Tab 4

ANDERSON DAILEY LLP

June 19, 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 17, 2008.

I previously informed you that Mr. Cobb would be available for his deposition during the week of July 14, 2008. I requested only that we not take Mr. Cobb's deposition on Monday, July 14. If you would like for us to select the precise date among the four remaining on which that deposition should go forward, then please reserve July 17, 2008 on your calendar.

With respect to your letter's further statement that I have avoided the central issue raised in your June 10, 2008 correspondence, please know that I have read the Northern District of Georgia decision cited therein. Notably, that case, entitled *DuRubeis et al. v. Witten Technologies, Inc., 244 F.R.D. 676 (N.D. Ga. 2007)*, involved competing motions to compel (as well as a motion for protective order) with respect to discovery responses that had previously been served and answered. The plaintiff in that case was granted a protective order limiting its duty of response until defendant had first elaborated on a prior discovery request; namely, to identify the trade secrets it claimed were at issue in the case and to do so with reasonable particularity. The case involved a set of circumstances in which trade secret claims are often raised and heard, where departing employees leave to establish a competing business, and it is believed that they are using the former employer's trade secrets in order to succeed.

The court in *DuRubeis* examined the competing interests which are involved in trade secret discovery generally and in cases having a similar factual underpinning. It cited decisions rendered by other courts which have addressed the competing interests noted. One, it bears noting, *Cataphote Corp. v. Hudson, 316 F. Supp. 1122 (S. D. Miss. 1970),* ordered the simultaneous discovery of trade secret information.

It is that same simultaneous approach to which you explicitly agreed. You did so *after* raising your concerns with me about the timing of Google's discovery responses. We had at least two exchanges on the topic, plus a voicemail message from me to you, and we agreed to resolve the issue by having the parties' respective discovery responses each come due on June 20, 2008.

It bears noting that my client has not alleged an explicit Georgia Trade Secrets Act violation. While I must conclude – based on the position which you are now asserting - that Google, Inc. takes the position that Mr. Cobb has effectively asserted a violation of the Act (O.C.G.A. Section 10-1-761 *et seq.*) – Mr. Cobb's pleadings presently do not so state.

Mr. Cobb's claim of a Prior Invention was made on Exhibit A to the Temporary Employment Agreement for Non-Exempt Employees which he signed, as well as on Exhibit A to the Confidential Information And Invention Assignment Agreement For Non-Employees. Mr. Cobb was asked to sign both documents as part of the temporary employment application process he underwent with Google's employee outsourcing representative, ABE Services, LLC, a part of Defendant WorkforceLogic LLC. (First Amended Complaint, ¶ 30). Both documents specified that, because Mr. Cobb had made a disclosure of his idea, he was deemed ***not*** to have transferred or assigned rights in and to it to Google, Inc.

Though you contend that Mr. Cobb has failed to provide information respecting his concept and idea, both documents and their Exhibits A were delivered to ABE Services, LLC. On them, Mr. Cobb disclosed his Prior Invention as being "Google Sky – Planetarium software with same or like interface that Google Earth uses . . . " and "Google Sky – virtual planetarium . . . find any point in the sky, share astrological data around the world."

In addition, Paragraph 13 of Mr. Cobb's First Amended Complaint lists a series of specific features relating to his concept and idea. These features are among those presented by Mr. Cobb after he had commenced his temporary employment through ABE Services, LLC and had convened his private googlesky@googlegroups.com discussion group.

These same facts, as well as those previously referenced from Paragraph 30 of the First Amended Complaint, address your second claimed deficiency with Mr. Cobb's presentation – that Mr. Cobb has failed to identify the route by which his disclosure was made to Google. Clearly, such routing information has been previously and fully disclosed.

Thus, while it is far from clear that *DuRubeis* is applicable to this case or to these circumstances, if it is then the record shows that Mr. Cobb has disclosed both the specifics of his Prior Invention and the means by which his disclosure was made to Google. Importantly, nothing set forth in *DuRubeis* prevents our clients from making their own agreement to resolve any discovery timing issues. As previously noted, you and I agreed to a schedule of simultaneous production.

When Mr. Cobb makes his response to your client's discovery, he will elaborate on the disclosures he has previously made, and he will describe as fully as he is able the specifics of his original concept and idea. Mr. Cobb expects Google, Inc. to make simultaneous disclosure of the information and documents which have been requested in Plaintiff's discovery requests, consistent with its obligations under the Federal Rules and the agreement which you and I made.

Finally, the draft Protective Order Limiting The Use And Dissemination Of Confidential Material, which you forwarded to me on Monday, is acceptable to Plaintiff.

Sincerely,

Michael Alan Dailey

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