESPONSE TO INTERROGATORY NO. 6:

In addition to the foregoing general objections, P.U.M. specifically objects to this interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege or as attorney work-product.

Subject to and without waiving the foregoing general or specific objections, P.U.M. states that it investigated Google's infringement of the patents-in-suit prior to filing the Complaint. The details of that investigation, however, are privileged. That investigation ultimately resulted in the present lawsuit being filed.

INTERROGATORY NO. 7:

Identify any product or software known to YOU that practices or practiced any claim of the PATENTS-IN-SUIT, or that YOU allege to be an embodiment of any invention claimed in the PATENTS-IN-SUIT, including without limitation products or software designed, programmed, owned, marketed or sold by PLAINTIFF or UTOPIA.

RESPONSE TO INTERROGATORY NO. 7:

In addition to the foregoing general objections, P.U.M. specifically objects to this interrogatory as overly broad, unduly burdensome, and seeking information not within P.U.M.'s possession, custody, or control because Google defines "YOU" to include individuals no longer in P.U.M.'s control and/or who have or may have third-party confidentiality obligations (*e.g.*, former employees, counsel, agents, consultants, representatives, franchisees, et cetera).

Subject to and without waiving the foregoing general or specific objections, pursuant to Fed. R. Civ. P. 33(d), P.U.M. responds that it will produce non-privileged documents in its custody, possession or control, if any, relating to products or software embodying inventions claimed in the patents-in-suit designed, programmed, owned, or marketed by P.U.M. or its predecessor, Utopia. P.U.M. further responds that its product development efforts are ongoing and thus reserves the right to supplement this answer in the future.

INTERROGATORY NO. 8:

Describe in detail all efforts to mark any product authorized or licensed under the PATENTS-IN-SUIT with the patent number of the PATENTS-IN-SUIT, including IDENTIFYING the beginning and end dates of any such patent marking (including the beginning or end dates of any interruption in patent marking), the seller of such marked products, and the manner of marking for each marked product, such as the location of the patent marking and/or the manner of such patent marking.

RESPONSE TO INTERROGATORY NO. 8:

In addition to the foregoing general objections, P.U.M. specifically objects to this interrogatory as compound.

Subject to and without waiving the foregoing general or specific objections, P.U.M. responds that P.U.M.'s predecessor, Utopy, designed, programmed and marketed its personalized search technology before the patents-in-suit issued. P.U.M. also responds that its investigation into the facts of this case is ongoing and P.U.M., accordingly, reserves its right to supplement its response to this interrogatory as discovery moves forward.

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. 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.

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 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.

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.

INTERROGATORY NO. 12:

For each limitation of each ASSERTED CLAIM of the PATENTS-IN-SUIT, identify, in claim chart form, the portions of the specification YOU contend provide WRITTEN DESCRIPTION support, an ENABLING DISCLOSURE, and a disclosure of the BEST MODE contemplated by the inventor.

RESPONSE TO INTERROGATORY NO. 12:

In addition to the foregoing general objections, P.U.M. specifically objects to this interrogatory as premature. P.U.M. also incorporates its response to the 35 U.S.C. §112 portion of interrogatory no. 10. Google has the burden to prove invalidity under §112. P.U.M., therefore, objects to this interrogatory as improperly seeking to shift the burden to P.U.M. to establish that the specification supports the patents-in-suits' claims.

Subject to the foregoing general and specific objections, P.U.M. responds that the PTO has already determined through a rigorous examination that the patents-in-suit satisfy the written description requirement of §112, that the claims are enabled, and did not find any issues regarding best mode. The patents-in-suit are presumed valid, and each claim of the patents-in-

suit are fully supported by the specification. Because the burden of identifying the requested information is essentially the same for each party, P.U.M. declines to respond at this time. P.U.M. reserves its right to supplement this response should Google come forward with a specific 35 U.S.C. §112 challenge to the validity of the patents-in-suit.

