UNITED STATE DISTRICT COURT
DISTRICT OF DELAWARE

XEROX CORPORATION Plaintiff, v. GOOGLE INC., YAHOO! INC., RIGHT MEDIA LLC, and YOUTUBE LLC Defendants.	C.A. No. 1:10-cv-00136-JJF-MPT

DEFENDANTS GOOGLE INC. AND YOUTUBE LLC'S SUPPLEMENTAL SECOND OBJECTIONS AND RESPONSES TO XEROX'S FIRST SET OF INTERROGATORIES TO DEFENDANTS (NOS. 7-9)

Pursuant to Federal Rules of Civil Procedure 26 and 33, Defendants Google Inc. and YouTube LLC hereby further object and respond in writing to Interrogatories 7, 8, and 9 of Plaintiff Xerox Corporation's First Set of Interrogatories to Defendants.

GENERAL OBJECTIONS

Google and YouTube make the following general objections to each and every definition, instruction, and interrogatory made in Xerox's First Interrogatories to Defendants. Each of these objections is incorporated into the Specific Objections set forth below, whether or not separately set forth therein. By responding to any of the interrogatories or failing to specifically refer to or specify any particular General Objection in response to a particular interrogatory, Google and YouTube do not waive any of these General Objections, nor admit or concede the appropriateness of any purported interrogatory or any assumptions contained therein.

1. Nothing in these responses should be construed as waiving rights or objections that might otherwise be available to Google and YouTube nor should Google and YouTube's responses to any of these interrogatories be deemed an admission of relevancy, materiality, or admissibility in evidence of the interrogatory or the response thereto.

2. Google and YouTube object to each interrogatory to the extent that it seeks the disclosure. of information protected from disclosure by the attorney-client privilege, the attorney work product doctrine or any other applicable privilege or protection as provided by law. Google and YouTube will not produce such privileged or protected information, and any inadvertent disclosure of any privileged or protected information should not be deemed a waiver of any privilege.

3. Google and YouTube object to each interrogatory, and to the definitions and instructions, to the extent they purport to impose upon Google and YouTube obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure or the Local Rules and Orders of this Court.

4. Google and YouTube object to each interrogatory, and to the definitions and instructions, to the extent that they are overbroad, vague and ambiguous, unduly burdensome and oppressive, in purporting to require Google and YouTube to search facilities and inquire of employees other than those facilities and employees that could reasonably be expected to have responsive information, or produce information outside a relevant time period or unrelated to the asserted claims of the patent-in-suit. In particular, Google and YouTube object to Xerox's definition of "personalized search" as vague, ambiguous, and overbroad. Google and YouTube will not produce documents and information that are irrelevant, immaterial or not reasonably

calculated to lead to the discovery of admissible evidence. Google and YouTube also will not produce information that is not in its possession, custody or control.

5. Google and YouTube object to each interrogatory to the extent it seeks information already in Xerox's possession or equally available to Xerox from other sources that are more convenient, less burdensome and/or less expensive.

6. Google and YouTube object to each interrogatory and to the definitions and instructions included therewith pursuant to Federal Rule of Civil Procedure 26(b)(2)(i) to the extent that they purport to require the disclosure of information that is more readily available and/or more appropriately obtainable through other means of discovery.

7. Google and YouTube object to each interrogatory to the extent that it is compound and/or is comprised of subparts constituting more than one interrogatory, particularly in view of Xerox's instructions with respect to each "subpart" of each interrogatory as each subpart properly counts as separate interrogatories against the limit of interrogatories for Xerox in this case.

8. Google and YouTube object to these interrogatories to the extent that such interrogatories, when properly counted, exceed the limit for interrogatories available to Xerox in this case.

9. Google and YouTube object to each interrogatory, and to the definitions and instructions included therewith, to the extent they seek proprietary, trade secret or other confidential or competitively sensitive business information. Subject to Local Rule 26.2, Google and YouTube will only produce such relevant, non-privileged information subject to adequate protections for Google and YouTube's confidential, trade secret and/or proprietary business or technical information via a protective order entered by the Court in this action.

