

EXHIBIT 1

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ERICH SPECHT, et al.,)	
	)	Civil Action No. 09-cv-2572
Plaintiffs,)	
v.	)	Judge Leinenweber
)	
GOOGLE INC.,	)	Magistrate Judge Cole
)	
Defendant.)	

GOOGLE INC.'S SECOND SET OF INTERROGATORIES TO PLAINTIFFS

Defendant GOOGLE INC. ("Google"), pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, requests that Plaintiffs ERICH SPECHT ("Specht"), ANDROID DATA CORPORATION ("ADC"), and THE ANDROID'S DUNGEON INCORPORATED ("ADI") (collectively "Plaintiffs") answer the following interrogatories within thirty (30) days of service of this document.

These interrogatories are to be deemed continuing and to require supplemental answers if further information of the character called for by the interrogatories is developed at any time prior to trial. The interrogatories shall apply to any and/or all divisions or representatives of Plaintiffs having knowledge of the information sought herein.

DEFINITIONS AND INSTRUCTIONS

The Definitions and Instructions set forth in Google's First Set of Interrogatories to Plaintiffs shall apply to these interrogatories.

INTERROGATORIES

INTERROGATORY NO. 13

Identify each instance of which Plaintiffs are aware in which any person was confused, mistaken or deceived as to the affiliation, connection or association of Google with any of the Plaintiffs and/or any of the Plaintiffs with Google due to Google's use of the mark ANDROID.

INTERROGATORY NO. 14

Identify the complete factual and legal basis for Plaintiffs' claim that they are entitled to recover damages from Google as a result of the conduct alleged in Plaintiffs' Second Amended Complaint, including the nature of the injury to Plaintiffs caused by the alleged conduct, the amount of damages each Plaintiff has suffered, the method by which those damages were calculated, and the evidence on which Plaintiffs intend to rely at trial to establish their claim for damages.

INTERROGATORY NO. 15

Identify, by year, the total dollar amount of revenue received by each Plaintiff that was not due to the sale or license of products or provision of services related to "computer hardware and software services" as those terms are used in ¶10 of Plaintiffs' Second Amended Complaint.

INTERROGATORY NO. 16

Identify by date, customer and products and/or services offered or sold, all purchases by third parties from 2004 to the present for products and/or services offered, sold or provided by any of the Plaintiffs in association with the ANDROID SERVER and/or ANDROID DATA WEB EDITOR marks.

INTERROGATORY NO. 17

Identify by date, licensee and nature of license, all licenses offered to or entered into with third parties from 2004 to the present for any products and/or services offered, sold or provided by any of the Plaintiffs in association with the ANDROID SERVER and/or ANDROID DATA WEB EDITOR marks.

INTERROGATORY NO. 18

Identify, by year, all customers for, vendors of and/or suppliers for any product or service offered, sold, licensed or distributed by each Plaintiff in association with the ANDROID SERVER and/or ANDROID DATA WEB EDITOR marks.

Respectfully submitted,



Herbert H. Finn
Richard D. Harris
Jeffrey P. Dunning
GREENBERG TRAURIG, LLP
77 West Wacker Drive, Suite 3100
Chicago, IL 60660

Dated: January 14, 2010

COUNSEL FOR GOOGLE INC.

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of GOOGLE INC.'S SECOND SET OF INTERROGATORIES TO PLAINTIFFS was served upon counsel for Plaintiffs on the date set forth below, via electronic mail and first-class mail, postage pre-paid, addressed to:

Martin J. Murphy, Esq. (martym@villageinvestments.com)
2811 RFD
Long Grove, IL 60047

P. Andrew Fleming (andrewf@novackmacey.com)
John Shonkwiler (jshonkwiler@novackmacey.com)
John Haarlow, Jr. (jhaarlow@novackmacey.com)
NOVACK AND MACEY LLP
100 North Riverside Plaza
Chicago, IL 60606-1501

Dated: January 14, 2010

A handwritten signature in black ink, appearing to read "Herbert A. Fleming", is written over a horizontal line.

EXHIBIT 2

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ERICH SPECHT, an individual and doing business)	
as ANDROID DATA CORPORATION, and THE)	
ANDROID'S DUNGEON INCORPORATED,)	
	)	Civil Action No. 09-cv-2572
Plaintiffs-Counterdefendants,)	
v.	)	Judge Harry D. Leinenweber
)	
GOOGLE INC.,	)	Magistrate Judge Jeffrey Cole
)	
Defendant-Counterclaimant.)	

