

ANDERSON



DAILEY LLP

July 11, 2008

**VIA TELECOPIER AND
UNITED STATES MAIL**

Michael A. Zwibelman, Esq.
BRUNE & RICHARD LLP
235 Montgomery Street
Suite 1130
San Francisco, California 94104

Re: *Jonathon Cobb v. Google, Inc., et al.*;
Civil Action File No. 1:08-cv-00483-MHS;
United States District Court, Northern District of Georgia

Dear Michael:

This letter is written with respect to Google, Inc.'s discovery responses and in an effort to resolve apparent discovery disputes.

As you are aware, Plaintiff served its First Interrogatories and First Request For Production Of Documents And Things with his initial Complaint. Subsequently, as we discussed preliminary scheduling matters, you requested, and Plaintiff agreed, that Defendant Google, Inc.'s Initial Disclosures could be presented as part of its response to Plaintiff's Interrogatories. In the meantime, Google propounded its own set of discovery requests, and an agreement was reached that all parties, including Defendant WorkforceLogic, LLC, would serve their discovery responses and Initial Disclosures on June 20, 2008.

I write now to address various omissions in the discovery responses as well as Google's failure to provide any Initial Disclosures.

EXHIBIT "A"



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I. Initial Disclosures.

Google has not provided the information that is required by Local Rule 26.1. More specifically, Defendant has not:

- (1) stated if the Defendant is improperly identified (*See* Disclosure No. 1),
- (2) disclosed the names of any parties whom Defendant contends are necessary parties to the action (*See* Disclosure No. 2),
- (3) provided a detailed factual basis for the defense or defenses which Defendant has asserted (*See* Disclosure No. 3),
- (4) provided a summary of all statutes, codes, regulations, legal principles, standards, customs or usages and illustrative case law which Defendant contends are applicable to this case (*See* Disclosure No. 4);
- (5) provided the name, address and telephone number of each individual likely to have discoverable information that it may use to support its claims or defenses, identifying the subjects of the information (*See* Disclosure No. 5);
- (6) provided the name of any expert witness who may be used at trial to present evidence under Rules 702, 703, or 705 of the Federal Rules of Evidence (*See* Disclosure No. 6);
- (7) provided a copy of, or description by category and location of, all documents, data compilations, and tangible things in its possession, custody or control that it may use to support its claims or defenses, identifying the subjects of the information (*See* Disclosure 7);
- (8) provided a computation of any damages it separately claims, if any (*See* Disclosure No. 8);
- (9) identified any other person or legal entity that is, in whole or in part, liable to the plaintiff or defendant in this matter, providing the full name, address, and telephone number of such person or entity and describing in detail the basis of such liability (*See* Disclosure No. 9); and
- (10) attached for inspection and copying any insurance agreement under



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which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments to satisfy the judgment. (See Disclosure No. 10).

With the exception of the expert witness information, which Plaintiff understands will be produced at a later date, Google is hereby requested to provide all of the above-listed information immediately.

II. Plaintiff's First Continuing Interrogatories.

Google's responses to Plaintiff's First Interrogatories are wholly deficient. In most instances Google has failed to respond entirely. Each Interrogatory as to which Plaintiff believes a further response is required is addressed separately below.

Interrogatory 1. Please identify the name, address and telephone number of all persons who have knowledge or information of the claims set forth in Plaintiff's Complaint. For each such person, describe the knowledge or information which he/she has and what documents evidence, reflect or relate to such knowledge or information.

Google has objected to Interrogatory No. 1 on a variety of grounds, including ones which assert that Google has no obligation to make a substantive response. Such objections are advanced despite the fact that the information which is sought in Interrogatory No. 1 corresponds to information which Google is obligated to provide, at least in part, in response to Initial Disclosure No. 5. As to Google's objections based on the timing and sequencing of discovery responses, Plaintiff has made further disclosure of his concepts and ideas as of June 20, 2008, thereby rendering Google's objections moot. Google is obliged to provide the information set forth in Interrogatory No. 1. Please let us know if this information will not be forthcoming so that we can immediately address this matter with the Court.

Interrogatory No. 2. Please identify the name, address, and telephone number of all persons who have knowledge or information respecting any defense which either Defendant or their affiliates may have to the claims set forth in Plaintiff's Complaint. For each such person, describe the knowledge or information which he/she has and what documents evidence, reflect or relate to such knowledge or information.

Google has objected to Interrogatory No. 2 with objections identical to those advanced in response to Interrogatory No. 1. This is done notwithstanding the fact that



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the information sought in Interrogatory No. 2 corresponds precisely to that information which Google is obligated to provide in response to Initial Disclosure No. 5. Google is requested to provide a full response to Interrogatory No. 2 immediately.

Interrogatory No. 5. Please identify all persons whom Defendants contend were engaged in the development of the Sky in Google Earth program, including but not limited to the Google Pittsburgh engineering team and members of the Google Visiting Faculty Program from the University of Washington. For each person so identified, please state (a) their name, address and affiliation, (b) their academic, scientific and/or vocational competencies and credentials as they relate to the development of the Sky in Google Earth program, (c) their role in the Sky in Google Earth program, (d) the work and developments which each such person was responsible for performing, and (e) all documents which each person created, drafted, edited, reviewed or assembled while working on the Sky in Google Earth program initiative.

Google has objected to Interrogatory No. 5 with objections identical to those advanced in response to Interrogatory No. 1. As noted, this kind of information is required of all parties in cases pending in the United States District Court for the Northern District of Georgia. (Local Rule 26.1). The persons referenced in Interrogatory No. 5 will have information relevant to the parties' claims and defenses in this case. For that reason, their identifying information is fully discoverable. Also, public statements offered by Google of its Sky in Google Earth program have specifically referenced the work of the Google Pittsburgh engineering team and the Visiting Faculty Program from the University of Washington. Google is requested to respond to Interrogatory No. 5 completely. As to documents which each such person created, drafted or reviewed, Plaintiff is entitled to know and understand what each person was engaged in producing. Such information is reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 10. Please identify all persons employed by Defendant Google, Inc. who were informed of and following information and details generated by the e-mail discussion group initiated by Plaintiff and referred to as googlesky@googlegroups.com.

Google has objected to Interrogatory No. 10 on grounds that it is limitless with respect to time. Inasmuch as the Google discussion group in question was established in January 2006, Interrogatory No. 10 is in fact limited as to time. As to Google's assertion that Interrogatory No. 10 is vague or ambiguous, it is not. It plainly seeks the identity of all persons who were informed of, or who were following, the information and details being generated by members of the e-mail discussion group. These individuals would be



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subject to disclosure in Defendant's Initial Disclosure No. 5. Given that Plaintiff's disclosure of his Prior Invention was effectuated through the Google e-mail discussion group, the information sought is reasonably calculated to lead to the discovery of admissible evidence respecting Plaintiff's claims of misappropriation and fraudulent conspiracy. Google is requested to respond to Interrogatory No. 10.

Interrogatory No. 11. Please identify all persons employed by Defendant Google, Inc. who were responsible for the creation, administration, execution, or management of Company e-mail discussion groups since January 1, 2000.

Google has objected to Interrogatory No. 11 on grounds that it is overly broad with respect to time and scope. Google excepts to the fact that Interrogatory No. 11 seeks the identity of persons employed since January 2000. Google further contends that the information sought is not relevant to Plaintiff's claims. It bears emphasis that the means by which Plaintiff made disclosure of his Prior Invention was through the private Google e-mail discussion group established by him in January 2006 and convened after his employment was commenced, in February 2006. Plaintiff alleges that Google misappropriated his concepts and ideas related to Google Sky. Knowing the identity of those Google employees who were responsible for administering or managing the means by which such e-mail discussion groups are established and protocols governing their operation is wholly relevant to an investigation of Plaintiff's claims of misappropriation. Plaintiff's request is reasonably calculated to lead to the discovery of admissible evidence. Notably, Google does not assert in its response that the number of individuals potentially encompassed by Interrogatory No. 11 is unduly large. The mere fact that Plaintiff has requested information concerning persons employed since January 1, 2000 is by no means evidence that his Interrogatory is oppressive. That said, and given the time at which the e-mail discussion group in question was established, Plaintiff will voluntarily limit Interrogatory No. 11 to those persons responsible for the creation, administration, execution or management of Defendant's e-mail discussion groups from January 1, 2006 to the present.

Interrogatory No. 15. With respect to the Sky in Google Earth program as implemented, please identify:

- (a) all program features;*
- (b) all program layers;*
- (c) all program steering mechanisms and attributes;*



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- (d) *all third-party providers of mapping, scientific or astrological data;
and*
- (e) *all third-party providers of program imagery and software
programming.*

Google has objected to Interrogatory No. 15 by presenting the same objections used in responding to Interrogatories 1, 2 and 5. A detailed description of the program features which Google attributes to its own Sky in Google Earth is entirely relevant to an investigation of Plaintiff's claims of misappropriation, as is a description of third-party contributors. Google's objections are without merit, and Google is requested to respond to Interrogatory No. 15.

III. Plaintiff's First Continuing Request For The Production Of Documents And Things.

Google has objected to the majority of Plaintiff's First Continuing Requests For The Production Of Documents And Things. Each Request to which Plaintiff believes a further response is required is discussed separately below.

Request No. 1. All documents and things evidencing, reflecting or relating to the development of the Sky in Google Earth program by Google, Inc.

Google has objected to this request on a variety of grounds, employing the same principal basis for objection offered in response to Plaintiff's Interrogatories 1, 2 and 5. However, the Court's mandated Initial Disclosures require Google to provide a copy of, or describe by category and location, all documents, data compilations, and tangible things in its possession, custody or control that it may use to support its defenses. Thus, Google's objections are simply improper. Furthermore, to the extent Google's other objections are based on an insistence that Plaintiff first make a full disclosure of his concepts and ideas, these objections have been mooted by Plaintiff's discovery responses of June 20, 2008. Demand is hereby made for the production of all documents responsive to Request No. 1.

In our most recent telephone conversation, you have stated that your client is unwilling, or reluctant, to produce at this time all engineering data and information related to the Sky in Google Earth program. You have cited the expense which you



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believe will be involved in making a complete disclosure. I have expressed my willingness to evaluate that stated concern with my litigation co-counsel. I did discuss with you briefly the possibility of Google meeting its discovery obligation respecting Request No. 1, at least initially, by producing documents of a software design and engineering nature. As promised, I have consulted with my co-counsel, and we are now prepared to propose the following categories of documents for Google's initial production under Request No. 1. These documents would include:

- (a) Business Case documents and materials;
- (b) Product Feasibility documents and materials;
- (c) Product Planning Documents;
- (d) Product Requirements Analysis documents;
- (e) Product Design documents;
- (f) Product Roadmap documents;
- (g) Development Calendar documents;
- (h) meeting minutes related to each of the foregoing documents or their equivalent, as well as meeting minutes evidencing the execution of tasks addressed or implicated by each document; and
- (i) all documents evidencing information conceived, detailed, suggested or proposed by Plaintiff, whether or not that information came directly from Plaintiff's own communications or from others who in turn communicated Plaintiff's information to Google-tasked software designers, engineers or programmers.