10. Google and YouTube object to each interrogatory, and to the definitions and instructions included therewith, to the extent that they purport to Require Google and YouTube to disclose private or personally-identifiable information of its users.

11. Google and YouTube object to each interrogatory, and to the definitions and instructions included therewith, to the extent that they purport to require Google and YouTube to disclose information that is subject to any protective order, privacy interest, contractual obligation, or other confidentiality obligation owed to any third party.

12. Google and YouTube object to each interrogatory to the extent that such interrogatory prematurely seeks the production of information and documents in advance of the dates set by the Federal Rules of Civil Procedure, the Local Rules, or any orders entered by this Court.

13. Google and YouTube object to each interrogatory as premature and unduly burdensome to the extent that it seeks information likely to depend on construction of claim terms and/or expert analysis of the patent-in-suit, the deadlines for which have not yet been set.

14. Google and YouTube object to each interrogatory as premature and unduly burdensome to the extent that it seeks discovery regarding non-infringement of any claim(s) of the patent-in-suit for which Xerox has not provided a substantive contention that Google and/or YouTube practice every element of such claim(s).

17. Google and YouTube object to each interrogatory as premature and unduly burdensome to the extent that it seeks discovery before Xerox pleads facts sufficient to define each and every accused instrumentality and how they could plausibly infringe the patent-in-suit.

18. Google and YouTube object to each interrogatory as unduly burdensome to the extent it seeks information about every version or release of purportedly accused technology or

functionality. The burden and expense associated with producing such information grossly outweighs its benefit and relevance.

19. Google and YouTube object to Xerox's definitions of the terms "Content Matching Products," "Google Content Matching Products," and "Accused Products" as vague, overbroad, unduly burdensome, and oppressive.

20. Google and YouTube object to Xerox's definition of the term "Google Maps" as vague, overbroad, unduly burdensome, and oppressive, particularly to the extent it encompasses products, services and software that display "information related to maps, addresses, directions, points of interest and/or businesses."

21. Google and YouTube object to Xerox's definition of the term "Google Video" as vague, overbroad, unduly burdensome, and oppressive, particularly to the extent it encompasses products, services and software that display "information related to videos."

22. Google and YouTube object to Xerox's definitions of the term "Youtube.com" as vague, overbroad, unduly burdensome, and oppressive, particularly to the extent it encompasses products, services and software that display "information related to videos."

23. Google and YouTube object to Xerox's definitions of the term "Predecessor Product," as vague, overbroad, unduly burdensome, and oppressive. In particular, it is not clear what "subsequent product, service, facility and/or computer software program" refers to. To the extent it is meant to refer to the accused products as defined elsewhere in Xerox's requests, Google and YouTube object on the ground that it cannot be expected to identify every "product, service, facility and/or computer software product" any part of which was "directly or indirectly used" in the creation of any accused product, regardless of relevance. The burden and expense associated with producing such information grossly outweighs its benefit and relevance.

24. Google and YouTube object to Xerox's definition of the term "Related Products," as vague, overbroad, unduly burdensome, and oppressive. Google and YouTube cannot be expected to identify all "products, service, facilities and/or computer software product" that "in any manner include, reference, utilize, call or invoke any of the Accused Products," regardless of relevance. The burden and expense associated with producing such information grossly outweighs its benefit and relevance.

25. Google and YouTube object to Xerox's definition of the term "'979 Accused Products" as vague, overbroad, unduly burdensome, and oppressive, particularly to the extent that it incorporates Xerox's overbroad definition of the term "Google Content Matching Products."

26. Google and YouTube object to Xerox's definition of the term "'994 Accused Products" as vague, overbroad, unduly burdensome, and oppressive, particularly to the extent that it incorporates Xerox's overbroad definitions of the terms "Google Maps," "Google Video," and "YouTube.com."

27. Google and YouTube object to each interrogatory, definition, and instruction to the extent the burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the case, the amount in controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

28. Google and YouTube respond to these interrogatories based upon its current understanding and reserves the right to supplement its responses if any additional information is identified at a later time and to make any additional objections that may become apparent.

