

EXHIBIT 1

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PAUL C. SAUNDERS

December 28, 2010

Xerox Corp. v. Google Inc., et al., C.A. No. 10-136-LPS-MPT

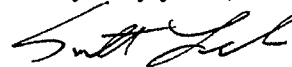
Dear Gene:

Enclosed please find a CD of documents bearing bates numbers XRX01031223 to XRX01036847. Please note that various documents in this production have been designated "Confidential" or "Confidential - Outside Counsel Only".

With this CD, Xerox believes it has completed document production in this case. Xerox requests that Google likewise confirms that it has completed document production or provide Xerox with a date by which Google's production will be complete.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,



Scott A. Leslie

Eugene Novikov
Quinn Emanuel Urquhart & Sullivan LLP
50 California Street, 22nd Floor
San Francisco, CA 94111-4788

BY EMAIL & UPS

EXHIBIT 2



RE: Xerox v. Google - documents produced by third party Amazon .com

Eugene Novikov <eugenenovikov@quinnemanuel.com> to: Scott Leslie 01/04/2011 07:33 PM

Cc: Andrew Hale, Andrei Harasymiak, "anthony.fenwick@davispolk.com", "Moore, David E.", John Day, "Dyer, Jesse", "jill.zimmerman@davispolk.com", "rhorwitz@potteranderson.com", Richard Stark

2 attachments



11-2 Movie Ratings Report - rec_arts_movies Google Groups.mht A - MHT.zip

Scott, attached is the communication as Google and YouTube received it from Amazon attaching the files we forwarded earlier.

From: Scott Leslie [mailto:SLeslie@cravath.com]

Sent: Thursday, December 23, 2010 2:30 PM

To: Eugene Novikov

Cc: Andrew Hale; Andrei Harasymiak; 'anthony.fenwick@davispolk.com'; Moore, David E.; John Day; Dyer, Jesse; 'jill.zimmerman@davispolk.com'; rhorwitz@potteranderson.com; Richard Stark

Subject: Re: Xerox v. Google - documents produced by third party Amazon.com

Gene -

We are in receipt of the files you forwarded from Amazon.com in response to Defendants' subpoena. However, we do not have whatever correspondence may have accompanied these files from Amazon, which is particularly important given that the files appear to be in native format (without accompanying database load files or bates numbering) and there is no indication of any confidentiality designations made by Amazon.

Please forward at your earliest convenience any such correspondence from Amazon and confirm that what you have sent represents the entirety of what Amazon has thus far provided Defendants in response to the subpoena.

In addition, Xerox requests that Defendants produce all communications with third parties regarding subpoenas served by Defendants in this case.

Best,

Scott

Scott A. Leslie
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825 Eighth Avenue
New York, NY 10019
(212) 474-1778 (phone)
(212) 474-3700 (fax)

From: Eugene Novikov <eugenenovikov@quinnemanuel.com>
To: Scott Leslie <SLeslie@cravath.com>, Andrew Hale <AHale@cravath.com>, Richard Stark <RStark@cravath.com>, Andrei Harasymiak <aharasymiak@cravath.com>, John Day <jday@ashby-geddes.com>
Cc: "anthony.fenwick@davispolk.com" <anthony.fenwick@davispolk.com>, "jill.zimmerman@davispolk.com" <jill.zimmerman@davispolk.com>, "Moore, David E." <dmoore@potteranderson.com>, "rhorwitz@potteranderson.com" <rhorwitz@potteranderson.com>, "Dyer, Jesse" <jesse.dyer@davispolk.com>
Date: 12/21/2010 09:51 PM
Subject: Xerox v. Google - documents produced by third party Amazon.com

Counsel: Please see attached a production from third party Amazon.com responsive to Defendants' subpoena.

Gene

Eugene Novikov
Associate,
Quinn Emanuel Urquhart & Sullivan, LLP

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[attachment "11-2 Movie Ratings Report - rec_arts_movies Google Groups.mht" deleted by Scott Leslie/NYC/Cravath] [attachment "A - MHT.zip" deleted by Scott Leslie/NYC/Cravath]

This e-mail is confidential and may be privileged. Use or disclosure of it by anyone other than a designated addressee is unauthorized. If you are not an intended recipient, please delete this e-mail from the computer on which you received it.

----- Message from "Radliff, Lynn" <lradliff@amazon.com> on Mon, 20 Dec 2010 11:12:54 -0800 -----

To: Brian Howard <brianhoward@quinnemanuel.com>

cc: "DeVore, Andrew" <adevore@amazon.com>

Subject Privileged and Confidential - Third Party Subpoena - Xerox v.
: Google

brianhoward@quinnemanuel.com

Brian Howard
Quinn Emanuel Urquhart & Sullivan, LLP
50 California Street, 22nd Floor
San Francisco, CA 94111

Re: Subpoena in Xerox v. Google case

Dear Mr. Howard;

Pursuant to Fed. R. Civ. P. 45(c)(2)(B), Amazon.com, Inc. ("Amazon.com") objects to the subpoena served by the Plaintiff in the above referenced litigation (the "Subpoena") for the following reasons:

Amazon.com is not a party to this litigation and objects to producing information, documents, and materials that are in the possession of the parties, including information and documents that the parties may seek from each other through discovery. To the extent the Subpoena seeks such information and documents, it is an improper attempt to circumvent the rules regarding discovery between parties in the Federal Rules of Civil Procedure, and is unduly burdensome on Amazon.com.