These categories of documents and materials are proposed because it is believed they would likely have been created prior to detailed coding work leading to the software program which was ultimately announced as Sky in Google Earth.

The names of these documents may or may not correspond to the nomenclature which Google employs. Please know that I attempt to communicate document categories or their equivalents, as well as substantive tasks. Google could produce these documents as an initial fulfillment of its obligations with respect to Request No. 1. If at a later time it is determined that a more complete production is necessary, extending to all engineering and coding documents, as well as meeting minutes related to that further



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coding, Plaintiff can then request that these additional items be produced. In that way, Google's production would be staged, and Google could avoid, at least for now, any undue expense which you believe will arise from a complete production of the technology's development.

It is possible that Google employs Agile/Scrum design/development methodologies. Documents and materials evidencing Sky in Google Earth's product planning, its requirements analysis, and its design (including all communication and meeting minutes related to these iterative processes) would become part of this initial production.

Request No. 2. All contract documents and things evidencing, reflecting or relating to Defendant Google, Inc.'s business relationship with Defendant WorkforceLogic USA.

Google has objected to Request No. 2 on grounds that is vague, ambiguous or burdensome. Such objections are frivolous. Plaintiff is seeking documentation evidencing and defining the relationship existing between WorkforceLogic and Google, Inc. WorkforceLogic was the entity which arranged for the hiring of Plaintiff. Documents evidencing how it was that WorkforceLogic was empowered to recruit, interview, hire, or terminate temporary and other employees assigned to Google, Inc. are relevant to the legal standing which is to be accorded documents which Plaintiff signed at the time he made application for employment. Plaintiff's interest in this documentation pertains to the period of time during which Plaintiff completed and signed his application papers – February 2006.

Request No. 6. All documents and things evidencing, reflecting or relating to the Google, Inc. e-mail discussion group googlesky@googlegroups.com.

Google has objected to this Request No. 6 on grounds that it is vague and ambiguous with respect to the phrases "evidencing, reflecting or relating to" and "Google, Inc. e-mail discussion group." Notably, Google has made a partial production of documents while announcing its right to "supplement this response" after further negotiations with Plaintiff. Google's stated objections are frivolous. The e-mail discussion group in question is well-understood by all concerned, including you and me. Plaintiff has identified the group's members and provided copies of the members' e-mail exchanges in his own discovery responses to Google. Accordingly, request is hereby made for Google to meet its discovery obligations under the Rules and to produce all



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responsive documents and material.

Request No. 7. All documents and things evidencing, reflecting or relating to Plaintiff's initiation of a Google, Inc. e-mail discussion group googlesky@googlegroups.com.

Google has objected to this Request No. 7 with the same formulaic objections set forth in response to Request No. 6. Such objections are equally without merit when presented here. Request is hereby made for Google to meet its discovery obligation under the Rules and to produce all responsive documents and material.

Request No. 8. All documents and things evidencing, reflecting or relating to Google, Inc.'s observation, monitoring, surveillance, receipt, consideration, evaluation, sharing or evaluation of the concepts, ideas, discussions and initiatives presented, advanced or discussed in the Google, Inc. e-mail discussion group googlesky@googlegroups.com.

Google has objected to Request No. 8 with the same objections offered up in response to Requests 6 and 7. The assertions made by Google of vagueness and ambiguity in Plaintiff's Request are but transparent excuses for its avoidance of proper discovery. Plaintiff has filed a claim of misappropriation. It is uncontroverted that his disclosures were made via the private Google e-mail discussion group. A request for documents evidencing any observation, monitoring or surveillance of that group's work is reasonably calculated to lead to the discovery of admissible evidence. Request is hereby made for Google to meet its discovery obligation under the Rules and to produce all responsive documents and material.

Request No. 11. All documents and things evidencing, reflecting or relating to the work of the Google Pittsburgh engineering group in developing, advancing or refining the Sky in Google Earth program or any part thereof.

Google has objected to Request No. 11 on grounds that it is vague and ambiguous, "particularly with respect to the phrases 'evidencing, reflecting or relating to' and 'developing, advancing or refining,' and the word 'work.'" Merely reading these objections demonstrates their frivolous and obstructive character. Google also presents objections identical in nature to those offered in response to Plaintiff's Interrogatories 1, 2 and 5 as well as Plaintiff's document Request No. 1. For the same reasons detailed



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with reference to those discovery requests, Google's objections stand as frivolous. To the extent they were at one time valid respecting matters of timing and sequencing of discovery, they have been rendered moot by Plaintiff's discovery disclosures of June 20, 2008. The product design documents, product requirements documents, and other documents which are described above with reference to Request No. 1 are ones which Google can immediately produce, both in response to Request No. 11 and Request No. 12 below.

Request No. 12. All documents and things evidencing, reflecting or relating to the work of the representatives of the University of Washington in the Google Visiting Faculty Program in developing, advancing or refining the Sky in Google Earth program or any part thereof.

Google has objected to Request No. 12 with objections which mirror its response to Request No. 11. For the reasons previously noted, Google's objections are frivolous, obstructive and now moot. Request is hereby made for Google to fulfill its obligations under the Rules and to produce all responsive documents and material.

Request No. 15. All documents and things evidencing, reflecting or relating to corporate mottos, mission statements and statements of philosophy of Defendant Google, Inc.

Google has objected to Request No. 15 on grounds that it is purportedly vague in its use of the words "evidencing, reflecting or relating" and "statements of philosophy." Google further objects on grounds that the material is not relevant to Plaintiff's claims. In point of fact, Plaintiff has informed Defendant that he was required to view a training video when commencing his assigned work at Google, Inc. (See Plaintiff's Answers to Defendant Google, Inc.'s First Interrogatories, Answer No. 13). In that video, certain information regarding the Company's philosophy and policies regarding its employees' discretionary allocation of their work time was addressed. Further, and in light of the fact that Plaintiff made disclosure of his Prior Invention through the private Google e-mail discussion group and in response to the Company's policy of encouraging innovative concepts and ideas, any and all corporate mottos ("Do No Evil" is one attributed publicly to Google, Inc.), mission statements and statements of philosophy of the Company are directly relevant to Plaintiff's claims of misappropriation. Request is hereby made that Google produce all responsive documents and material.



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Plaintiff asks that all of these responses and all of Google's production be accomplished not later than 14 days from your receipt of this letter. In light of the delays which Google, Inc. has caused Plaintiff in securing relevant discovery materials, it will not be possible for Plaintiff to sit for his deposition before responses and documents have been received and an adequate opportunity for his counsel to review them has been had.

Your prompt attention to these matters is appreciated. I know we are scheduled to speak by telephone today at 2:00 p.m. EDT. If you wish to delay that call, until after you have had an opportunity to speak with your client regarding the substance of this letter, just let me know.

Sincerely,

Michael Alan Dailey

MAD/msm

cc: Joan Dillon, Esq.
Gary Hill, Esq.
Charlotte McCluskey, Esq.
John Fish, Esq.

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July 25, 2008

BY ELECTRONIC MAIL

Michael A. Dailey, Esq.
Anderson Dailey LLP
2002 Summit Boulevard
Suite 1250
Atlanta, GA 30319

Re: *Cobb v. Google Inc., et al., No. 1:08-cv-00483-MHS (N.D. Ga.).*

Dear Michael:

I write in response to your July 11, 2008 letter in an effort to avoid motion practice over Mr. Cobb's discovery demands and to discuss other outstanding discovery issues in the case.

Google's Proposal for Phased Discovery

Mr. Cobb's discovery requests seek the identification of every witness with knowledge of and the production of every document related to the development of Google Sky. Putting aside for now the relevance of such documents to Mr. Cobb's claims based on his definition of his alleged idea, the production and review of these documents by all parties and the potential depositions that would follow would be extraordinarily time-consuming and expensive. As we discussed during our first meet-and-confer teleconference on July 2, 2008, Google believes that given the claims in this case, a phased discovery approach that focuses on certain threshold issues is most appropriate and would help eliminate unnecessary discovery expenses. Google therefore proposes a first phase of discovery that would focus on the following issues: (1) when did Google first conceive and begin development of Google Sky, and (2) did Google incorporate Mr. Cobb's ideas into Google Sky.

If this first phase of discovery reveals that Mr. Cobb communicated his ideas to Google before Google (and/or others working with Google) conceived and began developing the idea itself, or that Mr. Cobb's ideas were incorporated into the development process, there might be a basis to discuss a second phase of discovery. But if Mr. Cobb cannot make such a showing after this first phase, the litigation should end.

After I made this proposal on July 2, you and I were scheduled to discuss it further on July 11. Instead, shortly before our scheduled call, you sent an 11-page, single-spaced letter that reads like a precursor to a discovery motion. From your response at pages 6-8 of your letter concerning Google's response to Mr. Cobb's document request no. 1, however, it appears that

EXHIBIT "B"

you may still be receptive to a phased-discovery approach; if not, we are unfortunately headed to motion practice.

Preview of Google's Discovery Motion

If we are forced to litigate over Mr. Cobb's discovery demands, it will be clear to the court that you rejected a reasonable discovery proposal tailored to this case, which will enable disclosure of material in a cost-efficient and appropriate way consistent with the legal elements necessary to prove your case.

In addition, as part of any discovery motion, Google will preview for the court what Mr. Cobb will discover during our proposed first phase of discovery: (1) that astronomers outside of Google conceived and began developing a Google Sky concept independently of Mr. Cobb; (2) that Google adopted and incorporated these astronomers' ideas into its own ongoing internal processes before Mr. Cobb communicated anything to individuals at Google; (3) that Google continued to develop those ideas wholly independently of Mr. Cobb; and (4) that any ideas Mr. Cobb may have communicated to individuals at Google were not incorporated into Google Sky.

We also intend to inform the court that, at least with respect to the work conducted by outside astronomers, Mr. Cobb could easily have determined before filing his lawsuit that his idea was not original (as required under Georgia law) and that the Google Sky concept was being discussed and developed outside and within Google before Mr. Cobb ever joined the company.

For example, in its August 2007 press release announcing the launch of Google Sky (JC 98-100), Google highlights the contributions of astronomers Alberto Conti and Carol Christian of the Space Telescope Science Institute, which operates the Hubble Space Telescope. A simple Internet search of Dr. Conti yields one of several blogs he has written about Google Sky. In one such blog, dated August 22, 2007, entitled "The Birth of Google Sky," Dr. Conti claims that, in October 2005, he conceived of an idea to use the Google Earth technology and interface for Google Sky. He says that he then contacted Google engineering directors in January and February 2006, attended a meeting with future Google Sky team members at the National Virtual Observatory, and gave a presentation at Google's Mountain View headquarters soon thereafter. Dr. Conti's April 11, 2006 presentation is publicly available on YouTube at <http://youtube.com/watch?v=j2oa8PAOsdE>.