**PLAINTIFFS' ANSWERS AND OBJECTIONS TO
GOOGLE, INC.'S SECOND SET OF INTERROGATORIES**

Erich Specht, an individual and doing business as Android Data Corporation, and The Android's Dungeon Incorporated, by their attorneys, Novack and Macey LLP, as and for their answers and objections to Google, Inc.'s Second Set of Interrogatories (the "Interrogatories"), state as follows.

GENERAL OBJECTIONS

1. Plaintiffs object to and refuse to answer the Interrogatories because, including subparts, Google has exceed the number of permissible interrogatories under Federal Rule of Civil Procedure 33(a)(1).

2. Plaintiffs object to the Interrogatories to the extent that they purport to impose duties and/or obligations in excess of, or inconsistent with, those imposed by the Federal Rules of Civil Procedure or the local rules or standing order of this Court. In this regard, Plaintiffs object to, without limitation, Definition and Instruction A, Definition and Instruction C and Definition and Instruction D.

3. Plaintiffs object to the Interrogatories to the extent they seek information outside Plaintiffs' possession, custody or control.

4. Plaintiffs object to the Interrogatories to the extent that they call for the disclosure of information that is protected by the attorney-client privilege, the attorney work-product doctrine, any other applicable privilege, or otherwise protected from disclosure.

5. Plaintiffs object to the Interrogatories to the extent that they are overbroad and/or unduly burdensome.

6. Plaintiffs object to the Interrogatories to the extent that they seek information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

7. Plaintiffs object to the Interrogatories to the extent that they are vague, ambiguous or contain undefined terms.

8. Plaintiffs object to providing narrative answers to the Interrogatories where such answers may be determined by examining, auditing, compiling, abstracting or summarizing Plaintiffs' business records as contemplated by Federal Rule of Civil Procedure 33(d).

9. By responding to the Interrogatories, Plaintiffs do not admit the relevancy or admissibility of any fact, or waive any objection based thereon.

10. Plaintiffs' investigation is ongoing and Plaintiffs reserve the right to supplement and/or amend their answers at any appropriate time.

ANSWERS

Each Supplemental Answer incorporates, and is subject to, the General Objections set forth above, which are not waived.

Interrogatory No. 13

Identify each instance of which Plaintiffs are aware in which any person was confused, mistaken or deceived as to the affiliation, connection or association of Google with any of the Plaintiffs and/or any of the Plaintiffs with Google due to Google's use of the mark ANDROID.

ANSWER:

Plaintiffs object to and refuse to answer this Interrogatory because, including subparts, Google has exceed the number of permissible interrogatories under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs also object to this Interrogatory because the phrase "any person who was confused, mistaken, or deceived" is vague, ambiguous and undefined by Google. Plaintiffs further object to this Interrogatory as it asks Plaintiffs to be "aware" of other people's subjective feelings towards Google's use of the ANDROID DATA mark, which is not something Plaintiffs are capable of knowing. Moreover, Plaintiffs object to this interrogatory because it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Finally, Plaintiffs object to this Interrogatory as premature, as it is a subject for expert discovery that has not yet been conducted.

Interrogatory No. 14

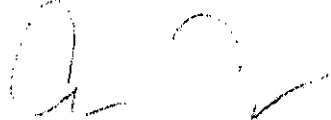
Identify the complete factual and legal basis for Plaintiffs' claim that they are entitled to recover damages from Google as a result of the conduct alleged in Plaintiffs' Second Amended Complaint, including the nature of the injury to Plaintiffs caused by the alleged conduct, the amount of damages each Plaintiff has suffered, the method by which those damages were calculated, and the evidence on which Plaintiffs intend to rely at trial to establish their claim for damages.

ANSWER:

Plaintiffs object to and refuse to answer this Interrogatory because, including subparts, Google has exceed the number of permissible interrogatories under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs also object to this Interrogatory as a premature contention interrogatory. A contention interrogatory requires an answering party to "commit to a position

VERIFICATION OF ERICH SPECHT

I, Erich Specht, state that I have answered the foregoing Plaintiffs' Answers And Objections To Google Inc's Second Set Of Interrogatories on behalf of myself individually and as the authorized agent of Android Data Corporation and The Android's Dungeon, Inc., and I declare under penalty of perjury that the foregoing is true and correct.