To the extent the Subpoena seeks Amazon.com's internal information, documents, and materials, Amazon.com objects to the Subpoena as overly broad, unduly burdensome, and as seeking confidential documents and information not reasonably calculated to lead to the discovery of admissible evidence. Amazon.com objects to the Subpoena to the extent it seeks information, documents, and materials that are protected by the attorney-client privilege, work product immunity, or any other applicable privilege or immunity.

Amazon.com objects to the Subpoena to the extent it seeks Amazon.com's confidential, proprietary, and trade secret information and/or similar information concerning third parties.

Amazon.com objects to the Subpoena to the extent it seeks to impose obligations beyond those allowed by the Federal Rules of Civil Procedure.

Amazon.com reserves the right to amend and supplement these general objections with specific objections to each and every discovery request contained in the Subpoena.

Despite these objections, Amazon.com is willing to provide the attached documents. Please note that these documents are designated confidential and may be used only for the purposes of this litigation. Please feel free to contact me if you have any additional questions or if you need further assistance.

Lynn Radliff
Senior Litigation Paralegal
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EXHIBIT 3

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June 15, 2010

Xerox Corp. v. Google Inc., et al., C.A. No. 10-136-JJF-MPT

Dear David and Tony:

As the parties discussed via teleconference on Friday, June 4, I provide a revised version of the draft Protective Order for the above-captioned matter and a comparison of this version to defendants' May 28 version. This current draft reflects provisions on which the parties are largely in agreement as well as those on which the parties continue to disagree.

For those provisions that we have agreed upon, at least in principle, please let me know if you have any comments or concerns with our revisions. For the provisions that are still unresolved, we have incorporated both plaintiff's and defendants' competing proposals in this draft. In an effort to expedite this process, I provide below a description of the primary remaining points of contention and Xerox's position on each:

1. In-House Counsel Review of "Confidential Outside Counsel Only" Documents and Information (§ 1.B.2(c)) – We have generally agreed that certain in-house counsel may review various papers (see new proposed language on specifics) that contain "Confidential Outside Counsel Only" information, so long as such in-house counsel are already identified in the Protective Order and not involved in patent prosecution activities. We additionally propose to enable identified in-house counsel to review any materials designated "Confidential Outside Counsel Only" information, but only to the extent that such review is conducted at the offices of outside litigation counsel. We believe this strikes the appropriate balance between enabling in-house counsel to adequately advise their clients on this case and protecting the confidential material of the producing parties.
2. Location of Source Code Computers (§ 1.C.2(a)) – Xerox has accepted defendants' proposal to maintain produced source code on non-networked computers at the offices of the producing parties' counsel. However, as part of this compromise, Xerox has proposed that the computers be made

available at counsel's offices in both the Bay Area and in New York, and defendants have resisted this arrangement. Given that the computers would remain under the direct control of the producing parties' counsel throughout the course of this case, it is not clear how Xerox's proposal would add any complexity or risk to the producing parties. In contrast, having computers available for review on both coasts would substantially reduce the costs incurred and time needed for Xerox counsel and consultants to review source code. If defendants insist on maintaining source code computers at a single location, then Xerox proposes that the computers be housed at Cravath's offices at 825 Eighth Avenue, New York, NY.

3. Costs Surrounding Source Code Computers and Peripherals (§ 1.C.2(b)) – Under defendants' proposal, the producing party may request that Xerox reimburse it for costs associated with the computers, peripherals and specifically requested software tools that are to be used, at defendants' insistence, to review source code. Xerox has proposed splitting these costs among the parties. We believe that Xerox's proposal is both reasonable and consistent with the normal practice regarding source code discovery.
4. Printing Source Code (§§ 1.C.2(d)-(e)) – Defendants insist that Xerox obtain hard copies of source code only by requesting print outs from the producing party, which the producing party may either provide within 48 hours (or four business days if the print outs are over 200 pages) or, if it objects, delay providing until the Court resolves the objection. While Xerox is willing to go through the process of requesting print outs from defendants, Xerox believes that a system that allows defendants to delay the delivery of hardcopies unilaterally and indefinitely is unworkable and unnecessary. First, there should be no need for the producing parties to conduct up to four business days' worth of additional review prior to printing in hard copy what they will have already produced through the discovery process. Second, if defendants have security concerns here, I note that the Protective Order contains (again at defendants' insistence) a host of restrictions on the use, storage and dissemination of source code hard copies. Finally, Xerox expects that all parties will act in good faith in accordance with both the letter and spirit of this Protective Order, and this includes making reasonable requests for source code print outs. Given these points, there seems to be little actual risk to defendants in providing source code print outs in a timely fashion, while there is the potential for substantial hardship to Xerox if defendants can object to and withhold source code print outs and thereby delay Xerox's preparation of its case.
5. Source Code Computers Available for Depositions (§ 1.C.2(k)(4)) – Please note that we have added a sentence to the Protective Order that would require the producing party, upon request, to make source code computers available for depositions. We believe this addition should be uncontroversial, and will aid in increasing the efficiency of depositions

and limiting the number of source code print outs that the parties must bring to applicable depositions. But I note the addition here because it was not discussed during the June 4 teleconference.