Google also will inform the Court that Mr. Cobb will be unable to show that his ideas were actually incorporated by Google and that, in any event, Mr. Cobb's ideas were communicated too late. For example, by the time Mr. Cobb sent his first email to Google Sky team member Brian McClendon on April 18, 2006, there already existed, in Mr. McClendon's words, an "astro-team ... embarking on a GoogleSky-ish version of Google Earth." (G007578-79.) Indeed, the April 18, 2006 Cobb-McClendon email exchange — and Mr. McClendon's first participation in the googlesky@googlegroups.com discussion group that same day (JC 0019-20; JC 0046-48; JC 0051) — occurred shortly *after* Dr. Conti's April 11, 2006 presentation discussed above, and well after the groundwork by astronomers and astronomy enthusiasts outside of and within Google.

In light of the clear evidence that Mr. Cobb's alleged ideas were not original, not incorporated, and not timely, there is no basis for the expansive discovery you seek. We hope you will agree to our proposal for phased discovery, which will allow you to test the assertions raised in this letter. If those assertions prove faulty, you can seek additional discovery as necessary.

Initial Disclosures

We disagree that Google has fallen short of its obligations related to initial disclosures. During our Rule 26(f) conference on April 11, 2008, we agreed that the parties would waive initial disclosures and incorporate the required information in our written discovery responses. We jointly informed the court of this agreement in our discovery plan (filed May 5, 2008, and approved by the court on May 6, 2008), and you then confirmed this agreement again in an email to all parties on May 22, 2008. Neither Google nor WorkforceLogic served initial disclosures because that was the agreement we had reached with you.

Our agreement to incorporate initial disclosures into overlapping and contemporaneously served written discovery was intended to conserve the time and resources of the parties. It was not intended to limit any party's ability to lodge valid objections to the information sought. That having been said, to avoid a discovery dispute, we agree to serve by August 1, 2008, a set of initial disclosures that contains information relevant to Google's proposed first phase of discovery. If you believe Mr. Cobb is entitled to additional information at this stage of the litigation, we should discuss it, along with the other issues raised in this letter.

Specific Discovery Requests and Objections

We reject each of the arguments in your letter related to the validity of Google's objections to Mr. Cobb's specific discovery requests. I would be happy to discuss them with you in a further meet-and-confer teleconference, or provide a written, point-by-point discussion if that would help prevent needless motion practice. But I am hopeful we can resolve our discovery impasse by focusing on the bigger-picture issue of phased discovery or other solutions that will allow this case to proceed in the most cost-efficient manner possible.

Mr. Cobb's Deposition

You state at page 11 of your July 11 letter that our disagreement over Google's written discovery responses now prevents you from making your client available for deposition. You raised this issue for the first time during our July 2 teleconference after agreeing previously to make Mr. Cobb available during the month of July. We see no reason why Google's responses to interrogatories or production of documents should affect the timing of your client's deposition. You have argued on several occasions that Mr. Cobb will testify truthfully in this case regardless of what Google discloses, that there is no risk that Mr. Cobb will tailor his testimony based on Google's disclosures, and that his testimony will not otherwise be influenced by Google's interrogatory responses and document productions. If, as you have represented previously, there

is no connection between Mr. Cobb's truthful and accurate testimony and the information Google might provide, there is no reason to postpone the deposition.

We are also not aware of any statute or judicial opinion that supports your argument to delay Mr. Cobb's deposition. If you have legal authority that supports your position, please let us know. Otherwise, please provide three or four dates in August when Mr. Cobb will be available for his deposition. (Tuesdays, Wednesdays, and Thursdays are preferred.) If we do not reach agreement with you on a deposition schedule by close of business on Friday, August 1, 2008, we will notice Mr. Cobb's deposition for a date at the end of August, and bring this to the attention of the court if necessary.

Designation of Confidential Material

During our July 2 meet-and-confer teleconference, I questioned the "highly confidential" designation on each of the documents in Mr. Cobb's June 20, 2008 production (JC 0001-0100). I asked whether you would permit me to share these documents with in-house counsel and potentially others within Google. Because Google and/or WorkforceLogic has copies of (or documents containing the identical substance of) most of these documents already, we see little reason for your client to take issue with this request. This is particularly true for the documents at JC 0001-058, JC 0067-68, and JC 0072-0100. Moreover, no documents in the June 20 production meet the standard set forth in paragraph 5 of the June 23, 2008 confidentiality order, which requires a showing that the documents contain "commercially sensitive" information the disclosure of which would do "harm to the competitive position" of a party. Please let me know whether I may share Mr. Cobb's June 20 production with Google.

PowerPoint Presentation

Finally, Mr. Cobb references a Powerpoint presentation in Exhibit A to the ABE Services agreement (WL 00011). This presentation was not included in your June 20, 2008 production in response to Google's first set of document requests. If this presentation is in Mr. Cobb's possession, custody or control, we ask that you produce it. Please also confirm in writing that you have produced all non-privileged documents in Mr. Cobb's possession, custody or control that are responsive to Google's first set of document requests.

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Thank you for your consideration of the issues raised in this letter. I propose we schedule a further meet-and-confer teleconference during the week of July 28. I will contact you to find a mutually convenient time for this call.

Sincerely,



Michael A. Zwibelman

Enclosure

cc: Eric P. Schroeder, Esq.
John C. Fish, Esq.
Charlotte K. McClusky, Esq.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JONATHAN COBB,

Plaintiff,

v.

Case No. 1:08-CV-0483 (MHS)

GOOGLE INC. and
WORKFORCE LOGIC LLC,

Defendants.

DEFENDANT GOOGLE INC.'S INITIAL DISCLOSURES

Pursuant to Federal Rule of Civil Procedure 26(a)(1) and Local Rule 26.1, Defendant Google Inc. submits these Initial Disclosures.

Preliminary Statement

During the Rule 26(f) conference on April 11, 2008, the parties agreed to waive initial disclosures and incorporate the required information in their written discovery responses. The parties jointly informed the Court of this agreement in their discovery plan, which was filed on May 5, 2008, and approved by the Court on May 6, 2008. Plaintiff then reconfirmed this agreement in an email to all parties on May 22, 2008. On June 20, 2008, the date on which the parties agreed

EXHIBIT "C"

to exchange written discovery responses, neither Google nor defendant WorkforceLogic LLC served initial disclosures because that was the agreement that had been reached with Plaintiff. Plaintiff, however, served his initial disclosures on the defendants.

In a letter dated July 11, 2008, Plaintiff argued that Google had fallen short of its obligations related to initial disclosures. In a responsive letter dated July 25, 2008, Google disputed Plaintiff's assertions, but agreed to serve initial disclosures by August 1, 2008 to avoid a discovery dispute. In its July 25 letter, Google also repeated its proposal (originally communicated by telephone on July 2, 2008) for phased discovery to help eliminate unnecessary discovery expenses. Specifically, Google proposed a first phase of discovery that would focus on the following issues: (1) when did Google first conceive and begin development of Google Sky, and (2) did Google incorporate Plaintiff's ideas into Google Sky.

As Google stated in its July 25 letter, if this first phase of discovery reveals that Plaintiff communicated his ideas to Google before Google (and/or others working with Google) conceived and began developing the idea itself, or that Plaintiff's ideas were incorporated into the development process, there might be a basis to discuss a second phase of discovery. But if Plaintiff cannot make such a showing after this first phase, the litigation should end.

The Initial Disclosures set forth below reflect information related to Google's proposed first phase of discovery as described above and as further detailed in its July 25, 2008 letter to Plaintiff. If later phases of discovery prove necessary, Google shall supplement these disclosures as appropriate, and expressly reserves the right to do so. In addition, Google reserves all of the protections afforded by the attorney-client privilege and the work product doctrine. The disclosures set forth herein are based upon the knowledge of and the documents within the possession, custody and control of Google at this time. Should Google learn of relevant information, witnesses and documents related to its proposed first phase of discovery after the service of these disclosures, Google reserves the right to supplement the answers accordingly.

DEFENDANT GOOGLE INC.'S INITIAL DISCLOSURES

1.

If the defendant is improperly identified, state defendant's correct identification and state whether defendant will accept service of an amended summons and complaint reflecting the information furnished in this disclosure response.

Response:

Defendant Google Inc. is properly identified.

2.

Provide the names of any parties whom defendant contends are necessary parties to this action, but who have not been named by plaintiff. If defendant contends that there is no question of misjoinder of parties, provide the reasons for defendant's contention.

Response:

At this time, Google is not aware of any parties who are necessary to this action but have not been joined. Google reserves the right to join necessary parties as appropriate.

3.

Provide a detailed factual basis for the defense or defenses and any counterclaims or crossclaims asserted by defendant in the responsive pleading.

Response:

At this early stage of the litigation, the full nature and extent of Plaintiff's claims have not been fully set forth or investigated. Subject to the completion of discovery and the right to supplement these responses as appropriate, Google states as follows:

Mr. Cobb's alleged ideas were not (and are not) novel, and Google did not incorporate those ideas into the Google Sky development process. Any alleged ideas that were communicated to individuals at Google were communicated after Google (and/or others working with Google) already had conceived and begun

developing Google Sky. Specifically, astronomers outside of Google conceived and began developing a Google Sky concept independently of Mr. Cobb; Google considered these astronomers' ideas as part of its own ongoing internal processes before Mr. Cobb communicated anything to individuals at Google; and Google continued to develop those ideas wholly independently of Mr. Cobb.

In addition, Google incorporates by reference its June 20, 2008 responses to Plaintiff's first sets of interrogatories and document requests, and further incorporates by reference its July 25, 2008 letter to Plaintiff.

Google did not assert any cross claims or counterclaims in its answer.

4.

Describe in detail all statutes, codes, regulations, legal principles, standards and customs or usages, and illustrative case law which defendant contends are applicable to this action.

Response:

At this early stage of the litigation, the full nature and extent of Plaintiff's claims have not been fully set forth or investigated. Subject to the completion of discovery, and the right to supplement these responses as appropriate, Google states as follows:

Plaintiff alleges five causes of action that each arise under Georgia law. Any judicial opinion that applies the Georgia common law governing Plaintiff's

causes of action is potentially applicable to this action. Examples include:

Burgess v. Coca-Cola Co., 536 S.E.2d 764 (Ga. App. 2000); *Jones v. Turner*

Broadcasting System, Inc., 389 S.E.2d 9 (Ga. App. 1989); *Morton B. Katz &*

Assoc. v. Arnold, 333 S.E.2d 115 (Ga. App. 1985); and *Wilson v. Barton &*

Ludwig, Inc., 296 S.E.2d 74 (Ga. App. 1982).

In addition, all statutes cited in Plaintiff's First Amended Complaint are potentially applicable to this action, as are basic principles of contract formation and enforcement under Georgia law.

5.