INTERROGATORY NO. 13:

Identify all bases for PLAINTIFF's allegation that GOOGLE's alleged INFRINGEMENT has been willful, malicious and otherwise without justification or excuse, including without limitation, stating the date and manner in which GOOGLE was first notified or became aware that it was allegedly INFRINGING the PATENTS-IN-SUIT, the allegedly INFRINGING activity, and all facts upon which you base YOUR contention that GOOGLE knew that such activity was INFRINGING the PATENTS-IN-SUIT and that such INFRINGEMENT was willful.

RESPONSE TO INTERROGATORY NO. 13:

In addition to the foregoing general objections, P.U.M. specifically objects to this interrogatory as premature because Google has not yet provided discovery in this matter. Much of the requested information (*e.g.*, what Google knew and when Google knew it) is in Google's possession, custody and control. Additionally, without full and complete discovery from Google, P.U.M. cannot at this time identify "all bases" for its willfulness allegation.

Subject to and without waiving these or any other objections or privileges, P.U.M. responds that Google had actual knowledge of the '040 patent as early as April 2, 2007, when an examiner rejected Google's U.S. Patent Application No. 10/676,711, as being unpatentable over U.S. Patent No 6,008,218 in view of the '040 patent. Google was further notified about the '040 and '031 patents on January 22, 2008, and February 15, 2008, in two separate letters to Kent Walker, Esq., Vice President and General Counsel of Google, from P.U.M.'s counsel, Guy Yonay, to which Google did not respond. Despite such notice, Google continued to operate the personalized features of its website in reckless disregard of P.U.M.'s patents. P.U.M. further

responds that its investigation of Google's willful infringement is ongoing and P.U.M., accordingly, reserves its right to supplement its response to this interrogatory.

INTERROGATORY NO. 14:

IDENTIFY any and all inspection, testing, evaluation, or analysis of any of GOOGLE's products or services that you allege INFRINGES any claim of the PATENTS-IN-SUIT, and state: the particular products inspected, tested, evaluated, or analyzed; the nature of the inspection, testing, evaluation, or analysis performed; any and all PERSONS involved in the inspection, testing, evaluation, or analysis; the dates of the inspection, testing, evaluation, or analysis; the results of such inspection, testing, evaluation, or analysis, identifying the DOCUMENTS (by Bates number) reflecting those results; and any conclusion(s) or opinion(s) formed as a result of each inspection, testing, evaluation, or analysis.

RESPONSE TO INTERROGATORY NO. 14:

In addition to the foregoing general objections, P.U.M. specifically objects to this interrogatory as compound. P.U.M. also objects to this interrogatory as premature. Google has not yet produced discovery in this matter and thus P.U.M. cannot identify any confidential Google documents by Bates numbers at this time. P.U.M. further objects to this interrogatory as seeking information that is protected by the attorney-client and/or work product privileges. The specifics of P.U.M.'s initial investigation into Google's infringement is privileged, including the identities of the investigators. To the extent this interrogatory seeks information regarding P.U.M.'s ongoing investigation into Google's infringement as part of the conduct of this lawsuit, P.U.M. objects to this interrogatory as seeking privileged information and premature 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, pursuant to Fed. R. Civ. P. 33(d), P.U.M. responds that it will produce non-privileged documents relating to Google's accused products and services. P.U.M. has not yet produced any documents in this matter, and therefore, will supplement its response to this interrogatory with Bates numbers for these documents after they have been produced. P.U.M. reserves its right to

supplement its response to this interrogatory, including incorporation of its expert reports served in accordance the Federal Rules of Civil Procedure and the Court's Scheduling Order.

INTERROGATORY NO. 15:

If YOU contend that any of Google's products or processes identified in response to Interrogatory No. 10 create or define a "user model," define with particularity what in Google's products YOU contend to constitute the "user model," including what user-specific information YOU contend is used to create or define the "user model."

RESPONSE TO INTERROGATORY NO. 15:

In addition to the foregoing general objections, P.U.M. specifically objects to this interrogatory as premature to the extent it seeks to elicit P.U.M.'s claim construction positions. P.U.M. further objects to this interrogatory as premature, to the extent that Google has not yet produced any formal discovery in this manner. 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 regarding infringement.