Erich Specht

2/27/2019

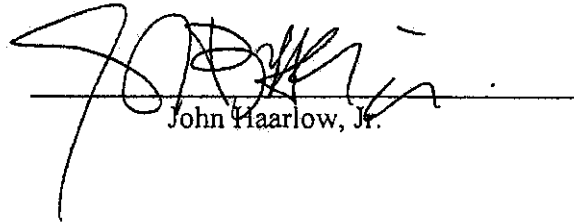
Date

CERTIFICATE OF SERVICE

John Haarlow, Jr., an attorney, certifies that he served the foregoing Plaintiffs' Answers And Objections To Google Inc.'s Second Set Of Interrogatories, by causing a true and correct copy to be delivered by electronic mail to:

Herbert F. Finn
Jeffrey P. Dunning
GREENBERG TRAURIG, LLP
77 West Wacker Drive
Suite 3100
Chicago, IL 60601
finnh@gtlaw.com
dunningj@gtlaw.com

on this 1st day of March, 2010.



John Haarlow, Jr.

EXHIBIT 3

Jeffrey P. Dunning
Tel (312) 456-6612
dunningj@gtlaw.com

March 11, 2010

VIA ELECTRONIC MAIL AND FIRST-CLASS MAIL

P. Andrew Fleming
John F. Shonkwiler
John B. Haarlow, Jr.
NOVACK & MACEY
100 North Riverside Plaza
Chicago, IL 60606

**Re: Specht/Google
N.D. Ill. Civil Action No. 09-cv-2572
Our File No. 073794.010900**

Counsel:

We write in regard to Plaintiffs' Responses to Google's Second Set of Interrogatories ("Responses"), served on March 1, 2010, and specifically with regard to Plaintiffs' failure to provide complete responses thereto. We address each issue raised by Plaintiffs' Responses below.

1. Plaintiffs' "Excessive Number of Interrogatories" Objections

Plaintiffs have objected to answering each of Google's Interrogatory Nos. 13-18 on the basis that, "including subparts, Google has exceed [sic] the number of permissible interrogatories under Federal Rule of Civil Procedure 33(a)(1)." Plaintiffs' objection is unfounded. First, Plaintiffs failed to lodge any legitimate objections to any of Google's First Set of Interrogatories based on a purported excessive number of interrogatories, or to even identify how any of those interrogatories contain multiple discrete subparts. While Plaintiffs' initial objections to Google's First Set of Interrogatories (served on July 23, 2009) included a boilerplate "general objection" that the number of interrogatories (including discrete subparts) exceeded 25, such a boilerplate objection has no significance or effect.

Likewise, in Plaintiffs' current Responses, Plaintiffs fail to identify how any of Google's Interrogatories contain multiple "discrete subparts". Thus, Plaintiffs' boilerplate objections that Google has exceeded the permissible number of interrogatories likewise are of no significance or effect, and Plaintiffs have waived any such objections. However, if Plaintiffs intend to continue playing the "excessive subparts" game, we request that Plaintiffs immediately identify their contentions as to which of Google's interrogatories contain multiple discrete subparts, to enable us to submit this issue to the Court for resolution without further delay.

CHI 59,319,137v1 3-11-10

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2. Plaintiffs' "Duplicative" Objections

Plaintiffs have objected to Interrogatory Nos. 15 – 18 as purportedly being “duplicative” of other Interrogatories. As noted below, Google disagrees that any of those Interrogatories are in fact “duplicative.” Moreover, “duplication” is not a proper basis on which to refuse to substantively respond to an interrogatory. Plaintiffs are certainly free to incorporate their responses to other interrogatories by reference, where appropriate, but may not simply refuse to respond at all.

3. Interrogatory No. 13

Plaintiffs' litany of objections to this interrogatory are entirely baseless. Interrogatory No. 13 requests that Plaintiffs identify each instance of which they are aware in which any person was confused, mistaken or deceived with regard to Google's use of the ANDROID mark relative to Plaintiffs' purported rights in the ANDROID DATA mark. Plaintiffs first object to this Interrogatory on the basis that “the phrase ‘any person who was confused, mistaken or deceived’” is vague and ambiguous. Nonsense. The terms “confused, mistaken or deceived” are plain English words and are intended to have their ordinary meanings, and thus this objection requires no further commentary.

