

## **Tab 2**



June 16, 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:

I am in receipt of your letter of June 10, 2008.

I must disagree with the description of events which is provided in your letter. Prior to your letter of June 16, 2008, you did not contact me to complain that Plaintiff's Complaint was "vague" or that it did not sufficiently define the purported concept and idea that Mr. Cobb alleges Google misappropriated.

That said, I acknowledge that you discussed with me the nature of Mr. Cobb's conception. You stated that you were concerned because Plaintiff had propounded written discovery at an earlier stage in this case, and you didn't want Mr. Cobb to tailor his testimony so that it might conform with information and documents which would be provided in Google's production. You did state to me that the precise nature of Mr. Cobb's idea would become a relevant area of inquiry in deposition discovery, and, for the reasons I have previously noted, you didn't want Google's discovery production to occur too far in advance of Mr. Cobb's oral deposition.

Putting aside for the moment the implied suggestion that my client might be tempted to testify other than truthfully, or that I might encourage him to do so, in a subsequent voicemail message to you I offered that the purported "advantage" or "disadvantage" which you foresaw would appear to affect Google and Mr. Cobb



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equally, given that we, too, had received written discovery requests from Google. You and I subsequently spoke by telephone, and it was agreed that the issue would be resolved by having both parties make their discovery production on or before June 20, 2008 while scheduling Mr. Cobb's deposition to occur during the week of July 14.

So please forgive me if I feel just a little impatient at receiving your June 10 letter. We previously discussed your stated concerns. We reached an agreement. And the issue was resolved.

When I composed a draft of this letter early this morning, I worried that your June 10 letter seemed bent on accomplishing a delay in the production which you earlier promised would be forthcoming. As you know, and looking ahead to that production, late last month I e-mailed you to request a copy of the Consent Protective Order which you stated you wanted to have entered in this case, recognizing, as we all do, that sensitive information is involved. You e-mailed me back to report that a draft protective order was forthcoming, but as of early this morning I had not received it. I am pleased to note that your draft arrived later this morning, and I am now again hopeful that our agreed schedule of production will proceed unimpeded.

Thank you.

Sincerely,

Michael Alan Dailey

MAD/msm  
cc: Joan Dillon, Esq.  
Gary Hill, Esq.