Subject to and without waiving these or any other objections or privileges, P.U.M.'s investigation into the extent of Google's infringement is ongoing and P.U.M., accordingly, reserves its right to supplement its response to this interrogatory once it receives additional information from Google, and/or a claim construction ruling from this Court. Such supplementation may include the incorporation of its expert reports served in accordance the Federal Rules of Civil Procedure and the Court's Scheduling Order.

INTERROGATORY NO. 16:

If you contend that you are entitled to any monetary recovery as a result of alleged INFRINGEMENT of the PATENTS-IN-SUIT by Google, state whether you contend that you are entitled to lost profits or a reasonable royalty, and state all facts and reasons upon which you rely in support of your contention, such that if you contend you are entitled to an award of lost profits damages, you identify each of your products you allege falls within the scope of any claim of the PATENTS-IN-SUIT and state the total sales annually in units and dollars from its introduction to the present, and if you contend you are entitled to an award of reasonable royalty

damages, state what you assert to be a reasonable royalty to be paid by Google under 35 U.S.C. Section 284, including the complete factual bases on which you base your calculation of such royalty rate.

RESPONSE TO INTERROGATORY NO. 16:

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 two separate interrogatories, one addressing lost profits and the second addressing reasonable royalty. With respect to the lost profits portion of this interrogatory, P.U.M. further objects to this interrogatory as premature. P.U.M.'s product development efforts are ongoing. P.U.M. further objects to this portion of the 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.

With respect to the reasonable royalty portion of this interrogatory, P.U.M. specifically objects to this interrogatory as premature. Google has yet to produce discovery in this case. The facts relating to reasonable royalty (as well as lost profits facts) are thus in Google's possession, custody or control. P.U.M. further objects to this portion of the 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. responds that it will be seeking no less than a reasonable royalty for Google's infringement of the patents-in-suit. P.U.M. further responds that it will produce documents relating to past P.U.M. products/services and/or ongoing product development efforts from which the answers to the lost profits portion of this interrogatory can be obtained. P.U.M. specifically reserves its right to supplement its response to this interrogatory once discovery is

obtained from Google and, potentially from third-parties, and also states that it will provide expert opinion testimony on damages, including the information required by Fed. R. Civ. P. 26(a)(2)(B) in accord with this Court's Scheduling Order.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Jeremy A. Tigan

Karen Jacobs Loudon (#2881)

Jeremy A. Tigan (#5239)

1201 N. Market Street

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(650) 798-0300

March 8, 2010

3436976

CERTIFICATE OF SERVICE

I, hereby certify that on March 8, 2010, copies of the foregoing were caused to be served upon the following in the manner indicated:

BY E-MAIL

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March 8, 2010
3137692

CERTIFICATE OF SERVICE

I hereby certify that on March 8, 2010, 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 March 8, 2010 upon the following individuals in the manner indicated:

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eugenenovikov@quinnemanuel.com

/s/ Jeremy A. Tigan

Jeremy A. Tigan (#5239)

EXHIBIT B

Jennifer Bennett
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April 8, 2010

VIA E-MAIL

Eugene Novikov
50 California Street
San Francisco, CA 94111-4788
(415) 986-5700
eugenenovikov@quinnemanuel.com

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

Dear Eugene:

I write this letter in response to your email dated April 7, 2010 and as a follow-up to our phone call this afternoon. To begin, thank you for your agreement not to oppose P.U.M. amending its Complaint. As discussed during our call, P.U.M. will agree to provide a claim chart of one representative claim from each of the three patents on each accused product with the understanding that P.U.M.'s infringement contentions do not limit the scope of Google's document production and so long as Google will provide a meaningful production of technical documents beginning on or before April 16, 2010 which will enable P.U.M. to further supplement its responses with more detailed contentions. In accord, P.U.M.'s agreement in no way limits its ability to further identify accused products once documents are produced and discovery moves forward.