Plaintiffs next object on the basis that this Interrogatory “asks Plaintiffs to be ‘aware’ of other people's subjective feelings towards Google's use of the ANDROID DATA mark, which is not something Plaintiffs are capable of knowing.” Again, this is nonsense. This Interrogatory does not require Plaintiffs to possess some extrasensory perception regarding other people's beliefs about Google. Plaintiffs are fully capable of knowing whether or not any person has ever contacted them under or expressed to them the belief that Plaintiffs' ANDROID DATA product had some affiliation with Google, or Google's ANDROID OS software had some affiliation with Plaintiffs. If Plaintiffs do not know of or are not aware of any such instances, then they must say so.

Plaintiffs also object to this Interrogatory on the basis that it purportedly seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Nonsense. Certainly, it is not Plaintiffs' position that whether third parties are or are not “confused, mistaken or deceived” is not relevant to a trademark infringement cause of action. Plaintiffs are know full well that confusion, mistake or deception are key factors in the likelihood of confusion analysis, and thus the relevance of the requested information is apparent on its face.

Finally, Plaintiffs' objection to this Interrogatory as being “premature” is, dare I say it, nonsense. Either Plaintiffs are aware of instances of confusion or they are not. If Plaintiffs are not aware of any such instances, again, they need only say so.

4. Interrogatory No. 14

This Interrogatory requests that Plaintiffs identify the complete factual and legal basis for their claim that they are entitled to recover damages from Google as a result of the alleged unlawful conduct by Google. Plaintiffs object to this Interrogatory on several bases, including being a premature contention interrogatory, seeking privileged information, and seeking information outside of Plaintiffs' possession, custody or control.

First, with regard to the prematurity objection, Google is not taking the position that Plaintiffs must provide fully developed contentions with regard to damages at this point in time. However, this Interrogatory does not solely seek contentions. Rather, it seeks identification of *facts* that Plaintiffs contend support their claim that they are entitled to recover damages from Google. Presumably, Plaintiffs are presently in possession of some facts which they believe support their claim for damages. Plaintiffs must identify those facts.

With regard to Plaintiffs' remaining objections, the interrogatory does not call for, and Google does not seek, any privileged information or information in the hands of third parties. Facts are not privileged, and Plaintiffs must identify relevant facts of which they have knowledge.

5. Interrogatory No. 15

This Interrogatory requests that Plaintiffs identify, by year, the total dollar amount of revenue received by each Plaintiff that was not due to the sale or license of products or provision of services related to "computer hardware and software services," as those terms are defined by Plaintiffs. Plaintiffs' sole objections to this Interrogatory are that it is in excess of the number of permissible interrogatories and is duplicative of Interrogatory No. 3. Both of those objections are meritless, as noted above, and therefore Plaintiffs must provide a complete response. Moreover, this Interrogatory is not "duplicative" of Interrogatory No. 3. That Interrogatory requested that Plaintiffs provide sales and revenue information for sales of products or services under the ANDROID DATA mark. This Interrogatory seeks sales and revenue information for products and services *other than* those that Plaintiffs identify in their Second Amended Complaint to have been provided in association with that mark.

Moreover, while Plaintiffs have waived any objection based on lack of relevance, to the extent that Plaintiffs may question the relevance of such information, such information is relevant in view of the fact that Plaintiffs' prior responses to Interrogatory Nos. 3 and 4 conflate revenues received by Plaintiffs from "computer hardware and software services" and from other unrelated services (e.g., real estate services). The requested information is necessary for Google to ascertain what portion of each Plaintiff's revenues were derived from activities other than providing "computer hardware and software services," and therefore do not support Plaintiffs' claims of trademark use. Simply put, the information is relevant to demonstrating the true nature or use, if any, of the ANDROID DATA mark in association with relevant goods and services.

6. Interrogatory Nos. 16 and 17

These Interrogatories respectively request that Plaintiffs identify all (i) purchases by third parties of, and (ii) licenses or offers to license, any products or services provided by any Plaintiff in association with the ANDROID SERVER and/or ANDROID DATA WEB EDITOR marks. Plaintiffs first object to these Interrogatories on the basis that they are in excess of the number of permissible interrogatories and are duplicative of other interrogatories. Both of those objections are meritless, as noted above, and therefore Plaintiffs must provide a complete response.

