Tab 1

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June 10, 2008

BY ELECTRONIC MAIL

Michael A. Dailey, Esq.
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 advance of our June 20, 2008 deadline to respond to your first sets of document requests and interrogatories. I want to preview certain objections Google intends to raise in an early effort to resolve any discovery disputes we may have.

On May 9, 2008, shortly after discovery opened, I informed you that Google believes that the First Amended Complaint is vague and does not sufficiently define the purported concept and idea that Mr. Cobb alleges Google misappropriated. Specifically, it is not clear whether Mr. Cobb defines his alleged "Google Sky" idea broadly (*e.g.*, the ability to view stars from a computer) or narrowly (*e.g.*, the addition of a particular feature or program design). In response, you did not provide any information beyond what was already in the complaint. Less than a week later, Google served its first set of written discovery requests to obtain this information from Mr. Cobb.

Until Mr. Cobb specifically defines his alleged concept and idea, Google is not required to respond substantively to a number of your discovery requests.[1] *See DeRubeis* v. *Witten Technologies*, 244 F.R.D. 676 (N.D. Ga. 2007) (Camp, J.). In *DeRubeis*, a company alleged that its former employees misappropriated the company's trade secrets. The court held that before the former employees would be required to produce documents, the company must "identify with reasonable particularity those trade secrets it believes to be at issue." *Id.* at 681 (quotations omitted). Without such detailed identification, the court held, the former employees would have "no way to know whether the information sought [in a particular discovery request] is relevant." *Id.* at 680. Google similarly cannot determine which documents and information are potentially relevant until Mr. Cobb defines with greater particularity the concept and idea he alleges that Google misappropriated.

In addition, Google is entitled to know to whom at Google Mr. Cobb conveyed his purported idea and how that idea allegedly reached those within the company who allegedly

[1] These requests include but are not limited to Document Request Nos. 1, 11, and 12, and Interrogatories 1, 2, 5, and 15.

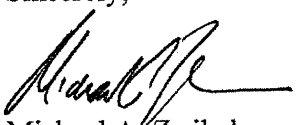
misappropriated it. *See, e.g., Sit-Up Ltd.* v. *IAC/ InteractiveCorp.*, Slip Op., No. 05 Civ. 9292, 2008 WL 463884, *6 (S.D.N.Y. Feb. 20, 2008) (Cote, J.) (plaintiff must "identify the route through which [the trade secret] was provided to the defendants and then to otherwise show the misappropriation"). Without this information, Google has only a limited ability to intuit which documents and information are potentially relevant. The law does not require Google to guess. *See id.* *5-7; *DeRubeis*, 244 F.R.D. at 680-82.

We therefore request that you identify with reasonable particularity (i) the concept and idea you allege Google misappropriated, and (ii) the route through which you allege that Mr. Cobb's alleged concept and idea was provided to Google.

Finally, your document requests did not specify the form in which you prefer to receive produced documents. We currently intend to produce documents 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 will be affixed.

Thank you very much. I look forward to your response.

Sincerely,



Michael A. Zwibelman

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