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May 31, 2006

VIA FACIMILE
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Bruce Joseph, Esq.
Thomas W. Kirby, Esq.
Scott E. Bain, Esq.
Wiley Rein & Fielding LLP
1776 K Street, N.W.
Washington, D.C. 20006

Re: Agence France-Presse v. Google Inc.

Dear Bruce, Tom and Scott:

Sometimes the best laid plans go awry and I think that expression applies to our mutual attempt to use a selection of random dates to narrow the discovery in this case.

The initial idea was to select a sufficient number of days throughout the period of alleged infringement to provide a fair sampling of AFP works which appeared on Google for both sides and for the Court to use to determine the legal issues in this case. After Google's initial investigation, it was determined that the last half of the agreed to timeframe would not be available at all. After choosing additional dates in the first half, we then found that those dates came without any photos but with buried links that, after some convoluted and extremely time-consuming pastes and cuts, would take you to the original site where it was believed the photos and stories could be viewed. However, after spending an untold number of hours trying to track down those images and stories, my clients have found that almost all of them lead to dead ends. The original sites have not archived the images and when you follow the links no picture is to be found.

For example, the June 2, 2004 file, 200402060104, which you sent, of the 17 photos, 14 are dead ends. Another example, the November 10, 2003 file, 200311100606, of the 23 images, 13 were not traceable. On a good file, 2003111000202, of that same November 10, 2003 date, we find that eight (8) of the 22 images are not viewable. We range from files where almost none of the works can be identified or to a file where over a third of the images are unavailable. Clearly the truncation of the timeframe in half and the inability to track the vast majority of the images which appeared on Google render the procedure untenable.

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Wiley Rein & Fielding LLP
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What I suggest is that we use the images and stories that my client was able to pull from the materials you provided to us and, also, use the materials that my client had collected themselves for the period just prior to the lawsuit that we have turned over to you in discovery and use both of those as our sampling. I believe it achieves approximately the same result as our unsuccessful experiment.

Please let me know your thoughts.

Sincerely yours,



Joshua J. Kaufman

Enclosures

cc: Agence France-Presse

Agence France-Presse v. Google Inc.

CD GN 001402

htmlbackup.200402060104 June, 02, 2004

Photos	AFP's? *	Target site	Image Forum reference
1	N/A	L'Union	
2	Yes	RTL	APP2001032227286
3	N/C	Radio-canada	
4	N/A (no archive, sends back to the day page of consultation)	DNA	
5	Yes	Libre Belgique	miscredited (PAR2004020589888)
6	Yes	Afrik.com	miscredited (APP2003012420975)
7	N/C	E-Ilico	
8	N/A	France TV	
9	N/C	Bien Public	
10	N/A (no archive, sends back to the day page of consultation)	DNA	
11	N/A (no archive, sends back to the day page of consultation)	Sporever.fr	
12	N/A (no archive, sends back to the day page of consultation)	DNA	
13	N/A	France TV	
14	N/A	DVD toile	
15	N/A	Comme au cinéma	
16	N/A	Le temps	
17	N/C	Agrisalon	

* AFP photo = Yes

Photo credited to another author = No

No access to photo on the target site, either requires subscription or archives not available = N/A

Photo not credited = N/C

* AFP Text = **Yes**

Text credited to another author = **No**

No access to text on the target site, either requires subscription or archives not available = **N/A**

text not credited = **N/C**

Agence France-Presse v. Google Inc.

CD GN 001403

file 200311100202 - Nov. 10, 2003 - 10:27 GMT

Photos	AFP's? *	Target site	Image Forum reference
1	Yes	CNN Europe	APH2002111317110
2	Yes	Aljazeera	MVD2003110919278
	No - AP image	Washington Times	
2bis	N/A no image appears on page	Newsweek	
3	Yes	Aljazeera	PAR2003110921161
	No - CNN image	CNN Asia	
4	N/A	ABC news	
5	N/A	ABC news	
6	N/A no archive sends back to page of the day of consultation	China Daily	
	No - Napster image	MTV	
	No - AP image	CNN International	
	No - ESA image	Space Ref	
	No - AP image	CNN International	
	No - AP image	ESPN	
	No	BBC News	
7	N/A	Houston Chronicle	
	No	USA Today	
8	N/A	ABC news	
9	Yes	Biz Report	PAR2003110618949
10	N/A	ABC news	
	No	BBC News	
	No - Reuters image	Time Asia	
	No	BBC News	
11	N/A no archive sends to a later date (Jan 2006)	Money Control	

* AFP photo = **Yes**Photo credited to another author = **No**No access to photo on the target site, either requires subscription or archives not available = **N/A**Photo not credited = **N/C**

Agence France-Presse v. Google Inc.