Provide the name and, if known, the address and telephone number of each individual likely to have discoverable information that you may use to support your claims or defenses, unless solely for impeachment; identifying the subjects of the information. (Attach witness list to Initial Disclosures as Attachment A.)

Response:

At this early stage of the litigation, the full nature and extent of Plaintiff's claims have not been fully set forth or investigated. Subject to the completion of discovery, and the right to supplement these responses as appropriate, Google states as follows: Brian McClendon and Andrew Connolly likely have discoverable information related to Google's proposed first phase of discovery as described above and as further detailed in Google's July 25, 2008 letter to Mr.

Cobb's counsel. Messrs. McClendon and Connolly may be contacted only through undersigned counsel at the address and telephone number listed below. In addition, Google identifies Alberto Conti and Carol Christian of the Space Telescope Science Institute. Google is informed and believes that Drs. Conti and Christian, who also likely have discoverable information related to Google's proposed first phase of discovery, can be reached at 3700 San Martin Drive, Baltimore, Maryland, 21218, (410) 338-4700.

If later phases of discovery prove necessary, Google shall supplement this witness list as appropriate, and expressly reserves the right to do so.

6.

Provide the name of any person who may be used at trial to present evidence under Rules 702, 703, or 705 of the Federal Rules of Evidence. For all experts described in Fed. R. Civ. P. 26(a)(2)(B), provide a separate written report satisfying the provisions of that rule. (Attach expert witness list and written reports to Initial Disclosures as Attachment B.)

Response:

At this time, Google has not identified any experts to testify at trial. Google, however, reserves the right to supplement this response as permitted under the Court's May 6, 2006 scheduling order and the Federal Rules of Civil Procedure.

7.

Provide a copy of, or description by category and location of, all documents, data compilations, and tangible things in your possession, custody, or control that you may use to support your claims or defenses unless solely for impeachment, identifying the subjects of the information. (Attach document list and descriptions to Initial Disclosures as Attachment C.)

Response:

At this early stage of the litigation, the full nature and extent of Plaintiff's claims have not been fully set forth or investigated. Subject to the completion of discovery, and the right to supplement these responses as appropriate, Google states as follows: The categories of documents included herein at Attachment C relate to Google's proposed first phase of discovery as described above and as further detailed in Google's July 25, 2008 letter to Plaintiff. If later phases of discovery prove necessary, Google shall supplement these disclosures as appropriate, and expressly reserves the right to do so.

8.

In the space provided below, provide a computation of any category of damages claimed by you. In addition, include a copy of, or describe by category or location of, the documents or other evidentiary material, not privileged or protected from disclosure on which such computation is based, including materials bearing on the nature and extent of injuries suffered, making such documents or evidentiary material available for inspection and copying under Fed. R. Civ. P. 34. (Attach any copies and descriptions to Initial Disclosures as Attachment D.)

Response:

Google asserts that Plaintiff has suffered no damages and that Google's damages consist of reasonable attorneys' fees and costs associated with defending this action.

9.

If defendant contends that some other person or legal entity is, in whole or in part, liable to the plaintiff or defendant in this matter, state the full name, address and telephone number of such person or entity and describe in detail the basis of such liability.

Response:

Google is not currently aware of any person or legal entity that is, in whole or in part, liable to Plaintiff. Google contends that Plaintiff is liable to Google for reasonable attorneys' fees and costs.

10.

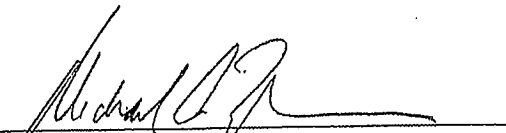
Attach for inspection and copying as under Fed. R. Civ. P. 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments to satisfy the judgment. (Attach copy of insurance agreement to Initial Disclosures as Attachment E.)

Response:

Google is not aware of any such insurance agreement that could satisfy part
or all of a judgment that may be entered in this action.

Served this 1st day of August, 2008.

/s/ Eric P. Schroeder
Eric P. Schroeder
(Georgia Bar No. 629880)
R. Joseph Burby, IV
(Georgia Bar No. 094503)
John C. Bush
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mzwibelman@bruneandrichard.com

Attorneys for Defendant Google Inc.

ATTACHMENT C

<u>Document Categories</u>	<u>Location</u>
Human Resources documents related to Mr. Cobb's employment	Google & Workforce Logic
Documents related to googlesky@googlegroups.com	Google
Email posts to googlesky@googlegroups.com	Google
Mr. Cobb's work email archive during his tenure at Google	Google
Documents related to when Google first conceived and began development of Google Sky	Google
Documents, if any, related to whether Mr. Cobb communicated his alleged ideas to Google	Google

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JONATHAN COBB,

Plaintiff,

v.

Case No. 1:08-CV-0483 (MHS)

GOOGLE INC. and
WORKFORCE LOGIC LLC,

Defendants.

LR 7.1(D) CERTIFICATE OF FONT COMPLIANCE

I hereby certify that the foregoing has been prepared with one of the font and point selections approved by the Court in N.D. Ga. Local Rule 5.1(C), specifically Times New Roman 14 pt.

/s/ Eric P. Schroeder
Eric P. Schroeder

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JONATHAN COBB,

Plaintiff,

v.

Case No. 1:08-CV-0483 (MHS)

GOOGLE INC. and
WORKFORCE LOGIC LLC,

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on August 1, 2008, a copy of Defendant Google Inc.'s Initial Disclosures was mailed to the following attorneys by depositing a copy in the U.S. Mail with appropriate postage:

Michael Alan Dailey
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2002 Summit Boulevard
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404-442-1820 (facsimile)
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Charlotte K. McClusky
John C. Fish
LITTLER MENDELSON, P.C.
3348 Peachtree Road, N.E.
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Atlanta, Georgia 30326-1008
404-233-0330
404-233-2361 (facsimile)

/s/ Jessica Long
Jessica Long

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JONATHAN COBB,

Plaintiff,

v.

Case No. 1:08-CV-0483 (MHS)

GOOGLE INC. and
WORKFORCE LOGIC LLC,

Defendants.

**DEFENDANT GOOGLE INC.'S RESPONSES TO PLAINTIFF'S
FIRST CONTINUING INTERROGATORIES TO DEFENDANTS**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure and the Civil Local Rules of Practice for the United States District Court for the Northern District of Georgia, Defendant Google Inc. ("Google") hereby responds to Plaintiff's First Continuing Interrogatories to Defendants, dated February 19, 2008 ("Interrogatories").

I. GENERAL RESPONSES AND OBJECTIONS

A. Google objects to plaintiff's Interrogatories (including the introduction and definitions) to the extent they seek disclosure of (i) information that is protected by the attorney-client privilege, attorney work-product doctrine or

EXHIBIT "D"

privilege, or any other applicable privilege, or (ii) information that is otherwise protected from disclosure under applicable privileges, laws, or rules. Google further objects to providing any information concerning privileged documents that would, in effect, reveal privileged information.

B. Google objects to plaintiff's Interrogatories (including the introduction and definitions) to the extent they purport to require Google to respond in a manner beyond that which is required under the Federal Rules of Civil Procedure and the Local Rules.

C. Google objects to plaintiff's Interrogatories (including the introduction and definitions) to the extent they are overbroad, vague, ambiguous, and unduly burdensome.

D. Google objects to plaintiff's Interrogatories (including the introduction and definitions) to the extent they are not related to the time period and subject matter at issue in this action.

E. Google objects to plaintiff's Interrogatories (including the introduction and definitions) to the extent they seek to require Google to identify documents or provide information not within its possession, custody or control.

F. Google objects to plaintiff's Interrogatories (including the introduction and definitions) to the extent they seek information already in the possession of plaintiff.

G. Google objects to plaintiff's Interrogatories (including the introduction and definitions) to the extent they seek information more readily ascertainable by alternative means of disclosure.

H. Google objects to plaintiff's Interrogatories (including the introduction and definitions) to the extent they seek publicly available information.

I. Google objects to plaintiff's Interrogatories (including the introduction and definitions) to the extent they seek information that is premature at this stage of the action.

J. Google objects to plaintiff's Interrogatories (including the introduction and definitions) to the extent they seek the disclosure of trade secrets or other confidential research, development, or commercial information. *See* Fed. R. Civ. P. 26(c)(1)(G).

K. Google objects to plaintiff's Interrogatories (including the introduction and definitions) on the grounds that Google should not be required to disclose any trade secrets or other confidential research, development, or commercial information, if at all, until plaintiff identifies with reasonable

particularity the concepts or ideas he alleges were misappropriated by Google. *See, e.g., DeRubeis v. Witten Technologies*, 244 F.R.D. 676, 680-81 (N.D. Ga. 2007) (Camp, J.).

L. Google objects to plaintiff's Interrogatories (including the introduction and definitions) on the grounds that Google is unable to determine whether the Interrogatories (i) seek the disclosure of relevant information, or (ii) are reasonably calculated to lead to the discovery of admissible evidence, until plaintiff identifies with reasonable particularity the concepts or ideas he alleges were misappropriated by Google. *See, e.g., DeRubeis v. Witten Technologies*, 244 F.R.D. 676, 680-81 (N.D. Ga. 2007) (Camp, J.); *Xerox Corp. v. IBM Corp.*, 64 F.R.D. 367, 371 (S.D.N.Y. 1974).

M. Google objects to plaintiff's Interrogatories (including the introduction and definitions) on the grounds that Google should not be required to disclose any trade secrets or other confidential research, development, or commercial information, if at all, until plaintiff establishes by "more ... than mere allegation" that pretrial disclosure is warranted. *DeRubeis v. Witten Technologies*, 244 F.R.D. 676, 680 (N.D. Ga. 2007) (Camp, J.), quoting *Ray v. Allied Chemical Corp.*, 34 F.R.D. 456, 457 (S.D.N.Y. 1964).

N. Google objects to responding to the Interrogatories until the parties have agreed to an appropriate confidentiality agreement and protective order, and such order has been entered by the court.

O. Google's objections and responses herein are not intended to waive or prejudice any objection or privilege Google may later assert without limitation. Google reserves its right to supplement, amend, correct, modify, or clarify any and all parts of the responses provided herein. Google's responses are made in a good faith effort to comply with the provisions of the Federal Rules of Civil Procedure and the Local Rules. Google has acted with due diligence in responding to these Interrogatories.

P. Google submits these responses and objections without conceding the relevancy or materiality of the subject matter of any Interrogatory, response thereto, or document, and expressly reserves all objections.

Q. Google has not fully completed its factual investigation, discovery, or preparation for trial. Google's responses to these Interrogatories will therefore be based on the best information available to it at the time of this writing, subject to the general and specific objections stated herein. It is anticipated that further discovery, independent investigation, legal research, and analysis will supply additional facts, add meaning to known facts, and establish entirely new factual

conclusions and legal contentions, all of which may lead to substantial additions to, changes in, and variations from the responses herein set forth. Responses are given without prejudice to Google's right to produce evidence of any subsequently discovered facts or facts that it may later uncover.