6. Excluding Reexamination Proceedings from the Prosecution Bar (§ 2.C) – For purposes of the prosecution bar, defendants have proposed a broad definition of “Prosecution Activity” that includes any participation in reexamination proceedings. Xerox has proposed carving out reexamination proceedings from the prosecution bar for fairness, efficiency and cost reasons. Fundamentally, we believe that any reexamination should be viewed as an extension of the litigation. Moreover, because claims cannot be expanded in reexamination, we believe defendants cannot have any real objection to this. Moreover, because litigation counsel may already have reviewed the public prior art that would form the basis of a reexamination involving the patents in suit, litigation counsel should be able to provide its opinions to reexamination counsel so as to not duplicate work and increase costs for clients. We believe this proposal is in line with current case law in the District of Delaware. Specifically, I draw your attention to *Kenexa Brassring Inc. v. Taleo Corp.*, Civ. A. No. 07-521-SLR, 2009 WL 393782 (D.Del. Feb. 18, 2009), in which Judge Robinson declined to include reexamination proceedings under a prosecution bar for reasons that apply in full here, namely, because “[t]he scope of claims cannot be enlarged by amendment in a reexamination”, and, “[b]ecause reexamination involves only the patent and the prior art, defendant’s confidential information is basically irrelevant to the reexamination”. *Id.* at * 2 (citations omitted). Excluding reexamination proceedings from a prosecution bar is even more appropriate where defendants file a request for *inter partes* reexamination of a patent in suit, because that reexamination is then considered “part and parcel of the instant case”. *Id.* (citation omitted). I attach Judge Robinson’s full opinion in *Kenexa* for your review.

As I have noted, Xerox believes its positions are both reasonable and fair. Please let me know as soon as possible if defendants are willing to reconsider their positions on any of the above issues. If we cannot resolve these issues promptly, we will present them to the Court for resolution.

Very truly yours,

/s/

Scott A. Leslie

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Encls.

BY EMAIL

EXHIBIT 4

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

XEROX CORPORATION,)	
)	
Plaintiff,)	
)	
v.)	
)	C.A. No. 10-136 (JJF) (MPT)
GOOGLE, INC., YAHOO! INC., RIGHT)	
MEDIA INC., RIGHT MEDIA LLC,)	JURY TRIAL DEMANDED
YOUTUBE, INC., and YOUTUBE, LLC,)	
)	
Defendants.)	
)	
)	
)	
)	

**YAHOO! INC. AND RIGHT MEDIA LLC’S SUPPLEMENTAL RESPONSES TO
INTERROGATORY NOS. 7 THROUGH 9 OF
XEROX’S FIRST SET OF INTERROGATORIES**

Defendants and Counter-Claim Plaintiffs Yahoo! Inc. and Right Media LLC (collectively, “Yahoo”) provide the following supplemental responses to Plaintiff Xerox Corporation’s (“Xerox”) April 23, 2010 First Set of Interrogatories.¹ These supplemental responses are made in light of ongoing discovery and are based on information presently known to Yahoo, which reserves the right to supplement or modify these supplemental responses based on the discovery of additional or different information and/or in light of expert opinion and/or the Court’s claim construction. These supplemental responses are provided without the benefit of the Court’s claim construction or knowledge of Xerox’s claim construction positions, and with the understanding that a range of claim construction positions may potentially be advanced by the parties and/or adopted by the Court. These supplemented responses therefore should not be

¹ Right Media LLC responds on its own behalf and as the successor in interest to Right Media Inc., which no longer exists.

deemed to admit the correctness or incorrectness of any construction of any limitation of any asserted patents claim.

SUPPLEMENTAL RESPONSES TO 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:

Yahoo maintains and fully incorporates herein each of the general objections and specific objections to this interrogatory listed in Yahoo's May 27, 2010 Objections and Responses to Xerox's First Set of Interrogatories. Subject to and without waiving these objections, Yahoo responds that the asserted claims of the Patents in Suit are invalid for at least the following reasons.

'979 Patent

Invalidity Under 35 U.S.C. § 101

Claims 1 and 18 of the '979 Patent are invalid under 35 U.S.C. § 101 because they claim unpatentable abstract ideas. Moreover, both claims fail the "machine-or-transformation" test indicative of § 101 patent eligible subject matter. Under the machine-or-transformation test, a claimed method is not patentable unless it (1) is tied to a particular machine or apparatus, or (2) transforms a particular article into a different state or thing. *See Bilski v. Kappos*, 561 U.S. ___, slip op. at 3 (2010). The method of Claim 1, which analyzes document content to generate abstract queries, recites only general purpose computing equipment and does not meet the statutory requirements for patentable subject matter. Claim 18 is also invalid under 35 U.S.C. §

101 because the mere recitation of general purpose computer and software components does not transform unpatentable method steps into patent-eligible subject matter and does not constitute recitation of a “particular machine.”