29. Each of Google and YouTube's responses to these interrogatories are made subject to and without waiving, limiting, or intending to waive:

A. each of the above-stated general objections and reservations;

B. the right to object on the grounds of competency, privilege, relevancy, or materiality, or any other proper grounds, to the use of the documents or information, for any purpose, in whole or in part, in any subsequent step or proceeding in this action or any other action;

C. the right to object on any and all grounds, at any time, to other discovery requests involving or relating to the subject matter of the present litigation; and

D. the right at any time to revise, correct, and add to or clarify any of the responses herein.

30. By responding to these interrogatories, Google and YouTube do not waive or intend to waive, but expressly reserves, all of its statements, reservations, and objections, both general and specific, set forth in these responses, even though Google and YouTube may in some instances disclose information over the statements, reservations, and objections contained herein.

31. Pursuant to the Court's May 11, 2010 Order bifurcating the issues of infringement and invalidity from the issues of willfulness and damages, Google and YouTube will not be providing documents or information related to the issues of willfulness or damages until the commencement of bifurcated discovery on those issues.

STATEMENT ON SUPPLEMENTATION

Google and YouTube's investigation in this action is ongoing, and Google and YouTube reserve the right to rely on and introduce information in addition to any information provided herein at the trial of this matter or in other related proceedings. Google and YouTube have yet to receive complete discovery responses from Xerox. Google and YouTube anticipate that facts they learn later in the litigation may be responsive to one or more of the interrogatories and

Google and YouTube reserve their right to supplement these interrogatories at appropriate points throughout this litigation without prejudice and/or to otherwise make available to Xerox such information. Google and YouTube also reserve the right to change, modify or enlarge the following responses based on additional information, further analysis, and/or in light of events in the litigation such as rulings by the Court. Google and YouTube reserve the right to rely on or otherwise use any such amended response for future discovery, trial or otherwise.

SPECIFIC OBJECTIONS AND RESPONSES

Google and YouTube expressly incorporate the above objections as though set forth fully in response to each of the following individual interrogatories, and, to the extent that they are not raised in the particular response, Google and YouTube do not waive those objections.

INTERROGATORIES

INTERROGATORY NO. 7:

If you contend that any claim of the Patents in Suit is invalid and/or unenforceable, specify each claim that you contend is invalid and/or unenforceable and describe in full for each such claim the basis for your contention, identifying all prior art, all documents and all facts that you believe support your contention.

RESPONSE TO INTERROGATORY NO. 7:

Google and YouTube incorporate here in response to this interrogatory their General Objections above by this reference. Google and YouTube object to this interrogatory on the ground that it is compound and/or is comprised of subparts constituting more than one interrogatory. Google and YouTube further object to this interrogatory as premature as Xerox

has not yet set forth its allegations of infringement or identified all of the claims it intends to assert against Google and YouTube.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 7:

Subject to the foregoing general and specific objections, Google and YouTube further respond as follows:

The '994 Patent:

The '994 Patent is invalid under 35 U.S.C. § 101 to the extent that it attempts to cover unpatentable abstract ideas. *See Bilski*. *See Bilski v. Kappos*, 561 U.S. __, slip op. at 3 (2010).

The asserted claims of the '994 Patent are invalid under 35 U.S.C. § 102 and/or § 103 because at least the following prior art references anticipate the claims or render them obvious, alone or in combination:

Patents or Patent Applications:

US 5,367,619 (Diapaolo)

US 5,649,192 (Stucky)

US 5,987,440 (O'Neil)

US 5,077,666 (Brimm)

US 6,141,694 (Gardner)

Publications:

Rennison, Galaxy of News: An Approach to Visualizing and Understanding Expansive News Landscape, Proceedings of the 7th annual ACM symposium on User interface software and technology (1994)

Systems in Prior Public Use (beyond those already listed):

The Internet Movie Database

Google incorporates by reference herein the identification by other defendants of any Prior Art as invalidating claims of the '994 Patent under § 102 and/or § 103, to the extent such Prior Art is not specifically identified above. Google reserves the right to use any of the listed references in support of an argument based on a disclosed system in prior use.