R. These General Responses and Objections shall be deemed to be incorporated in full into each response set forth below to the specific Interrogatories even where not further referred to in such responses.

Without waiver of the foregoing objections, Google specifically responds and objects to plaintiff's Interrogatories as follows:

II. SPECIFIC RESPONSES AND OBJECTIONS

INTERROGATORY NO. 1

Please identify the name, address and telephone number of all persons who have knowledge or information of the claims set forth in Plaintiff's Complaint. For each such person, describe the knowledge or information which he/she has and what documents evidence, reflect or relate to such knowledge or information.

RESPONSE TO INTERROGATORY NO. 1:

Google objects to this interrogatory to the extent that it seeks the disclosure of information and material protected by the attorney-client and work product privileges. Google further objects on the grounds that it is unable to determine

whether this request seeks relevant information or material, or is reasonably calculated to lead to the discovery of admissible evidence, until plaintiff identifies with reasonable particularity the concepts or ideas he alleges were misappropriated by Google. See, e.g., *DeRubeis v. Witten Technologies*, 244 F.R.D. 676, 680-81 (N.D. Ga. 2007) (Camp, J.); *Xerox Corp. v. IBM Corp.*, 64 F.R.D. 367, 371 (S.D.N.Y. 1974). Google further objects to the extent that this request seeks the disclosure of trade secrets or other confidential research, development, or commercial information. See Fed. R. Civ. P. 26(c)(1)(G). Google further states that such information and material should not be disclosed, if at all, until plaintiff identifies with reasonable particularity the concepts or ideas he alleges were misappropriated by Google. See, e.g., *DeRubeis*, 244 F.R.D. at 680-81. Google further states that Google should not be required to identify persons requested by this interrogatory, nor should it be required to disclose any trade secrets or other confidential research, development, or commercial information, if at all, until plaintiff establishes by “more ... than mere allegation” that pretrial disclosure is warranted. *DeRubeis*, 244 F.R.D. at 680, quoting *Ray v. Allied Chemical Corp.*, 34 F.R.D. 456, 457 (S.D.N.Y. 1964). Google further objects that this request is overbroad and unduly burdensome and expensive, particularly with respect to the phrase “all persons who have knowledge or information.” Google further objects

insofar as no person or persons can be identified because no alleged wrongdoing or other conduct occurred related to plaintiff's claims of misappropriation, fraud, conspiracy, unjust enrichment, implied contract, and conversion. Google reserves the right to supplement this response after good-faith discussions with plaintiff to resolve the foregoing objections.

INTERROGATORY NO. 2:

Please identify the name, address and telephone number of all persons who have knowledge or information respecting any defense which either Defendant or their affiliates may have to the claims set forth in Plaintiff's Complaint. For each such person, describe the knowledge or information which he/she has and what documents evidence, reflect or relate to such knowledge or information.

RESPONSE TO INTERROGATORY NO. 2:

Google objects to this request as vague and ambiguous, particularly with respect to the words "respecting" and "affiliates." Google further objects to the extent that this request seeks the disclosure of information and material protected by the attorney-client and work product privileges. Google further objects on the grounds that it is unable to determine whether this request seeks relevant information or material, or is reasonably calculated to lead to the discovery of admissible evidence, until plaintiff identifies with reasonable particularity the

concepts or ideas he alleges were misappropriated by Google. *See, e.g., DeRubeis v. Witten Technologies*, 244 F.R.D. 676, 680-81 (N.D. Ga. 2007) (Camp, J.); *Xerox Corp. v. IBM Corp.*, 64 F.R.D. 367, 371 (S.D.N.Y. 1974). Google further objects to the extent that this request seeks the disclosure of trade secrets or other confidential research, development, or commercial information. *See Fed. R. Civ. P. 26(c)(1)(G)*. Google further states that such information and material should not be disclosed, if at all, until plaintiff identifies with reasonable particularity the concepts or ideas he alleges were misappropriated by Google. *See, e.g., DeRubeis*, 244 F.R.D. at 680-81. Google further states that Google should not be required to identify persons requested by this interrogatory, nor should it be required to disclose any trade secrets or other confidential research, development, or commercial information, if at all, until plaintiff establishes by “more ... than mere allegation” that pretrial disclosure is warranted. *DeRubeis*, 244 F.R.D. at 680, quoting *Ray v. Allied Chemical Corp.*, 34 F.R.D. 456, 457 (S.D.N.Y. 1964). Google further objects that this request is overbroad and unduly burdensome and expensive, particularly with respect to the phrase “all persons who have knowledge or information.” Google reserves the right to supplement this response after good-faith discussions with plaintiff to resolve the foregoing objections.

INTERROGATORY NO. 3:

Please identify all persons involved in devising, drafting, conceiving, approving, and managing the public offering by Google, Inc. of a \$10 Million prize to persons who may build the best software to enhance Google, Inc.'s upcoming cell phone operating system. For each such person, please describe the work performed relative to the offering and prize program.

RESPONSE TO INTERROGATORY NO. 3:

Google objects to this interrogatory as vague and ambiguous, particularly with respect to the phrases "devising, drafting, conceiving, approving and managing" and "upcoming cell phone operating system." Google further objects that this interrogatory is overbroad and unduly burdensome, particularly with respect to the phrase "all persons involved." Google further objects to the extent that this interrogatory seeks the disclosure of information protected by the attorney-client and work product privileges. Google further objects that this interrogatory seeks information that is neither relevant to any party's claim or defense nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, any information related to any "upcoming cell phone system" (however defined) would not appear to have any tendency to make more probable or less probable any fact that is of consequence to plaintiff's claims.

INTERROGATORY NO. 4:

Please identify all persons and the associated e-mail addresses who were parties or admitted participants to that certain Google, Inc. e-mail discussion group identified as googlesky@googlegroups.com during the period February 2006 through July 2007.

RESPONSE TO INTERROGATORY NO. 4:

Google objects to this interrogatory as vague and ambiguous with respect to the phrases “parties or admitted participants” and “Google, Inc. email discussion group.” Subject to and without waiving this objection and the general objections stated above, Google states that, pursuant to Rule 33(d)(1) of the Federal Rules of Civil Procedure, the answer to this interrogatory may be determined by reviewing the documents labeled G 00036-77.

INTERROGATORY NO. 5:

Please identify all persons whom Defendants contend were engaged in the development of the Sky in Google Earth program, including but not limited to the Google Pittsburgh engineering team and members of the Google Visiting Faculty Program from the University of Washington. For each person so identified, please state (a) their name, address and affiliation, (b) their academic, scientific and/or vocational competencies and credentials as they relate to development of the Sky

in Google Earth program, (c) their role in the Sky in Google Earth program, (d) the work and developments which each such person was responsible for performing, and (e) all documents which each person created, drafted, edited, reviewed or assembled while working on the Sky in Google Earth program initiative.

RESPONSE TO INTERROGATORY NO. 5:

Google objects to this request as vague and ambiguous, particularly with respect to the words “engaged” and “development.” Google further objects to the extent that this request seeks the disclosure of information and material protected by the attorney-client and work product privileges. Google further objects on the grounds that it is unable to determine whether this request seeks relevant information or material, or is reasonably calculated to lead to the discovery of admissible evidence, until plaintiff identifies with reasonable particularity the concepts or ideas he alleges were misappropriated by Google. *See, e.g., DeRubeis v. Witten Technologies*, 244 F.R.D. 676, 680-81 (N.D. Ga. 2007) (Camp, J.); *Xerox Corp. v. IBM Corp.*, 64 F.R.D. 367, 371 (S.D.N.Y. 1974). Google further objects to the extent that this request seeks the disclosure of trade secrets or other confidential research, development, or commercial information. *See Fed. R. Civ. P. 26(c)(1)(G)*. Google further states that such information and material should not be disclosed, if at all, until plaintiff identifies with reasonable particularity the

concepts or ideas he alleges were misappropriated by Google. *See, e.g., DeRubeis*, 244 F.R.D. at 680-81. Google further states that Google should not be required to identify persons requested by this interrogatory, nor should it be required to disclose any trade secrets or other confidential research, development, or commercial information, if at all, until plaintiff establishes by “more ... than mere allegation” that pretrial disclosure is warranted. *DeRubeis*, 244 F.R.D. at 680, quoting *Ray v. Allied Chemical Corp.*, 34 F.R.D. 456, 457 (S.D.N.Y. 1964).

Google further objects that this request is overbroad and unduly burdensome and expensive, particularly with respect to the phrase “all persons.” Google reserves the right to supplement this response after good-faith discussions with plaintiff to resolve the foregoing objections.

INTERROGATORY NO. 6:

Please identify all persons employed or retained by Defendant Google, Inc. since January 1, 2000 and involved in conceiving, executing, administering, or managing the Company’s offers of prizes or incentive-based compensation for the development or attainment of specified products, services, programs or accomplishments.

RESPONSE TO INTERROGATORY NO. 6:

Google objects to this interrogatory as vague and ambiguous, particularly with respect to the phrases “involved in,” “conceiving, executing, administering, or managing,” and “incentive-based compensation,” and the words “attainment” and “accomplishments.” Google further objects that this interrogatory is overbroad and unduly burdensome with respect to time and scope. Specifically, this interrogatory seeks information dating back more than six years before plaintiff became a temporary worker at Google, and more than two years following his tenure as a temporary worker, and seeks information related to products other than Google Sky. Google further objects to the extent that this interrogatory seeks the disclosure of information protected by the attorney-client and work product privileges. Subject to and without waiving the foregoing objections and the general objections stated above, Google states that it did not offer any prizes for the development of Google Sky.

INTERROGATORY NO. 7:

Please identify the work performed for Google, Inc. by WorkforceLogic USA since inception of the business relationship between the two firms. Please identify all persons employed or retained by Defendant Google, Inc. since January

1, 2000 and who were or are involved in leading, managing and administering the Company's relationship with WorkforceLogic USA.

RESPONSE TO INTERROGATORY NO. 7:

Google objects to this interrogatory as vague and ambiguous with respect to the phrases "work performed" and "business relationship." Google further objects that this interrogatory is overbroad and unduly burdensome with respect to time and scope. Specifically, this interrogatory seeks information dating back more than six years before plaintiff became a temporary worker at Google, and more than two years following his tenure as a temporary worker, and without limit as to the nature and scope of the "work performed" (however defined). Google further objects that this interrogatory seeks information that is neither relevant to any party's claim or defense nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, any information related to Google's "business relationship" (however defined) with Workforce Logic would not appear to have any tendency to make more probable or less probable any fact that is of consequence to plaintiff's claims. Google further objects to the extent that this interrogatory seeks the disclosure of information protected by the attorney-client and work product privileges.

INTERROGATORY NO. 8:

Please identify the terms and conditions of Plaintiff's employment with Defendants.