CD GN 001403

file 200311100006 - Nov. 10, 2003 - 8:21 GMT

Photos	AFP's? *	Target site	Image Forum reference
1	Yes	CNN Europe	APH2002111317110
	No - AP image	Washington Times	
2	N/C	www.Newsflash.org	
3	N/A	Arizona Daily Star	
4	Yes	Aljazeera	PAR2003110921161
5	N/A	ABC news	
6	N/A	ABC news	
	No - The Shreveport Times	USA Today	
	No - AP image	CNN International	
	No - ESA image	Space Ref	
7	N/A no archive sends back to page of the day of consultation	China Daily	
	No - Napster image	MTV	
	No - NASA image	Space Ref	
8	N/A	ABC news	
	No	USA Today	
9	N/A	Houston Chronicle	
10	N/A	ABC news	
11	N/A	ABC news	
12	N/A	ABC news	
13	N/C	BBC news	
	No - AP image	BBC news	
14	N/C	BBC news	
15	N/A	www.canada.com	

* AFP photo = **Yes**Photo credited to another author = **No**No access to photo on the target site, either requires subscription or archives not available = **N/A**Photo not credited = **N/C**

Agence France-Presse v. Google Inc.

Google CD Production English

file 200308120302 - Aug. 12, 2003

Photos	AFP's? *	Target site	Image Forum reference
1	N/A	CNN	
2	N/A	ABC News	
3	N/A	ABC News	
4	N/A	CNN Asia	
5	No	iAfrica	
6	N/A	ABC News	
7	N/C	NDTV	
8	N/A	ITV	
9	N/C	PBS	
10	No	USA Today	
11	No	Seattle Post-Int.	
12	N/A	ABC News	
13	N/C	L'Express	
14	N/C	TechNewsWorld	
15	N/C	Zap2It	
16	N/C	WorldNetDaily	
17	No	MTV	
18	N/C	ABC News	
19	N/A	Pravda	No photo on site

* AFP photo = **Yes**

Photo credited to another author = **No**

No access to photo on the target site, either requires subscription or archives not available = **N/A**

Photo not credited = **N/C**

Agence France-Presse v. Google Inc.

Google CD Production English

file 200308120406 - Aug. 12, 2003

Photos	AFP's? *	Target site	Image Forum reference
1	N/A	CNN	
2	No	This is London	
3	N/A	ABC News	
4	N/A	The Russia Journal	goes to present day page
5	N/C	Sky News	
6	No	iAfrica	
7	No	BBC	
8	N/A	Salt Lake Tribune	goes to present day page
9	N/C	NDTV	
10	No	PGA	
11	N/C	PBS	
12			
13			
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* AFP photo = **Yes**

Photo credited to another author = **No**

No access to photo on the target site, either requires subscription or archives not available = **N/A**

Photo not credited = **N/C**

Agence France-Presse v. Google Inc.

Google CD Production English

file 200308121702 - Aug. 12, 2003

Photos	AFP's? *	Target site	Image Forum reference
1	N/A	The Hindu	
2	N/C	BBC	
3	N/A	Channel News Asia	
4	No - AP	BBC	
5	YES	The Age	HKG2003081150022
6	N/A	Financial Times	
7	N/A	Channel News Asia	
8	N/C	BBC	
9	N/A	KSTP	
10	No - Getty	The Age	
11	No - AP	BBC	
12	N/C	BBC	
13	N/A	Channel News Asia	
14	N/A	CNN	
15	N/A	Financial Times	
16	N/C	Zap2It.com	
17	N/C	Sky News	
18	N/C	Hollywood Reporter	
19	No - AP	BBC	
20	N/A	Sky News	
21	N/A	CNN	

* AFP photo = **Yes**

Photo credited to another author = **No**

No access to photo on the target site, either requires subscription or archives not available = **N/A**

Photo not credited = **N/C**

Agence France-Presse v. Google Inc.

Google CD Production English

file 200308121702 - Aug. 12, 2003

Photos	AFP's? *	Target site	Image Forum reference
1	N/A	The Hindu	
2	N/C	BBC	
3	N/A	Channel News Asia	
4	No - AP	BBC	
5	YES	The Age	HKG2003081150022
6	N/A	Financial Times	
7	N/A	Channel News Asia	
8	N/C	BBC	
9	N/A	KSTP	
10	No - Getty	The Age	
11	No - AP	BBC	
12	N/C	BBC	
13	N/A	Channel News Asia	
14	N/A	CNN	
15	N/A	Financial Times	
16	N/C	Zap2It.com	
17	N/C	Sky News	
18	N/C	Hollywood Reporter	
19	No - AP	BBC	
20	N/A	Sky News	
21	N/A	CNN	

* AFP photo = **Yes**

Photo credited to another author = **No**

No access to photo on the target site, either requires subscription or archives not available = **N/A**

Photo not credited = **N/C**