Sincerely,

s/ Jennifer Bennett

Jennifer Bennett

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

PERSONALIZED USER MODEL, L.L.P.,)
)
) Plaintiff,
)
) v.
) C.A. No. 09-525 (JJF)
)
GOOGLE, INC.,)
)
) Defendant.
)

**PLAINTIFF PERSONALIZED USER MODEL, L.L.P.'S
SECOND SUPPLEMENTAL RESPONSES TO DEFENDANT
GOOGLE, INC.'S FIRST SET OF INTERROGATORIES (NO. 9)**

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.") hereby provides the following second supplemental responses to Defendant Google, Inc.'s ("Google" or "Defendant") First Set of Interrogatories to Plaintiff (No. 9).

GENERAL OBJECTIONS

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

P.U.M.'S SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9

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. 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 reference 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.

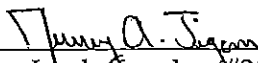
P.U.M. specifically reserves its right to supplement this Interrogatory Response upon Google's supplementation and P.U.M.'s analysis of Google's production of technical documents and source code.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

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Attorneys for Personalized User Model, L.L.P.

July 1, 2010
3652036

CERTIFICATE OF SERVICE

I, hereby certify that on July 1, 2010, copies of the foregoing were caused to be served upon the following in the manner indicated:

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Jeremy A. Tigan (#5239)

EXHIBIT D

Eugene Novikov

From: David Perlson
Sent: Monday, July 12, 2010 7:51 PM
To: 'Bennett, Jennifer D.'; Eugene Novikov; 'Nelson, Mark C.'; 'Friedman, Marc S.'; 'Shin, Jimmy M.'; 'jtigan@mnat.com'; 'klouden@mnat.com'
Cc: Google-PUM; 'rhorwitz@potteranderson.com'; 'dmoore@potteranderson.com'
Subject: RE: Personalized User Model/Google 09-525 - 2nd Supp Resp to Google's 1st Set of Interrogatories served and Notice of Service (D.I. 59) filed on 7/1/10

Jennifer, given that Plaintiff has asserted so many claims, a statement that Plaintiff "may" further limit claims next week does not help. Absent a firm commitment that Plaintiff will be limiting its claims to a reasonable number (such as 10 claims), there is no point to delay this matter. Frankly, this is much more urgent than the "emergency" you emailed the Court about regarding the Rule 30(b)(6) deposition. We are happy to meet and confer tomorrow as we said, but we also intend to suggest to the Court that in the event it is willing to address Plaintiff's request for emergency resolution of the Rule 30(b)(6) issue, it address this issue at the same time.

From: Bennett, Jennifer D. [mailto:jbennett@sonnenschein.com]
Sent: Monday, July 12, 2010 5:40 PM
To: Eugene Novikov; Nelson, Mark C.; Friedman, Marc S.; Shin, Jimmy M.; jtigan@mnat.com; klouden@mnat.com
Cc: Google-PUM; rhorwitz@potteranderson.com; dmoore@potteranderson.com
Subject: RE: Personalized User Model/Google 09-525 - 2nd Supp Resp to Google's 1st Set of Interrogatories served and Notice of Service (D.I. 59) filed on 7/1/10

Gene:

I write in response to your email below. P.U.M. proposes that we schedule a meet and confer on this topic next week, after we serve our supplemental contentions on Friday, July 16th and Google has had a chance to review the supplemental charts, as we may further limit the number of claims asserted at that time.

Thanks,

Jennifer D. Bennett 
Sonnenschein Nath & Rosenthal LLP
jbennett@sonnenschein.com
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Sonnenschein
SONNENSCHN NATH & ROSENTHAL LLP

**FOR MORE INFORMATION ON THE PENDING COMBINATION OF SONNENSCHN AND DENTON WILDE SAPTE LLP, PLEASE VISIT
WWW.SNRDENTONCOMBINATION.COM**