RESPONSE TO INTERROGATORY NO. 8:

Google objects to this interrogatory as vague and ambiguous with respect to the phrases "terms and conditions" and "employment with Defendants." Google further objects to the extent that this interrogatory seeks the disclosure of information protected by the attorney-client and work product privileges. Subject to and without waiving the foregoing objections and the general objections stated above, Google states as follows: Pursuant to Rule 33(d)(1) of the Federal Rules of Civil Procedure, the answer to this interrogatory may be determined by reviewing the documents labeled WL 001-33 and G 001-33.

INTERROGATORY NO. 9:

Please state the reason for terminating Plaintiff's employment with Defendants.

RESPONSE TO INTERROGATORY NO. 9:

Google objects to this interrogatory as vague and ambiguous with respect to the word "terminating" and the phrase "employment with Defendants." Google further objects to the extent that this interrogatory seeks the disclosure of information

protected by the attorney-client and work product privileges. Subject to and without waiving the foregoing objections and the general objections stated above, Google states as follows: The decision was made to discontinue plaintiff's temporary assignment at Google based on his performance. Pursuant to Rule 33(d)(1) of the Federal Rules of Civil Procedure, plaintiff may find further information related to this interrogatory by reviewing the documents labeled WFL 00029-32 and G 00029-32.

INTERROGATORY NO. 10:

Please identify all persons employed by Defendant Google, Inc. who were informed of and following [sic] information and details generated by the e-mail discussion group initiated by Plaintiff and referred to as "googlesky@googlegroups.com."

RESPONSE TO INTERROGATORY NO. 10:

Google objects to this interrogatory as vague and ambiguous, particularly with respect to the phrase "informed of" and the words "following" and "details." Google further objects that the interrogatory is overbroad because it is limitless with respect to time. Google further objects to the extent that this interrogatory seeks the disclosure of information protected by the attorney-client and work product privileges. Google reserves the right to supplement this response after good-faith discussions with plaintiff to resolve the foregoing objections.

INTERROGATORY NO. 11:

Please identify all persons employed by Defendant Google, Inc. who were responsible for the creation, administration, execution, or management of Company e-mail discussion groups since January 1, 2000.

RESPONSE TO INTERROGATORY NO. 11:

Google objects to this interrogatory as vague and ambiguous with respect to the phrases “responsible for the creation, administration, execution, or management of” and “Company e-mail discussion groups.” Google further objects that this interrogatory is overbroad and unduly burdensome with respect to time and scope. Specifically, this interrogatory seeks information dating back more than six years before plaintiff became a temporary worker at Google, and more than two years following his tenure as a temporary worker, and seeks information related to email groups other than googlesky@googlegroups.com. Google further objects that this interrogatory seeks information that is neither relevant to any party’s claim or defense nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, any information related to email groups other than googlesky@googlegroups.com would not appear to have any tendency to make more probable or less probable any fact that is of consequence to plaintiff’s claims. Google further objects to the extent that this interrogatory seeks the disclosure of

information protected by the attorney-client and work product privileges. Google reserves the right to supplement this response after good-faith discussions with plaintiff to resolve the foregoing objections.

INTERROGATORY NO. 12:

Please identify all persons who were involved in evaluating and responding to Plaintiff's efforts to address this matter with Defendant Google, Inc. short of formal litigation.

RESPONSE TO INTERROGATORY NO. 12:

Google objects to the extent that this interrogatory seeks the disclosure of information protected by the attorney-client and work product privileges. Google further objects on the grounds that this interrogatory seeks the disclosure of information that is neither relevant to any party's claim or defense nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, the "evaluat[ion] and respon[se] to Plaintiff's efforts to address this matter with Defendant Google, Inc. short of formal litigation" (assuming such conduct occurred) would not appear to have any tendency to make more probable or less probable any fact that is of consequence to plaintiff's claims. Subject to and without waiving the foregoing objections and the general objections stated above, Google states that it is currently unaware of any persons "who were involved in

evaluating and responding to Plaintiff's [alleged] efforts to address this matter ... short of formal litigation."

INTERROGATORY NO. 13:

Please state the name, address and telephone number of each expert consultant whom Defendants will call to provide expert testimony in this case. For each such person, please identify, describe or produce:

- (a) all opinions which the expert is expected to present;
- (b) all facts upon which the expert will rely in presenting his or her opinions;
- (c) the curriculum vitae for the expert;
- (d) all articles and publications to which the expert will refer or base opinions in presenting expert testimony;
- (e) all articles, publications and lectures authored or delivered by the expert; and
- (f) a listing of all cases or matters in which the expert has previously provided expert testimony, identifying the nature of the case or matter for which such testimony was provided, the nature of the opinions presented, the date(s) on which the opinions were presented, and the court(s) or other forums in which the opinions were presented.

RESPONSE TO INTERROGATORY NO. 13:

Google objects on the grounds that this interrogatory is premature. Pursuant to the Court's May 6, 2008 scheduling order, Google's deadline to serve its expert disclosures and report is October 17, 2008. Google expressly reserves all

objections and privileges and will respond to Interrogatory No. 13 in the time and manner required by the Federal Rules of Civil Procedure and the Court's May 6 order. Google further reserves the right to supplement this response at the appropriate time.

INTERROGATORY NO. 14:

Please identify the date on which the Sky in Google Earth program was implemented.

RESPONSE TO INTERROGATORY NO. 14:

Google objects to this interrogatory as vague and ambiguous with respect to the word "implemented." Subject to and without waiving this objection and the general objections stated above, Google responds as follows: Pursuant to Rule 33(d)(1) of the Federal Rules of Civil Procedure, plaintiff may determine the date of Google Sky's launch by reviewing Google's August 2007 press release or other publicly available documents. (*See, e.g.*, <http://google-latlong.blogspot.com/2007/08/sky-final-frontier.html>.)

INTERROGATORY NO. 15:

With respect to the Sky in Google Earth program as implemented, please identify:

- (a) all program features;

- (b) all program layers;
- (c) all program steering mechanisms and attributes;
- (d) all third-party providers of mapping, scientific, or astrological data;
and
- (e) all third-party providers of program imagery and software
programming

RESPONSE TO INTERROGATORY NO. 15:

Google objects to this request as vague and ambiguous, particularly with respect to the words “implemented,” “features,” “layers,” “steering mechanisms,” “attributes,” and “program imagery.” Google further objects on the grounds that it is unable to determine whether this request seeks relevant information or material, or is reasonably calculated to lead to the discovery of admissible evidence, until plaintiff identifies with reasonable particularity the concepts or ideas he alleges were misappropriated by Google. *See, e.g., DeRubeis v. Witten Technologies*, 244 F.R.D. 676, 680-81 (N.D. Ga. 2007) (Camp, J.); *Xerox Corp. v. IBM Corp.*, 64 F.R.D. 367, 371 (S.D.N.Y. 1974). Google further objects to the extent that this request seeks the disclosure of trade secrets or other confidential research, development, or commercial information. *See Fed. R. Civ. P. 26(c)(1)(G)*. Google further states that such information and material should not be disclosed, if at all, until plaintiff identifies with reasonable particularity the concepts or ideas he

alleges were misappropriated by Google. *See, e.g., DeRubeis*, 244 F.R.D. at 680-81. Google further states that Google should not be required to disclose any trade secrets or other confidential research, development, or commercial information, if at all, until plaintiff establishes by “more ... than mere allegation” that pretrial disclosure is warranted. *DeRubeis*, 244 F.R.D. at 680, quoting *Ray v. Allied Chemical Corp.*, 34 F.R.D. 456, 457 (S.D.N.Y. 1964). Google further objects that this request is overbroad, particularly with respect to the word “all,” which precedes each of the five requested topics. Google further objects to the extent that this interrogatory seeks the disclosure of information protected by the attorney-client and work product privileges. Subject to and without waiving the foregoing objections and the general objections stated above, Google states that publicly-available information responsive to this interrogatory is available to plaintiff by accessing Google Sky itself. Google reserves the right to supplement this response after good-faith discussions with plaintiff to resolve the foregoing objections.

Served this 20th day of June, 2008.

/s/ Eric P. Schroeder

Eric P. Schroeder

(Georgia Bar No. 629880)

R. Joseph Burby, IV

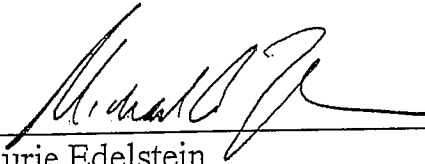
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JONATHAN COBB,

Plaintiff,

v.

Case No. 1:08-CV-0483 (MHS)

GOOGLE INC. and
WORKFORCE LOGIC LLC,

Defendants.

LR 7.1(D) CERTIFICATE OF FONT COMPLIANCE

I hereby certify that the foregoing has been prepared with one of the font and point selections approved by the Court in N.D. Ga. Local Rule 5.1(C), specifically Times New Roman 14 pt.

/s/ Eric P. Schroeder
Eric P. Schroeder

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JONATHAN COBB,

Plaintiff,

v.

Case No. 1:08-CV-0483 (MHS)

GOOGLE INC. and
WORKFORCE LOGIC LLC,

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on June 20, 2008, a copy of Defendant Google Inc.'s Responses to Plaintiff's First Continuing Interrogatories to Defendants was mailed to the following attorneys by depositing a copy in the U.S. Mail with appropriate postage:

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/s/ Jessica Long
Jessica Long

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JONATHAN COBB,

Plaintiff,

v.

Case No. 1:08-CV-0483 (MHS)

GOOGLE INC. and
WORKFORCE LOGIC LLC,

Defendants.

**DEFENDANT GOOGLE INC.'S RESPONSES TO PLAINTIFF'S
FIRST CONTINUING REQUEST FOR PRODUCTION OF DOCUMENTS
AND THINGS TO DEFENDANTS**

Defendant Google Inc. ("Google"), by and through its undersigned counsel, and pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and the Civil Local Rules of Practice for the United States District Court for the Northern District of Georgia, hereby responds to Plaintiff's First Continuing Request for Production of Documents and Things to Defendants, dated February 19, 2008 ("Requests").

EXHIBIT "E"

I. GENERAL RESPONSES AND OBJECTIONS

A. Google objects to plaintiff's Requests (including the introduction and definitions) to the extent they seek disclosure of (i) information that is protected by the attorney-client privilege, attorney work-product doctrine or privilege, or any other applicable privilege, or (ii) information that is otherwise protected from disclosure under applicable privileges, laws, or rules. Google further objects to providing any information concerning privileged documents that would, in effect, reveal privileged information. The inadvertent production of any material protected by the attorney-client privilege, the work-product doctrine, or any other applicable privilege, immunity or protection from disclosure is not intended and should not be construed to constitute a waiver. Google reserves the right to assert all applicable privileges and protections, to request the return of any documents inadvertently produced, and reserves its rights under Rule 26 of the Federal Rules of Civil Procedure.

B. Google objects to plaintiff's Requests (including the introduction and definitions) to the extent they purport to impose on Google obligations beyond those set forth in the Federal Rules of Civil Procedure and the Local Rules.

