

## Tab 3

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June 17, 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 response to your June 16 letter. Unfortunately, it does not address the central issue I raised in my June 10 letter: where, as here, a plaintiff does not define with sufficient particularity the idea allegedly misappropriated or identify the route through which the idea was allegedly communicated to the defendant, the defendant is not required to respond substantively to certain discovery requests because the defendant is unable to determine threshold questions of relevance. *See DeRubeis v. Witten Tech.*, 244 F.R.D. 676 (N.D. Ga. 2007); *Sit-Up Ltd. v. IAC/InteractiveCorp.*, 2008 WL 463884 (S.D.N.Y. Feb. 20, 2008). Because Mr. Cobb has failed to define his alleged idea with the particularity required by the law, Google is unable to respond to certain of Mr. Cobb's discovery requests.

We raised this issue in advance of Google's June 20, 2008 deadline to respond to Mr. Cobb's first set of document requests and interrogatories in an effort to expedite, not delay, the discovery process. We thought if we addressed this issue early on we could resolve it quickly and avoid needless discovery disputes and motion practice.

This goal is consistent with Google's previous efforts to proceed expeditiously in this case. For example, we have pressed for an early start to the deposition schedule, and on May 30, after prior conversations and emails, I sent you a follow-up email in which I proposed five different dates for Mr. Cobb's deposition. You have not yet responded to that request. Please do so as soon as possible so we can finalize our schedules and travel plans.

Michael A. Dailey, Esq.  
June 17, 2008  
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Thank you very much. I look forward to your prompt response.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael A. Zwibelman", with a long horizontal flourish extending to the right.

Michael A. Zwibelman

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