Invalidity Under 35 U.S.C. §§ 102 and 103

Claims 1 and 18 of the ‘979 Patent are invalid under 35 U.S.C. §§ 102 and/or 103 in view of the prior art, including that identified below.

The following patents and patent applications are prior art under at least 35 U.S.C § 102(e): U.S. Patent Application 2002/0147738; U.S. Patent 6,122,647; U.S. Patent 6,473,752; U.S. Patent 6,606,644; U.S. Patent 6,829,780; U.S. Patent 7,076,443; U.S. Patent 7,225,142; U.S. Patent 7,418,657; and U.S. Patent 7,451,099 (collectively the “‘979 Prior Art Patents”).

The following systems were in public use prior to the invention date of the ‘979 Patent and are prior art under 35 U.S.C. §§ 102(a) and/or 102(b), and are 102(g)(2) prior inventions: eZula, YellowBrix IntelliClix, WebACE, IntelliZap / Zapper, and SemioMap Discovery Search (collectively the “‘979 Prior Art Systems”).

The following publications are prior art under 35 U.S.C. §§ 102(a) and/or 102(b): Finkelstein et al., *Placing Search in Context: The Concept Revisited*, Proc. of the 10th International World Wide Web Conference (May 1-5, 2001); Han et al., *WebACE: A Web Agent for Document Categorization and Exploration*, Proc. of the 2nd International Conference on Autonomous Agents (May 1998) (the “‘979 Prior Art Publications”); and Wiesner et al., *Context Matching System and Method*, WO/2001/044992 (June 21, 2001).

The ‘979 Prior Art Patents, the ‘979 Prior Art Systems and the ‘979 Prior Art Publications are collectively referred to as the “‘979 Prior Art.” The status of certain pieces of the ‘979 Prior Art may be affected by the Court’s claim construction. In addition, some items of

art are presently believed to disclose certain elements of the asserted claims inherently. To the extent it is found that such elements are not inherently disclosed, it may be that the relevant claims are alternatively rendered obvious by the asserted reference and the knowledge of a person of ordinary skill in the art alone, or by various other art in combination with the asserted reference. A person of ordinary skill in the art would have found it obvious to combine each '979 Prior Art reference with one or more of the other '979 Prior Art references at least because each such reference relates to analyzing document content, and primarily the content of webpages, to find related information and/or relevant advertisements.

Yahoo incorporates by reference herein the identification by other defendants of any Prior Art as invalidating claims 1 and/or 18 of the '979 Patent under sections 102 and/or 103, to the extent such Prior Art is not specifically identified above. Yahoo reserves the right to use any of the identified references in support of an argument based on a disclosed system in prior use.

Invalidity Under 35 U.S.C. § 102(f) and 116

Pending further investigation, claims 1 and/or 18 '979 Patent may be invalid under 35 U.S.C. §§ 102(f) and 116 for failing to include all inventors of the claimed subject matter.

'994 Patent

Invalidity Under 35 U.S.C. § 101

Claim 9 of the '994 Patent is invalid under 35 U.S.C. § 101 because it claims an unpatentable abstract idea. Moreover, it fails the "machine-or-transformation" test indicative of § 101 patent eligible subject matter. The method of Claim 9, which relates to generic approaches to integrating abstract data and results of analyses thereof with abstract electronic documents, recites only general purpose computing and database equipment and does not meet the statutory requirements for patentable subject matter.

Invalidity Under 35 U.S.C. §§ 102 and 103

Claim 9 of the '994 Patent is invalid under 35 U.S.C. §§ 102 and/or 103 in view of the prior art, including that identified below.

The following patents are prior art under at least 35 U.S.C § 102(e): U.S. Patent 5,564,044; U.S. Patent 5,630,126; U.S. Patent 5,694,192; U.S. Patent 5,659,676; U.S. Patent 5,913,032; U.S. Patent 6,094,684 (collectively the “'994 Prior Art Patents”).

The following systems were in public use prior to the invention date of the '994 Patent and are prior art under 35 U.S.C. §§ 102(a) and/or 102(b), and are 102(g)(2) prior inventions: Amazon.com Product Listings, the Internet Movie Database (IMDB), and Crystal Reports (collectively the “'994 Prior Art Systems”).

The following publications are prior art under 35 U.S.C. §§ 102(a) and/or 102(b): Silvano Pozzi, et al., *ALIVE: A Distributed Live-link Documentation System*, Electronic Publishing, Vol. 5(3) (Sept. 1992), 131-142 and Premysl Brada, et al., *Dynamic Information Access Using WWW*, Proceedings of the 4th Conference on Interdisciplinary Information Management (1996), 97-102 (the “'994 Prior Art Publications”).