C. Google objects to plaintiff's Requests (including the introduction and definitions) to the extent they are overbroad, vague, ambiguous, and unduly

burdensome and expensive, in particular their repeated use of the phrase “evidencing, reflecting or relating to.”

D. Google objects to plaintiff’s Requests (including the introduction and definitions) to the extent they are not related to the time period and subject matter at issue in this action.

E. Google objects to plaintiff’s Requests (including the introduction and definitions) to the extent they seek to require Google to produce documents or provide information not within its possession, custody or control.

F. Google objects to plaintiff’s Requests (including the introduction and definitions) to the extent they seek information already in the possession of plaintiff.

G. Google objects to plaintiff’s Requests (including the introduction and definitions) to the extent they seek information more readily ascertainable by alternative means of disclosure.

H. Google objects to plaintiff’s Requests (including the introduction and definitions) to the extent they seek publicly available information.

I. Google objects to plaintiff’s Requests (including the introduction and definitions) to the extent they seek information that is premature at this stage of the action.

J. Google objects to plaintiff's Requests (including the introduction and definitions) to the extent they call for the production of trade secrets or other confidential research, development, or commercial information. *See* Fed. R. Civ. P. 26(c)(1)(G).

K. Google objects to plaintiff's Requests (including the introduction and definitions) on the grounds that Google should not be required to disclose any trade secrets or other confidential research, development, or commercial information, if at all, until plaintiff identifies with reasonable particularity the concepts or ideas he alleges were misappropriated by Google. *See, e.g., DeRubeis v. Witten Technologies*, 244 F.R.D. 676, 680-81 (N.D. Ga. 2007) (Camp, J.).

L. Google objects to plaintiff's Requests (including the introduction and definitions) on the grounds that Google is unable to determine whether the Requests (i) seek the production of relevant material, or (ii) are reasonably calculated to lead to the discovery of admissible evidence, until plaintiff identifies with reasonable particularity the concepts or ideas he alleges were misappropriated by Google. *See, e.g., DeRubeis v. Witten Technologies*, 244 F.R.D. 676, 680-81 (N.D. Ga. 2007) (Camp, J.); *Xerox Corp. v. IBM Corp.*, 64 F.R.D. 367, 371 (S.D.N.Y. 1974).

M. Google objects to plaintiff's Requests (including the introduction and definitions) on the grounds that Google should not be required to disclose any trade secrets or other confidential research, development, or commercial information, if at all, until plaintiff establishes by "more ... than mere allegation" that pretrial disclosure is warranted. *DeRubeis v. Witten Technologies*, 244 F.R.D. 676, 680 (N.D. Ga. 2007) (Camp, J.), quoting *Ray v. Allied Chemical Corp.*, 34 F.R.D. 456, 457 (S.D.N.Y. 1964).

N. Google objects to the production of documents until a protective order has been entered by the court.

O. Google's objections and responses herein and the production of any documents are not intended to waive or prejudice any objection or privilege Google may later assert without limitation. Google reserves its right to supplement, amend, correct, modify, or clarify any and all parts of the responses provided herein. Google's responses are made in a good faith effort to comply with the provisions of the Federal Rules of Civil Procedure and the Local Rules. Google has acted with due diligence in responding to the Requests.

P. Google submits these responses and objections without conceding the relevancy or materiality of the subject matter of any document request, response thereto, or document, and expressly reserves all objections.

Q. Google has not fully completed its factual investigation, discovery, or preparation for trial. Google's production of documents will therefore be based on the best information available to it at the time of gathering responsive documents, subject to the general and specific objections stated herein. It is anticipated that further discovery, independent investigation, legal research, and analysis will supply additional facts, add meaning to known facts, and establish entirely new factual conclusions and legal contentions, all of which may lead to substantial additions to, changes in, and variations from the contentions herein set forth. Responses are given without prejudice to Google's right to produce evidence of any subsequently discovered facts or facts that it may later uncover.

R. Any statement of intent to produce documents responsive to a particular request is not, and shall not be deemed, a representation that any such documents exist or are in the possession, custody, or control of Google.

S. Documents produced subject to these General Responses and Objections and to the specific responses and objections set forth below shall be produced in a Concordance v9.5 database (to allow for text-searching) and a related IPro v8.5 database of .TIF images upon which bates stamps and confidentiality designations shall be affixed.

T. These General Responses and Objections shall be deemed to be incorporated in full into each response set forth below to the specific Requests even where not further referenced in such responses.

Without waiver of the foregoing objections, Google specifically responds and objects to plaintiff's Requests as follows:

II. SPECIFIC RESPONSES AND OBJECTIONS

REQUEST FOR PRODUCTION NO. 1

All documents and things evidencing, reflecting or relating to the development of the Sky in Google Earth program by Google, Inc.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

Google objects to this request as vague and ambiguous, particularly with respect to the phrase "evidencing, reflecting or relating to," and to the word "development." Google further objects to the extent that this request seeks the production of material protected by the attorney-client and work product privileges. Google further objects to the extent that this request seeks the production of trade secrets or other confidential research, development, or commercial information. *See* Fed. R. Civ. P. 26(c)(1)(G). Google further states that such information and material should not be disclosed, if at all, until plaintiff identifies with reasonable particularity the concepts or ideas he alleges were misappropriated by Google.

See, e.g., DeRubeis v. Witten Technologies, 244 F.R.D. 676, 680-81 (N.D. Ga. 2007) (Camp, J.). Google further objects on the grounds that it is unable to determine whether this request (i) seeks the production of relevant material, or (ii) is reasonably calculated to lead to the discovery of admissible evidence, until plaintiff identifies with reasonable particularity the concepts or ideas he alleges were misappropriated by Google. *See id.; Xerox Corp. v. IBM Corp.*, 64 F.R.D. 367, 371 (S.D.N.Y. 1974). Google further states that Google should not be required to disclose any trade secrets or other confidential research, development, or commercial information, if at all, until plaintiff establishes by “more ... than mere allegation” that pretrial disclosure is warranted. *DeRubeis*, 244 F.R.D. at 680, *quoting Ray v. Allied Chemical Corp.*, 34 F.R.D. 456, 457 (S.D.N.Y. 1964). Google further objects that this request is overbroad and unduly burdensome and expensive, as it potentially calls for the search, review, and production of a vast number of documents that are irrelevant to plaintiff’s alleged concepts and ideas. Google reserves the right to supplement this response after good-faith discussions with plaintiff to resolve the foregoing objections.

REQUEST FOR PRODUCTION NO. 2:

All contract documents and things evidencing, reflecting or relating to Defendant Google, Inc.'s business relationship with Defendant WorkforceLogic USA.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

Google objects to this request as vague and ambiguous, particularly with respect to the phrases "evidencing, reflecting or relating to" and "business relationship." Google further objects to the extent that this request seeks the production of material protected by the attorney-client and work product privileges. Google further objects on the grounds that this request seeks the production of material that is neither relevant to any party's claim or defense nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, the nature of Google's "business relationship" (however defined) with Workforce Logic would not appear to have any tendency to make more probable or less probable any fact that is of consequence to plaintiff's claims. Google further objects that this request is overbroad and unduly burdensome and expensive, as it potentially calls for the search, review, and production of a vast number of documents that are irrelevant to plaintiff's claims. Subject to and without waiving the foregoing objections and the general objections raised above, Google states that (a) Defendant Workforce

Logic LLC already has produced documents (WL 0001-33) responsive to this request, and (b) Google agrees to produce its copy of such documents (G 0001-33). Google reserves the right to supplement this response after good-faith discussions with plaintiff to resolve the foregoing objections.

REQUEST FOR PRODUCTION NO. 3:

All documents and things evidencing, reflecting or relating to Plaintiff's application for employment with or for either Defendant.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3:

Google objects to this request as vague and ambiguous with respect to the phrases "evidencing, reflecting or relating to" and "employment with or for either Defendant." Google further objects to the extent that this request seeks the production of material protected by the attorney-client and work product privileges. Subject to and without waiving this objection and the general objections raised above, Google states that (a) Defendant Workforce Logic LLC already has produced documents (WL 0001-33) responsive to this request, (b) Google agrees to produce its copy of such documents (G 0001-33), and (c) Google agrees to produce other relevant, non-privileged documents in its possession, custody, or control (G 00034-35).

REQUEST FOR PRODUCTION NO. 4:

All documents and things evidencing, reflecting or relating to Plaintiff's employment with or for either Defendant.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4:

Google objects to this request as vague and ambiguous with respect to the phrases "evidencing, reflecting or relating to" and "employment with or for either Defendant." Google further objects to the extent that this request seeks the production of material protected by the attorney-client and work product privileges. Subject to and without waiving the foregoing objections and the general objections raised above, Google states that (a) Defendant Workforce Logic LLC already has produced documents (WL 0001-33) responsive to this request, (b) Google agrees to produce its copy of such documents (G 0001-33), and certain other documents (G 00034-35), and (c) Google agrees to produce plaintiff's email archive from his tenure as a temporary worker at Google (G 00078-09912). Google reserves the right to supplement this response after good-faith discussions with plaintiff to resolve the foregoing objections.

REQUEST FOR PRODUCTION NO. 5:

All documents and things evidencing, reflecting or relating to the termination of Plaintiff's employment with or for either Defendant.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5:

Google objects to this request as vague and ambiguous with respect to the phrases “evidencing, reflecting or relating to” and “employment with or for either Defendant,” and to the word “termination.” Google further objects to the extent that this request seeks the production of material protected by the attorney-client and work product privileges. Subject to and without waiving the foregoing objections and the general objections raised above, Google states that (a) Defendant Workforce Logic LLC already has produced documents (WL 0001-33) responsive to this request, (b) Google agrees to produce its copy of such documents (G 0001-33), and certain other documents (G 00034-35), and (c) Google agrees to produce plaintiff’s email archive from his tenure as a temporary worker at Google (G00078-09912). Google reserves the right to supplement this response after good-faith discussions with plaintiff to resolve the foregoing objections.

REQUEST FOR PRODUCTION NO. 6:

All documents and things evidencing, reflecting or relating to the Google, Inc. e-mail discussion group googlesky@googlegroups.com.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6:

Google objects to this request as vague and ambiguous with respect to the phrases “evidencing, reflecting or relating to” and “Google, Inc. email discussion

group.” Google further objects to the extent that this request seeks the production of material protected by the attorney-client and work product privileges. Subject to and without waiving the foregoing objections and the general objections raised above, Google agrees to produce relevant, non-privileged documents responsive to this request (G 000036-77). Google reserves the right to supplement this response after good-faith discussions with plaintiff to resolve the foregoing objections.