Plaintiffs further object that the terms or phrases “purchases,” “licenses offered to,” “licenses . . . entered into,” and “sold . . . in association with the ANDROID SERVER and/or ANDROID DATA WEB EDITOR marks” are vague and ambiguous. Nonsense. “Purchases” and “licenses” are plain English words and require no further clarification. To the extent that Plaintiffs do not understand the phrase “in association with” in the context of trademark or service mark use, that phrase refers to sales or licenses of any product or service which is the subject of a “use in commerce” of the marks in question, which is defined in 15 U.S.C. §1127.

Moreover, your contentions that “software products are not normally ‘sold’ in any traditional sense of the word,” and that “there are many different ways that a software developer like Plaintiffs can grant a right to use software which may or may not involve Plaintiffs licensing their products,” do not constitute valid bases for objection. There is ample authority which addresses the issue of whether a transfer of rights in software constitutes a “sale” or a “license.” See, e.g., *Vernor v. Autodesk, Inc.*, 555 F.Supp.2d 1164 (W.D.Wash. 2008). To alleviate any lingering confusion Plaintiffs may have with regard to whether a transaction is responsive to one of these interrogatories, for purposes of these interrogatories Google defines “license” to mean any transaction granting the right to use a copyrighted software product which does not comprise a “sale” of that product.

Alternatively, you could just remember Judge Leinenweber’s instructions when Plaintiffs attempted to raise the same silly objections during argument regarding Google’s last Motion to Compel. If Plaintiffs ever distributed or transferred products to others in association with those marks, they are obligated to identify each such transaction in response to these Interrogatories, regardless of how you choose to characterize those transaction(s).

As to Plaintiffs objecting that they “cannot state with precision in all cases which of Plaintiffs’ marks were ‘associated’ with any given offer, sale or provision of their products and/or services,” that too is not a proper basis for objection. If Plaintiffs believe that any of the marks in question were “associated” with a particular transaction, then that transaction is responsive and must be identified. If Plaintiffs do not believe that any of the marks in question were “associated” with a particular transaction, then they need not identify that transaction. Simply put, either identify when products were distributed in association with the ANDROID SERVER and ANDROID DATA WEB EDITOR marks, respectively, or admit that no such distribution ever took place.

7. **Interrogatory No. 18**

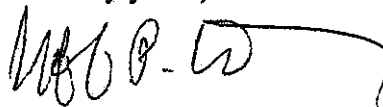
This Interrogatory requests that Plaintiffs identify, by year, all customers for, vendors of and/or suppliers for any product or service offered, sold, licensed or distributed by each Plaintiff in association with the ANDROID SERVER and/or ANDROID DATA WEB EDITOR marks. It is identical to Interrogatory No. 9 -- except for the identification of the marks. Plaintiffs object to this Interrogatory on the basis that it is in excess of the number of permissible interrogatories and is duplicative of other interrogatories. As indicated previously, both of those objections are meritless, and therefore Plaintiffs must provide a complete response.

As to the other objections, Judge Leinenweber has already addressed them when he compelled Plaintiffs to respond to Interrogatory No. 9. We are surprised as to your refusal to abide by Judge Leinenweber's directives. As such, Plaintiffs' objection that the phrases "in association with the ANDROID SERVER and/or ANDROID DATA WEB EDITOR marks" and "vendors of" are vague and ambiguous is likewise meritless.

* * * *

For the reasons set forth above, Plaintiffs' objections to Google's Second Set of Interrogatories are without merit, and Plaintiffs must provide complete supplemental responses thereto. Given the fact that the Court has scheduled the close of written discovery for March 31, 2010, we request that you provide such responses by no later than March 16, 2010 -- to enable us to seek Court resolution of any remaining disputes in a timely fashion. To the extent that Plaintiffs wish to confer further regarding any of these issues, we are generally available anytime between now and March 16.

Sincerely yours,



Jeffrey P. Dunning

JPD/

cc: Herbert Finn, Esq.
Martin Murphy, Esq.

EXHIBIT 4

Finn, Herbert (Shld-Chi-IP/Tech)

From: John B. Haarlow [JHaarlow@novackmacey.com]
Sent: Tuesday, March 30, 2010 3:32 PM
To: Finn, Herbert (Shld-Chi-IP/Tech); P. Andrew Fleming; John Shonkwiler; martym@villageinvestments.com
Cc: Dunning, Jeffrey (Assoc-Chi-IP/Tech)
Subject: RE: Specht/Google

Herb - We disagree with many, if not all, of the points raised in your below message. Frankly, it is clear that you are simply unwilling to negotiate in good faith regarding our proper objections to your excessively burdensome and otherwise improper interrogatories. Nonetheless, without waiving any of our objections, we will agree to answer Interrogatory Nos. 13-18 by no later than April 20 with the information available to us at this time.