The '994 Prior Art Patents, the '994 Prior Art Systems and the '994 Prior Art Publications are collectively referred to as the “'994 Prior Art.” The status of certain pieces of the '994 Prior Art may be affected by the Court’s claim construction. In addition, some items of art are presently believed to disclose certain elements of the asserted claims inherently. To the extent it is found that such elements are not inherently disclosed, it may be that the relevant claims are alternatively rendered obvious by the asserted reference and the knowledge of a person of ordinary skill in the art alone, or by various other art in combination with the asserted reference. A person of ordinary skill in the art would have found it obvious to combine each

'994 Prior Art reference with one or more of the other '994 Prior Art references at least because each such reference relates to managing relationships between documents and data and analysis results.

Yahoo incorporates by reference herein the identification by other defendants of Prior Art as invalidating claim 9 of the '994 Patents under sections 102 and/or 103, to the extent such art is not specifically identified above. Yahoo reserves the right to use any of the identified references in support of an argument based on a disclosed system in prior use.

Invalidity Under 35 U.S.C. § 112

Claim 9 of the '994 Patent is invalid under at least plaintiff's apparent construction (to the extent discernable, if at all, from its response to plaintiff's interrogatory responses) for at least the following reasons: The claim limitations "storing knowledge," "validating the accuracy of the knowledge", "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" and "to generate data and analysis results" do not meet the written description and enablement requirements of 35 U.S.C. § 112. To the extent that the term "knowledge" and the phrases "validating the accuracy of the knowledge", "managing the flow of information", "data and analysis results" and "data or analysis results" are insolubly ambiguous, claim 9 is indefinite.

Yahoo reserves the right to supplement, revise or render more specific its response to Interrogatory No. 7.

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:

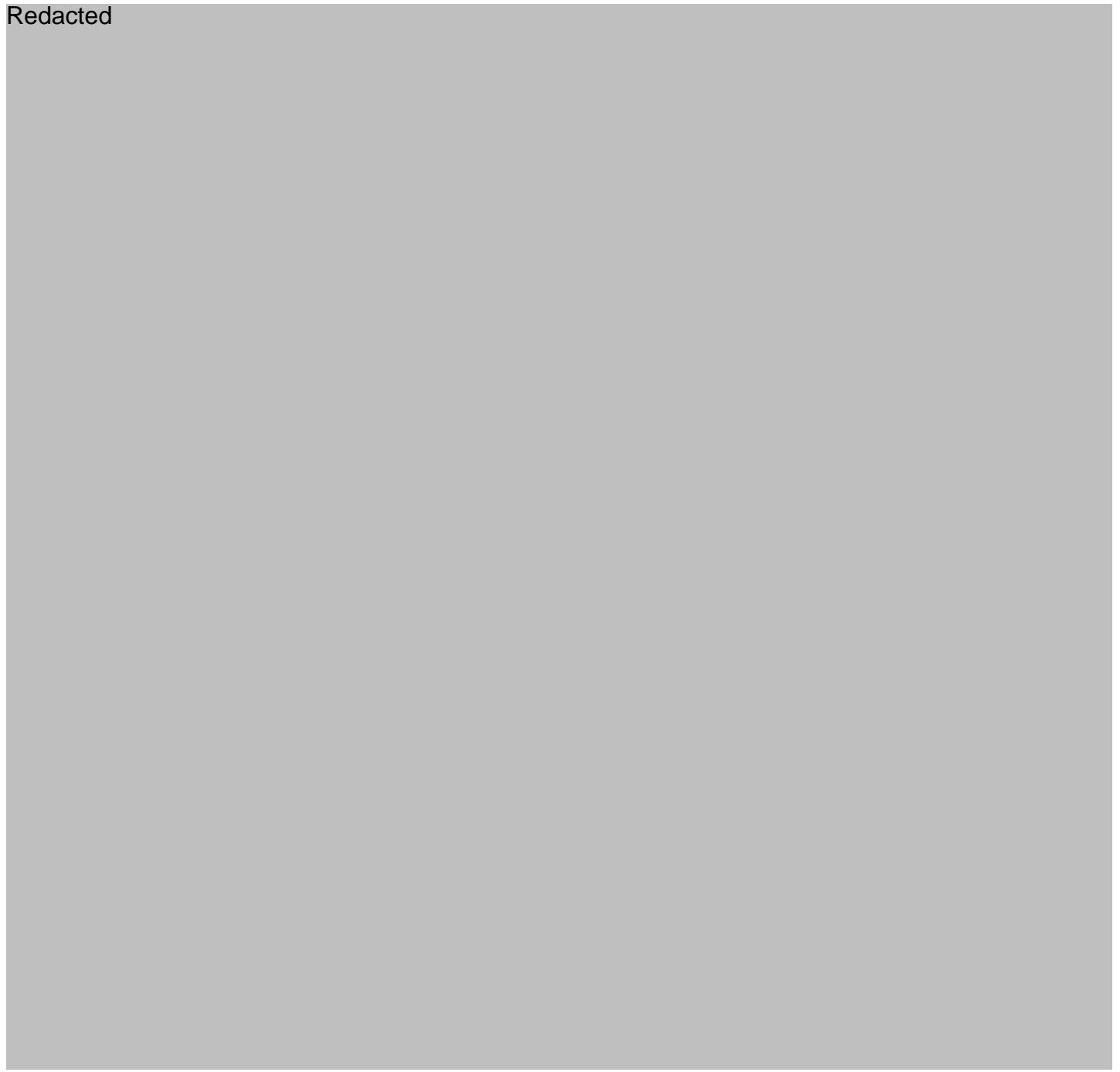
Yahoo provides its supplemental response to this interrogatory in view of Xerox's May 27, 2010 response to Yahoo and Right Media's first interrogatory. While Xerox clearly identified the claims of the Patents in Suit that it is asserting in this action, Xerox's response lacks meaningful detail in setting forth the factual bases for its infringement contentions and does not provide sufficient information for Yahoo to discern the nature of Xerox's infringement allegations. Yahoo reserves the right to supplement its response to this interrogatory if and when Xerox provides substantive responses to Yahoo's interrogatories.