Based on Plaintiff's apparent construction of the claims of the '994 patent (as expressed in its response to Google and YouTube.com's Interrogatory No. 2), and based at least upon the use of the terms "performing data analysis operations," "generate data and analysis results," "independently storing the knowledge, in the form of documents," "document database," "validating the accuracy of the knowledge," "making the stored knowledge available across a network," "managing the flow of information," "integration of the data and analysis results with the documents," "updating the documents," and "a change in the data or analysis results" the claims of the '994 Patent are invalid under 35 U.S.C. § 112 for indefiniteness, non-enablement, and inadequate written description.

The '979 Patent:

The '979 Patent is invalid under 35 U.S.C. § 101 to the extent that it attempts to cover unpatentable abstract ideas. *See Bilski*. *See Bilski v. Kappos*, 561 U.S. __, slip op. at 3 (2010).

The asserted claims of the '979 Patent are invalid under 35 U.S.C. § 102 and/or § 103 because at least the following prior art references anticipate the claims or render them obvious, alone or in combination:

Patents or Patent Applications:

US 6,546,386 (Black)

US 7,225,180 (Donaldson)

US 6,236,768 (Rhodes)

US 5,893,092 (Driscoll)

US 6,363,378 (Conklin)

US 6,947,920 (Alpha)

US 7,047,242 (Ponte)

US 7,089,236 (Stibel)

US 5,488,725 (Turtle)

US 5,748,954 (Mauldin)

US 5,963,940 (Liddy)

US 6,038,561 (Snyder)

US 6,161,084 (Messerly)

US 6,519,586 (Anick)

US 2003/0014405 (Shapiro)

US 2002/0052898 (Schilit)

US 5,321,833 (Chang)

PCT/US00/41713 (publication no: WO 20 01/44992A1) (YellowBrix)

Publications:

Pazzani, et al., Syskill & Webert: Identifying interesting web sites, AAAI-96 Proceedings (1996)

Salton, Another Look at Automatic Text-Retrieval Systems, Comm. of ACM (1986)

Google incorporates by reference herein the identification by other defendants of any Prior Art as invalidating claims of the '979 Patent under § 102 and/or § 103, to the extent such

Prior Art is not specifically identified above. Google reserves the right to use any of the listed references in support of an argument based on a disclosed system in prior use.

The '979 Patent may also be invalid under 35 U.S.C. §§ 102(f) and 116 for failing to include all inventors of the claimed subject matter, pending further investigation.

Google and YouTube.com reserve the right to supplement this response as their investigation continues.

INTERROGATORY NO. 8:

If you contend that any of your '979 Accused Products do not infringe any claim of the '979 Patent, specify, separately for each '979 Accused Product, each claim that you contend is not infringed and describe in full for each such claim the basis for your contention, identifying all documents and all facts that you believe support your contention.

RESPONSE TO INTERROGATORY NO. 8:

Google and YouTube incorporate here in response to this interrogatory their General Objections above by this reference. Google and YouTube object to this interrogatory on the ground that it is compound and/or is comprised of subparts constituting more than one interrogatory. Google and YouTube further object to this interrogatory as premature as Xerox has not yet set forth its allegations of infringement or identified all of the claims of the '979 Patent it intends to assert against Google and YouTube.

Subject to Google's general and specific objections, Google and YouTube respond that Google does not infringe any claim of the '979 Patent. Google and YouTube further respond that in accordance with Federal Rule of Civil Procedure 33(d), all or part of the non-objectionable discovery sought may be obtained from documents that will be produced. Google and YouTube

reserve the right to supplement this interrogatory as its investigation continues, including after Xerox sets forth its allegations of infringement and identifies the claims of the '979 Patent that it intends to assert.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 8:

Subject to Google and YouTube's foregoing specific and general objections, Google and YouTube further state that Xerox's infringement allegations disclosed in response to Google and YouTube's first set of interrogatories are deficient, conclusory, and do not provide sufficient information for Google to discern the nature of Xerox's infringement allegations. Google and YouTube.com reserve the right to supplement this response as their investigation continues.