This message does not set forth all of our clients' rights and remedies, all of which are expressly reserved.

John

John Haarlow, Jr.

jhaarlow@novackmacey.com

312.419.6900 T
 312.419.6928 F

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From: FinnH@gtlaw.com [mailto:FinnH@gtlaw.com]
Sent: Monday, March 29, 2010 8:55 PM
To: John B. Haarlow; P. Andrew Fleming; John Shonkwiler; martym@villageinvestments.com
Cc: DunningJ@gtlaw.com
Subject: Specht/Google

John,

I was in deposition on the west coast today and only now have the opportunity to review your email. You request to delay "further discussions" on this issue until Thursday is transparent. However, this issue is not dependent upon how Google responds further, if at all, to Plaintiffs' interrogatories.

Moreover, our position has not changed since the time we first raised the issue almost 3 weeks ago. Google believes it is entitled to a substantive response to Interrogatory Nos. 13-18, without exception. Plaintiffs disagree. We are willing to consider further options, but there is no reason to wait until Thursday. If Plaintiffs have a further proposal regarding providing substantive responses to Google's Interrogatory Nos. 13-18, then

5/24/2010

make it. Otherwise, we will proceed accordingly.

Herb Finn

Herbert H. Finn

Shareholder

Greenberg Traurig, LLP | 77 West Wacker Drive | Suite 3100 | Chicago, IL 60601

Tel 312.456.8427 | Fax 312.456.8435

hfinn1@gtlaw.com | www.gtlaw.com



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*OPERATES AS GREENBERG TRAUIG MAHER LLP

From: John B. Haarlow [<mailto:JHaarlow@novackmacey.com>]

Sent: Monday, March 29, 2010 4:35 PM

To: Finn, Herbert (Shld-Chi-IP/Tech); P. Andrew Fleming; John Shonkwiler; martym@villageinvestments.com

Cc: Dunning, Jeffrey (Assoc-Chi-IP/Tech)

Subject: RE: Specht/Google

Herb - We are in receipt of the below message regarding our interrogatory responses. Less than one business day, however, is not enough time to consider your rejection of our proposal discussed on March 25. Indeed, we believe that a compromise may still be reached and would like couple of days to consider the points raised in your email. To that end, we would like to discuss the issue with you further on April 1 -- the day you will be following up with us regarding your responses to our second set of interrogatories.

Please let us know what time you are available on April 1 to discuss these issues further.

Regards,

John

John Haarlow, Jr.

jhaarlow@novackmacey.com

312.419.6900 T

312.419.6928 F

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From: FinnH@gtlaw.com [<mailto:FinnH@gtlaw.com>]

Sent: Sunday, March 28, 2010 7:13 PM

To: P. Andrew Fleming; John Shonkwiler; John B. Haarlow; martym@villageinvestments.com

5/24/2010

Cc: DunningJ@gtlaw.com
Subject: Specht/Google

Counsel,

This is in furtherance of our discussions of March 25th and Jeff's email of March 26th.

As discussed, we have reviewed the cases relied upon in Plaintiffs' refusal to respond to Interrogatory No. 14 and we do not agree that these cases mandate that damages contention interrogatories are some how exempt from a substantive response. Indeed, Magistrate Judge Cole states precisely the opposite. In his Opinion, Magistrate Judge Cole states that "[c]ontention interrogatories that seek damage theory and methodology information from a plaintiff almost invariably will comport with the requirements of Rules 26(b)(1) and 33(c) of the Federal Rules of Civil Procedure, seeking as they do, information about an inherent element of the claim." 230 FRD 538 at 544. Similarly, Magistrate Judge Keys actually granted Defendant's motion to compel certain contention interrogatories because "...a significant amount of discovery has already taken place ..." Likewise, significant discovery has occurred in this case as well. Indeed, written discovery is set to close later this week.

Accordingly, unless Plaintiffs agree by the close of business Monday, March 29th, to substantively and fully respond to the entirety of Interrogatory Nos. 13-18, we will bring this matter to the Court's attention.