REQUEST FOR PRODUCTION NO. 7:

All documents and things evidencing, reflecting or relating to Plaintiff’s initiation of a Google, Inc. e-mail discussion group googlesky@googlegroups.com.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7:

Google objects to this request as vague and ambiguous with respect to the phrases “evidencing, reflecting or relating to,” “Plaintiff’s initiation,” and “Google, Inc. email discussion group.” Google further objects to the extent that this request seeks the production of material protected by the attorney-client and work product privileges. Subject to and without waiving the foregoing objections and the general objections raised above, Google agrees to produce relevant, non-privileged documents responsive to this request (G 000036-77). Google reserves the right to supplement this response after good-faith discussions with plaintiff to resolve the foregoing objections.

REQUEST FOR PRODUCTION NO. 8:

All documents and things evidencing, reflecting or relating to Google, Inc.'s observation, monitoring, surveillance, receipt, consideration, evaluation, sharing or evaluation of the concepts, ideas, discussions and initiatives presented, advanced or discussed in the Google, Inc. e-mail discussion group googlesky@googlegroups.com.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8:

Google objects to this request as vague and ambiguous with respect to the phrases "evidencing, reflecting or relating to," "observation, monitoring, surveillance, receipt, consideration, evaluation, sharing or evaluation," and "Google, Inc. email discussion group." Google further objects to the extent that this request seeks the production of material protected by the attorney-client and work product privileges. Google reserves the right to supplement this response after good-faith discussions with plaintiff to resolve the foregoing objections.

REQUEST FOR PRODUCTION NO. 9:

All documents and things evidencing, reflecting or relating to information provided by Plaintiff to WorkforceLogic USA prior to commencing employment with Defendants.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9:

Google objects to this request as vague and ambiguous with respect to the phrases “evidencing, reflecting or relating to” and “commencing employment with Defendants.” Google further objects to the extent that this request seeks the production of material protected by the attorney-client and work product privileges. Subject to and without waiving this objection and the general objections raised above, Google states that (a) Defendant Workforce Logic LLC already has produced documents (WL 0001-33) responsive to this request, and (b) Google agrees to produce its copy of such documents (G 0001-33). Google further states that it is currently unaware of any other documents responsive to this request in its possession, custody, or control, and to the best of its current knowledge, no other responsive documents exist.

REQUEST FOR PRODUCTION NO. 10:

All documents and things evidencing, reflecting or relating to Defendant Google, Inc.’s consideration and evaluation of claims presented by Plaintiff short of litigation.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10:

Google objects to this request as vague and ambiguous with respect to the phrase “evidencing, reflecting or relating to.” Google further objects to the extent

that this request seeks the production of material protected by the attorney-client and work product privileges. Google further objects on the grounds that this request seeks the production of material that is neither relevant to any party's claim or defense nor reasonably calculated to lead to the discovery of admissible evidence. Specifically, the "consideration and evaluation of claims presented by Plaintiff short of litigation" (assuming such conduct occurred) would not appear to have any tendency to make more probable or less probable any fact that is of consequence to plaintiff's claims. Google further states that it is currently unaware of any documents responsive to this request in its possession, custody, or control, and to the best of its current knowledge, no responsive documents exist.

REQUEST FOR PRODUCTION NO. 11:

All documents and things evidencing, reflecting or relating to the work of the Google Pittsburgh engineering group in developing, advancing or refining the Sky in Google Earth program or any part thereof.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11:

Google objects to this request as vague and ambiguous, particularly with respect to the phrases "evidencing, reflecting or relating to" and "developing, advancing or refining," and to the word "work." Google further objects to the extent that this request seeks the production of material protected by the attorney-client and

work product privileges. Google further objects to the extent that this request seeks the production of trade secrets or other confidential research, development, or commercial information. *See* Fed. R. Civ. P. 26(c)(1)(G). Google further states that such information and material should not be disclosed, if at all, until plaintiff identifies with reasonable particularity the concepts or ideas he alleges were misappropriated by Google. *See, e.g., DeRubeis v. Witten Technologies*, 244 F.R.D. 676, 680-81 (N.D. Ga. 2007) (Camp, J.). Google further objects on the grounds that it is unable to determine whether this request (i) seeks the production of relevant material, or (ii) is reasonably calculated to lead to the discovery of admissible evidence, until plaintiff identifies with reasonable particularity the concepts or ideas he alleges were misappropriated by Google. *See id.; Xerox Corp. v. IBM Corp.*, 64 F.R.D. 367, 371 (S.D.N.Y. 1974). Google further states that Google should not be required to disclose any trade secrets or other confidential research, development, or commercial information, if at all, until plaintiff establishes by “more ... than mere allegation” that pretrial disclosure is warranted. *DeRubeis*, 244 F.R.D. at 680, *quoting Ray v. Allied Chemical Corp.*, 34 F.R.D. 456, 457 (S.D.N.Y. 1964). Google further objects that this request is overbroad and unduly burdensome and expensive, as it potentially calls for the search, review, and production of a vast number of documents that are irrelevant to plaintiff’s alleged

concepts and ideas. Google reserves the right to supplement this response after good-faith discussions with plaintiff to resolve the foregoing objections.

REQUEST FOR PRODUCTION NO. 12:

All documents and things evidencing, reflecting or relating to the work of representatives of the University of Washington in the Google Visiting Faculty Program in developing, advancing or refining the Sky in Google Earth program or any part thereof.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12:

Google objects to this request as vague and ambiguous, particularly with respect to the phrases “evidencing, reflecting or relating to” and “developing, advancing or refining,” and to the word “work.” Google further objects to the extent that this request seeks the production of material protected by the attorney-client and work product privileges. Google further objects to the extent that this request seeks the production of trade secrets or other confidential research, development, or commercial information. *See* Fed. R. Civ. P. 26(c)(1)(G). Google further states that such information and material should not be disclosed, if at all, until plaintiff identifies with reasonable particularity the concepts or ideas he alleges were misappropriated by Google. *See, e.g., DeRubeis v. Witten Technologies*, 244 F.R.D. 676, 680-81 (N.D. Ga. 2007) (Camp, J.). Google further objects on the

grounds that it is unable to determine whether this request (i) seeks the production of relevant material, or (ii) is reasonably calculated to lead to the discovery of admissible evidence, until plaintiff identifies with reasonable particularity the concepts or ideas he alleges were misappropriated by Google. *See id.; Xerox Corp. v. IBM Corp.*, 64 F.R.D. 367, 371 (S.D.N.Y. 1974). Google further states that Google should not be required to disclose any trade secrets or other confidential research, development, or commercial information, if at all, until plaintiff establishes by “more ... than mere allegation” that pretrial disclosure is warranted. *DeRubeis*, 244 F.R.D. at 680, *quoting Ray v. Allied Chemical Corp.*, 34 F.R.D. 456, 457 (S.D.N.Y. 1964). Google further objects that this request is overbroad and unduly burdensome and expensive, as it potentially calls for the search, review, and production of a vast number of documents that are irrelevant to plaintiff’s alleged concepts and ideas. Google reserves the right to supplement this response after good-faith discussions with plaintiff to resolve the foregoing objections.

REQUEST FOR PRODUCTION NO. 13:

All documents and things provided to any expert or consulting witness retained or employed by either Defendant for work, consultation, testimony or other services in connection with this case.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13:

Google objects on the grounds that this request is premature. Pursuant to the Court's May 6, 2008 scheduling order, Google's deadline to serve its expert disclosures and report is October 17, 2008. Google expressly reserves all objections and privileges and will respond to Request No. 13 in the time and manner required by the Federal Rules of Civil Procedure and the Court's May 6 order. Google further reserves the right to supplement this response at the appropriate time.

REQUEST FOR PRODUCTION NO. 14:

All documents and things evidencing, reflecting or relating to any incentive-based compensation provided to any person working in or with the Sky in Google Earth program.

RESPONSE TO REQUEST FOR PRODUCTION NO. 14:

Google objects to this request as vague and ambiguous, particularly with respect to the phrases "evidencing, reflecting or relating to" and "incentive-based compensation." Google further objects to the extent that this request seeks the production of material protected by the attorney-client and work product privileges. Subject to and without waiving the foregoing objections and the general objections raised above, Google states that it is currently unaware of any documents

responsive to this request in its possession, custody, or control, and to the best of its current knowledge, no responsive documents exist.

REQUEST FOR PRODUCTION NO. 15:

All documents and things evidencing, reflecting or relating to corporate mottos, mission statements and statements of philosophy of Defendant Google, Inc.

RESPONSE TO REQUEST FOR PRODUCTION NO. 15:

Google objects to this request as vague and ambiguous, particularly with respect to the phrases “evidencing, reflecting or relating to” and “statements of philosophy.” Google further objects to the extent that this request seeks the production of material protected by the attorney-client and work product privileges. Google further objects on the grounds that this request seeks the production of material that is neither relevant to any party’s claim or defense nor reasonably calculated to lead to the discovery of admissible evidence.

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Google further objects to this request as overbroad and unduly burdensome and expensive, as it calls for the search, review, and production of vast pages of material irrelevant to plaintiff's claims. Google further objects insofar as plaintiff can review Google's public filings and statements through publicly-available means such as the Internet.

Served this 20th day of June, 2008.

/s/ Eric P. Schroeder

Eric P. Schroeder

(Georgia Bar No. 629880)

R. Joseph Burby, IV

(Georgia Bar No. 094503)

John C. Bush

(Georgia Bar No. 413159)

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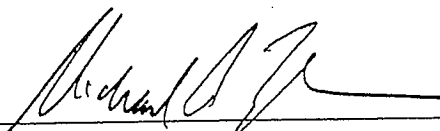
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JONATHAN COBB,

Plaintiff,

v.

Case No. 1:08-CV-0483 (MHS)

GOOGLE INC. and
WORKFORCE LOGIC LLC,

Defendants.

LR 7.1(D) CERTIFICATE OF FONT COMPLIANCE

I hereby certify that the foregoing has been prepared with one of the font and point selections approved by the Court in N.D. Ga. Local Rule 5.1(C), specifically Times New Roman 14 pt.

/s/ Eric P. Schroeder
Eric P. Schroeder

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JONATHAN COBB,

Plaintiff,

v.

Case No. 1:08-CV-0483 (MHS)

GOOGLE INC. and
WORKFORCE LOGIC LLC,

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on June 20, 2008, a copy of Defendant Google Inc.'s Responses to Plaintiff's First Continuing Request for Production of Documents and Things to Defendants was mailed to the following attorneys by depositing a copy in the U.S. Mail with appropriate postage:

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/s/ Jessica Long
Jessica Long

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JONATHAN COBB, :
 :
 :
 Plaintiff, :
 :
 :
 vs. : CIVIL ACTION FILE
 : NUMBER 1:08-CV-0483-MHS
 :
 GOOGLE, INC.; and :
 WORKFORCELOGIC USA; :
 :
 :
 Defendants. :

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the within
and foregoing *Memorandum Of Points And Authorities In Support Of
Plaintiff's Motion To Compel Discovery From Defendant Google, Inc.*
upon counsel for Defendants by depositing same in the United States
mail, with sufficient postage thereon to insure delivery and addressed to:

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This 18th day of September, 2008.

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