Nonetheless, to the extent Google and YouTube understand Xerox's infringement allegations as currently set forth, Google and YouTube respond that Google AdSense and Google AdWords do not infringe claims 1 or 18 of the '979 Patent because they do not practice at least the following common limitations of claims:

'979 Patent Limitations Common to Claims 1 and 18	**Xerox's Infringement Allegations from Response to Interrogatory No. 2**	**Response**
defining an organized classification of document content with each class in the organized classification of document content having associated therewith a classification label; each classification label corresponding to a category of information in an information retrieval system;	Google AdSense/AdWords defines and utilizes an organized classification of document content (*e.g.* webpage content) with classification identifiers corresponding to categories in the AdSense/AdWords information retrieval system.	Xerox's infringement allegations are conclusory and do not provide sufficient evidence of how Google allegedly "defin[es] an organized classification" and/or uses a "classification label corresponding to a category of information in an information retrieval system" for Google to respond fully. Google AdSense and AdWords do not "define an organized classification of document content." Rather,

		Google uses a predefined classification hierarchy.
automatically identifying a set of entities in the selected document content for searching additional information related thereto using the information retrieval system	Google AdSense/AdWords employs algorithms to analyze webpages and to identify information (including, without limitation, non-compositional compounds) in the webpage content for searching additional information (*e.g.* advertisements) using the AdSense/AdWords information retrieval system.	Xerox's infringement allegations are conclusory and do not provide sufficient evidence of how Google allegedly "automatically identif[ies] a set of entities" and/or "search[es] additional information related thereto" for Google to respond fully. AdSense does not identify a set of information (including non-compositional compounds) in the selected document content for searching additional information. Non-compositional compounds in the document are not directly submitted to the accused information retrieval system.
automatically categorizing the selected document content using the organized classification of document content for assigning the selected document content a classification label from the organized classification of content; and	Google AdSense/AdWords automatically categorizes webpages using an organized classification of document content and assigns each webpage a classification or classifications corresponding to a category or categories in the AdSense/AdWords information retrieval system	Xerox's infringement allegations are conclusory and do not provide sufficient evidence of how Google allegedly "automatically categoriz[es]… using the organized classification… for assigning a classification label from the organized classification of content" for Google to respond fully. The claims do not permit multiple classification labels as Xerox's chart suggests. Classification of content in AdSense and AdWords is not necessarily limited to a single classification label.
automatically formulating the query to restrict a search at the information retrieval system	Google AdSense/AdWords automatically formulates queries at the	Xerox's infringement allegations are conclusory and do not provide sufficient

for information concerning the set of entities to the category of information in the information retrieval system identified by the assigned classification label.	AdSense/AdWords information retrieval system for information (*e.g.* advertisements) concerning entities identified in a webpage. Such queries are restricted to the category or categories of information corresponding to the classification or classifications of the webpage.	evidence of how Google allegedly "restrict[s] a search at the information retrieval system… concerning the set of entities to the category of information in the information retrieval system identified by the assigned classification label" for Google to respond fully. AdSense and AdWords do not "automatically formulate a query." AdSense and AdWords do not automatically formulate a query to restrict a search at the information retrieval system. Rather, Google AdSense uses terms related to the content of a document to expand the scope of the search for appropriate ads. The claims do not permit multiple classification labels as Xerox's chart suggests. Classification of content in AdSense and AdWords is not necessarily limited to a single classification label.

INTERROGATORY NO. 9:

If you contend that any of your '994 Accused Products do not infringe any claim of the '994 Patent, specify, separately for each '994 Accused Product, each claim that you contend is not infringed and describe in full for each such claim the basis for your contention, identifying all documents and all facts that you believe support your contention.

RESPONSE TO INTERROGATORY NO. 9:

Google and YouTube incorporate here in response to this interrogatory their General Objections above by this reference. Google and YouTube object to this interrogatory on the ground that it is compound and/or is comprised of subparts constituting more than one interrogatory. Google and YouTube further object to this interrogatory as premature as Xerox has not yet set forth its allegations of infringement or identified all of the claims of the '994 Patent it intends to assert against Google and YouTube.