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From: Eugene Novikov [mailto:eugenenovikov@quinnemanuel.com]
Sent: Friday, July 09, 2010 5:38 PM
To: Bennett, Jennifer D.; Nelson, Mark C.; Friedman, Marc S.; Shin, Jimmy M.; jtigan@mnat.com; klouden@mnat.com
Cc: Google-PUM; rhorwitz@potteranderson.com; dmoore@potteranderson.com
Subject: RE: Personalized User Model/Google 09-525 - 2nd Supp Resp to Google's 1st Set of Interrogatories served and Notice of Service (D.I. 59) filed on 7/1/10

Jennifer:

In Plaintiff's supplemental response to Interrogatory No. 9, Plaintiff identifies 88 claims (50 from the '040 patent, 9 from the '031 patent, and 29 from the '276 patent) that Plaintiff plans to assert. As you are aware, the parties are due to identify claim terms and exchange Markman contentions on August 27. We cannot reasonably proceed with preparing constructions for the number of claim terms that 88 claims would require; nor can we brief that many claim terms within the 20 page limit on claim construction briefs in Delaware. Does Plaintiff have a proposal for limiting the number of asserted claims prior to the claim construction process, or otherwise addressing this problem? Please let us know, and please promptly provide times when you are available for a meet and confer on this issue Monday or Tuesday.

Gene

From: Chard, Beth Ann [mailto:BChard@MNAT.com]
Sent: Thursday, July 01, 2010 2:04 PM
To: Annabelle Hilario; Antonio Sistos; Brian Cannon; Charles K Verhoeven; David Perlson; David E. Moore; Eugene Novikov; PotterAnderson; Richard L. Horwitz
Subject: Personalized User Model/Google 09-525 - 2nd Supp Resp to Google's 1st Set of Interrogatories served and Notice of Service (D.I. 59) filed on 7/1/10

On behalf of Jeremy Tigan, I am forwarding the following discovery responses along with the corresponding Notice of Service, which was filed with the Court today.

D.I. 59 - Docket Text:
NOTICE OF SERVICE of Second Supplemental Responses to Defendant Google, Inc.'s First Set of Interrogatories (No. 9) by Personalized User Model LLP.(Tigan, Jeremy)

Beth Ann Chard
IP Nighttime Administrative Assistant
Morris Nichols Arsht & Tunnell LLP
1201 North Market Street
Wilmington, DE 19801
(302) 351-9128

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EXHIBIT E

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www.sonnenschein.com

July 19, 2010

David Perlson
50 California Street
San Francisco, CA 94111-4788
(415) 986-5700
davidperlson@quinnemanuel.com

Re: *Personalized User Model LLP v. Google Inc.*, 1-09-cv-00525-JJF (DED)

Dear David:

I write this letter to memorialize the parties' July 15, 2010 meet and confer discussion involving Google's request that P.U.M. reduce its number of asserted claims. The three asserted patents have a total of 102 claims. On July 1st, 2010, after P.U.M. had time to review Google's initial production of confidential documents and source code, P.U.M. identified 88 asserted claims. Thereafter, Google requested that P.U.M. either agree to reduce the number of asserted claims to 10 or propose times for a meet and confer. P.U.M. indicated that it would further limit the asserted claims upon providing its supplemental infringement contentions and that it would make sense to wait to have the meet and confer until those contentions were served. Google disagreed. During the meet and confer, P.U.M. indicated again that upon service of its supplemental infringement contentions P.U.M. would be reducing its number of asserted claims; from 88 claims to somewhere between 40 and 60 claims (not 50 as David Moore's e-mail indicates). P.U.M. further indicated that it would work with Google to further reduce the number of asserted claims moving forward but, because Google had only recently produced more documents and source code, had yet to complete additional productions of documents and source code, and had yet to provide invalidity contentions, a further reduction of asserted claims at this time was not warranted. Google disagreed and the meet and confer ended.

P.U.M. remains open to working with Google to streamline this case, but will not limit itself to a specific number of asserted claims before it has had the chance to complete meaningful discovery in this case and has the benefit of Google's invalidity contentions.

David Perlson
July 19, 2010
Page 2

Kind regards,

/s/ Jennifer D. Bennett

Jennifer D. Bennett

EXHIBIT F

Part 1

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