Xerox's response is also unclear in identifying the accused products, in particular with respect to its contention that "Yahoo! Search Marketing" and "Yahoo! Publisher Network" infringe claims 1 and 18 of the '979 Patent. Based on correspondence with counsel for Xerox, Yahoo understands that Xerox's references to Yahoo! Search Marketing and Yahoo! Publisher Network are intended in substance to accuse certain Yahoo! Content Match processes to the extent (if any) offered in association with these names. Accordingly, Yahoo provides this supplemental response with the understanding that the instrumentalities that Xerox accuses of infringing the '979 Patent are Yahoo! Content Match, Y!Q Contextual Search, and Right Media Exchange (collectively the "'979 Accused Instrumentalities"). In addition, Yahoo maintains and fully incorporates herein each of the general objections and specific objections to this

interrogatory listed in Yahoo's May 27, 2010 Objections and Responses to Xerox's First Set of Interrogatories. Subject to and without waiving these objections, Yahoo responds that the '979 Accused Instrumentalities do not infringe the asserted claims of the Patents in Suit for at least the following reasons.


REMAINDER OF RESPONSE DESIGNATED CONFIDENTIAL OUTSIDE COUNSEL ONLY

Redacted

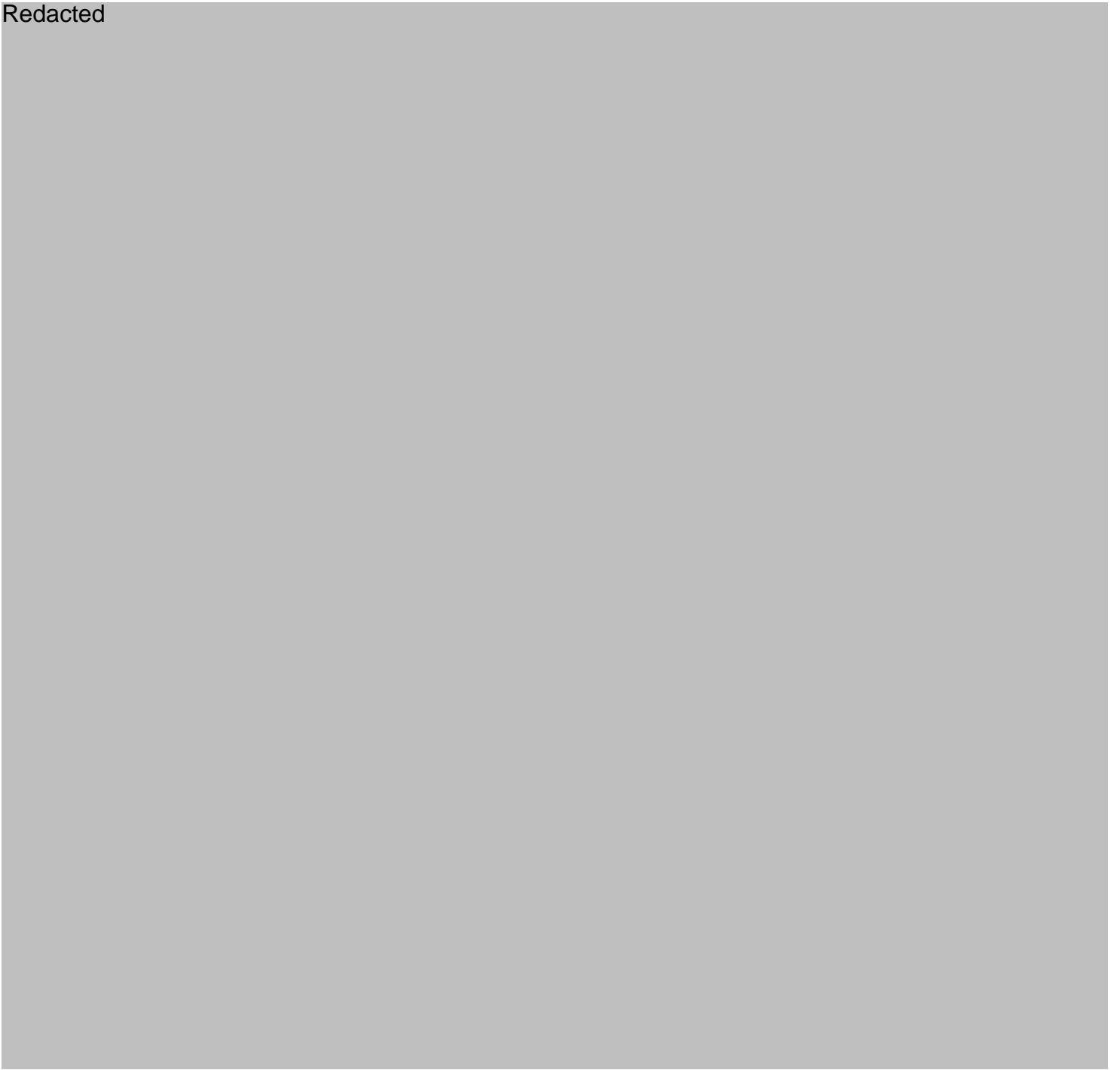


RESPONSE DESIGNATED CONFIDENTIAL OUTSIDE COUNSEL ONLY

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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

RESPONSE DESIGNATED CONFIDENTIAL OUTSIDE COUNSEL ONLY

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:

Yahoo provides its supplemental response to this interrogatory in view of Xerox's May 27, 2010 response to Yahoo and Right Media's first interrogatory. While Xerox clearly identified the claims of the Patents in Suit that it is asserting in this action, Xerox's response lacks meaningful detail in setting forth the factual bases for its infringement contentions and does not provide sufficient information for Yahoo to discern the nature of Xerox's infringement allegations. Yahoo reserves the right to supplement its response to this interrogatory if and when Xerox provides substantive responses to Yahoo's interrogatories. In addition, Yahoo maintains and fully incorporates herein each of the general objections and specific objections to this interrogatory listed in Yahoo's May 27, 2010 Objections and Responses to Xerox's First Set of Interrogatories.


Subject to and without waiving these objections, Yahoo responds that Yahoo's '994 Accused Products do not infringe the asserted claims of the Patents in Suit for at least the following reasons.