Subject to Google's general and specific objections, Google and YouTube respond that Google and YouTube do not infringe any claim of the '994 Patent. Google and YouTube further respond that in accordance with Federal Rule of Civil Procedure 33(d), all or part of the non-objectionable discovery sought may be obtained from documents that will be produced. Google and YouTube reserve the right to supplement this interrogatory as its investigation continues, including after Xerox sets forth its allegations of infringement and identifies the claims of the '994 Patent that it intends to assert.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9:

Subject to Google and YouTube's foregoing specific and general objections, Google and YouTube further state that Xerox's infringement allegations disclosed in response to Google and YouTube's first set of interrogatories are deficient, conclusory, and do not provide sufficient information for Google to discern the nature of Xerox's infringement allegations. Google and YouTube.com reserve the right to supplement this response as their investigation continues.

Nonetheless, to the extent Google and YouTube understand Xerox's infringement allegations as currently set forth, Google and YouTube respond that Google Maps, Google Video, and YouTube.com do not meet at least the following limitations:

'994 Patent Limitations of Claim 9	Xerox's Infringement Allegations from Response to Interrogatory No. 2	Response
performing data analysis operations using the data stored in the first database to generate data and analysis results;	Google Maps, Google Video, and YouTube.com perform data analysis operations on the data (*e.g.* user comments, reviews, and/or ratings) to generate data and analysis results in the form of, for example, aggregate ratings, average ratings, number of comments and/or numbers of ratings or reviews.	Xerox's infringement allegations are conclusory and do not provide sufficient evidence of how Google allegedly performs data analysis and/or "generat[es] data and analysis results" for Google to respond. Xerox also fails to distinguish which elements of Google's systems are alleged to be "data" and which are alleged to be "analysis results."
independently storing knowledge, in the form of documents, in a document database, including validating the accuracy of the knowledge and making the stored knowledge available across a network;	Google Maps independently stores information (*e.g.* information relating to geographic locations, businesses, restaurants, points of interest and other elements) in the form of documents in a document database, and validates that this information is accurate. This information is made available across the internet. Google Video and YouTube.com independently stores information (*e.g.* information relating to videos) in the form of documents in a document/video database, and validate that this information is accurate. This information is made available across the internet.	Xerox's infringement allegations are conclusory and do not provide sufficient evidence of how Google allegedly "stor[es] knowledge… in the form of documents," and/or "validat[es] the accuracy of the knowledge" for Google to respond fully. Google Maps does not "independently store" "information relating to geographic locations, businesses, restaurants, points of interest and other elements" "in the form of documents." Rather, underlying information is stored in a database. A webpage containing some or all of this information is dynamically generated each time it is requested. Google Maps, Google Video, and YouTube.com do not "independently store" user

		ratings, user comments, or reviews "in the form of documents." Rather, underlying information is stored in a database. In Google Maps, for example, a webpage containing some or all of this information is dynamically generated each time it is requested.
managing the flow of information between the first database and the document database to enable the integration of the data and analysis results with the documents and to automatically update the documents upon the occurrence of a change in the data or analysis results.	Google Maps, Google Video and YouTube.com manage the flow of information between the first database and the document databases to enable the integration of data and analysis results (*e.g.* aggregate user ratings, average user ratings, number of comments, number of ratings or reviews) with the documents identified above so that those documents are updated to reflect the most recent user reviews, comments and/or ratings when such reviews, comments and/or ratings change.	Xerox's infringement allegations are conclusory and do not provide sufficient evidence of how Google allegedly "manag[es] the flow of information" and/or "integrat[es]… the data and the analysis results with the documents" for Google to respond fully. Google Maps, Google Video, and YouTube.com do not automatically update documents on the occurrence of a change. Rather, in Google Maps, for example, a webpage is dynamically generated as requested.

Respectfully submitted,
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Dated: July 12, 2010

CERTIFICATE OF SERVICE

I, David E. Moore, hereby certify that on July 12, 2010, true and correct copies of the within document were served on the following counsel of record at the addresses and in the manner indicated:

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