REMAINDER OF RESPONSE DESIGNATED CONFIDENTIAL OUTSIDE COUNSEL ONLY

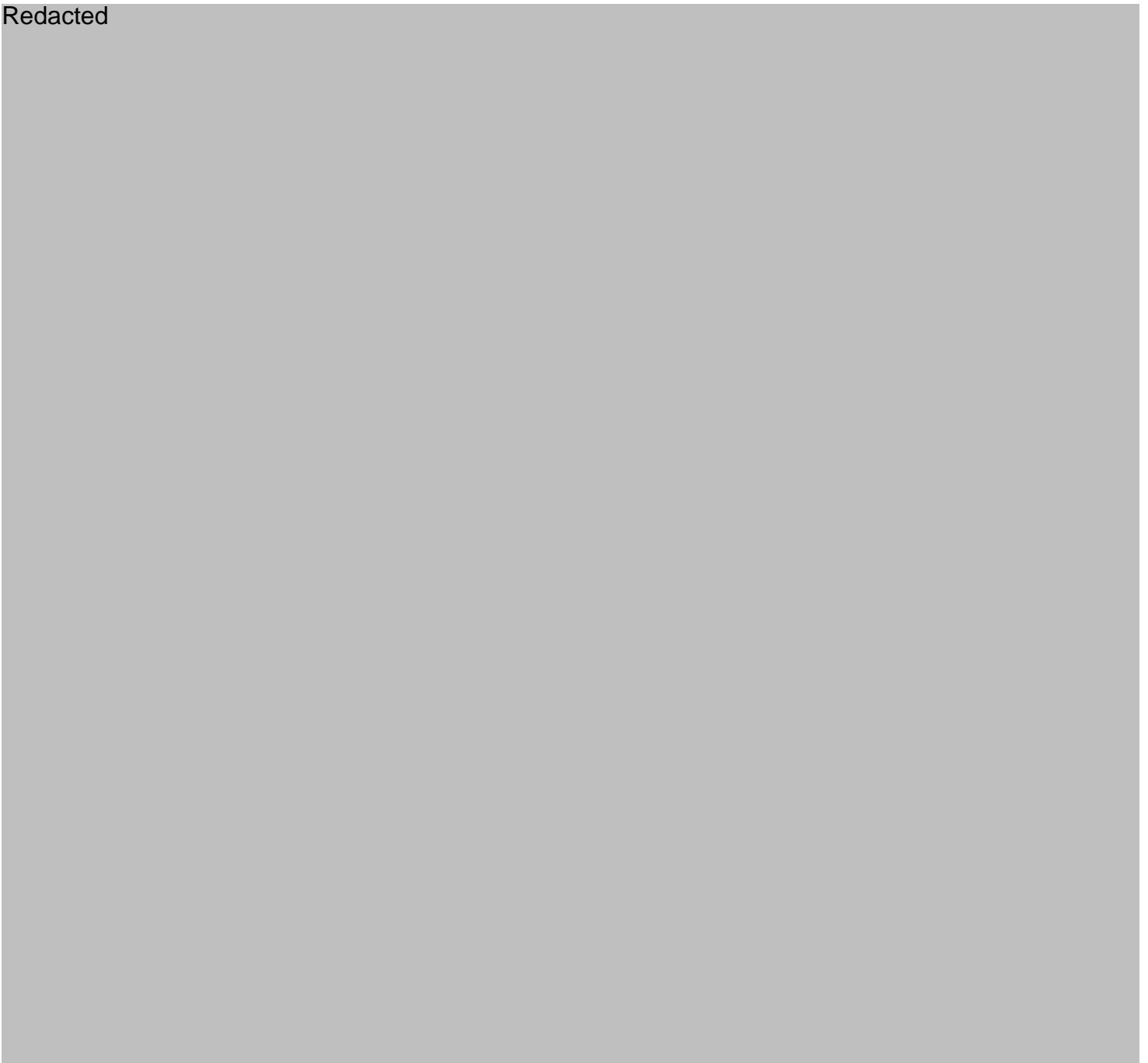
Redacted



Redacted



Redacted



By: /s/ Jesse Dyer

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*Attorneys For Defendants Yahoo! Inc. and Right
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July 9, 2010

CERTIFICATE OF SERVICE

I, hereby certify that on July 9, 2010, copies of the foregoing were caused to be served upon the following in the manner indicated:

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Jesse Dyer

EXHIBIT 5

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.


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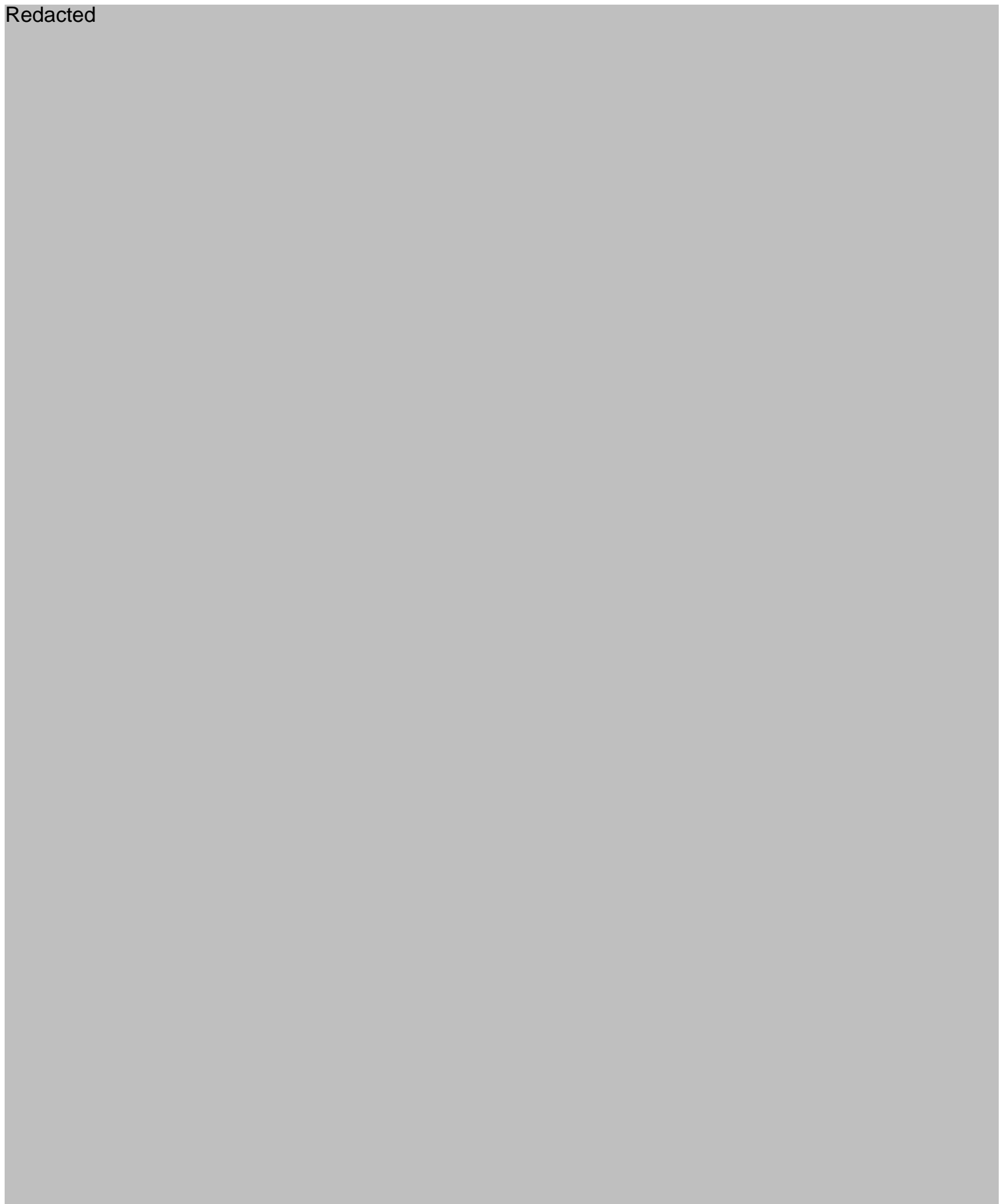
INTERROGATORY NO. 9:

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.

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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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EXHIBIT 6

REDACTED

EXHIBIT 7

REDACTED