Herb Finn

Herbert H. Finn
 Shareholder
 Greenberg Traurig, LLP | 77 West Wacker Drive | Suite 3100 | Chicago, IL 60601
 Tel 312.456.8427 | Fax 312.456.8435
hfinn1@gtlaw.com | www.gtlaw.com



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5/24/2010

From: Dunning, Jeffrey (Assoc-Chi-IP/Tech)
Sent: Friday, March 26, 2010 8:53 AM
To: 'P. Andrew Fleming'; 'John Shonkwiler'; 'John B. Haarlow'; 'martym@villageinvestments.com'
Cc: Finn, Herbert (Shld-Chi-IP/Tech)
Subject: Specht/Google

Counsel:

This is to summarize the subjects discussed during our telephone conference yesterday. Please let us know as soon as possible if you believe that anything below is inaccurate.

1. Redesignation of documents produced prior to entry of the Protective Order.

The parties agreed to redesignate documents produced prior to entry of the Protective Order by April 5.

2. Metadata

The parties agreed to produce metadata corresponding to each of the metadata fields listed in Mr. Haarlow's March 11, 2010 e-mail. To the extent that any prior electronic and hard copy production sets did not include OCR data, the parties will provide OCR data for those production sets. Mr. Haarlow and Mr. Dunning will confer if needed to resolve any remaining issues relating to metadata.

3. Production of Correspondence with the USPTO

Plaintiffs agreed to produce documents relating to any correspondence with the USPTO relating to the ANDROID or DROID marks, including but not limited to Mr. Fleming's November 13, 2009 letter relating to Ser. No. 77/845,682.

4. Google's Subpoena to Martin Murphy

Plaintiffs represented that Mr. Murphy has never had any business dealings of the type contemplated by the subpoena with any of the Plaintiffs. He knows of only one document which is responsive to Google's subpoena, which he will produce. Mr. Murphy will memorialize these facts in a formal Supplemental Response to the Subpoena. We would appreciate receiving that Supplemental Response by April 5th.

5. Plaintiffs' Responses to Google's Second Set of Interrogatories

Plaintiffs offered to withdraw their objection that Google's interrogatories are in excess of the number permitted and respond to Interrogatory Nos. 13 and 15-18, provided that Google agrees that no response to Interrogatory No. 14 is required at this time. Google agreed to give further consideration to Plaintiffs' position with regard to Interrogatory No. 14, and will respond to Plaintiffs' offer shortly.

6. Google's Responses to Plaintiffs' Second Set of Interrogatories

Plaintiffs are requesting identification of revenues associated with (i) developer fees and (ii) search revenues derived from phones running the Android operating systems. If Google is unable to identify search revenues derived from phones running the Android operating system, the Plaintiffs have requested that Google provide the entirety of search revenues generated regardless of source. While we do not agree that any such information is requested by the interrogatory, without waiving objections, Google will investigate further, and will identify by April 1st what, if any, additional information it is willing to provide.

7. Plaintiffs' Responses to Google's Third Set of Document Requests

Plaintiffs confirmed that they intend to produce additional documents by March 31, which will include documents responsive to Google's Third Set of Document Requests.

Lastly, while we did not address it in the call, we propose exchanging Privilege Logs by April 12.

5/24/2010

Sincerely,

Jeff Dunning

Jeffrey P. Dunning

Associate

Greenberg Traurig, LLP | 77 West Wacker Drive | Suite 3100 | Chicago, IL 60601

Tel 312.456.6612 | Fax 312.899.0351

DunningJ@gtlaw.com | www.gtlaw.com



EXHIBIT 5

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ERICH SPECHT, an individual and doing business)	
as ANDROID DATA CORPORATION, and THE)	
ANDROID'S DUNGEON INCORPORATED,)	
	)	Civil Action No. 09-cv-2572
Plaintiffs-Counterdefendants,)	
v.	)	Judge Harry D. Leinenweber
)	
GOOGLE INC.,	)	Magistrate Judge Jeffrey Cole
)	
Defendant-Counterclaimant.)	

**SUPPLEMENTAL ANSWERS AND OBJECTIONS TO
GOOGLE, INC.'S SECOND SET OF INTERROGATORIES TO PLAINTIFFS**

Erich Specht, an individual and doing business as Android Data Corporation, and The Android's Dungeon Incorporated, by their attorneys, Novack and Macey LLP, as and for their Supplemental Answers and Objections to Google, Inc.'s Second Set of Interrogatories state as follows.

SUPPLEMENTAL ANSWERS

Each Supplemental Answer incorporates, and is subject to, the general and specific objections set forth in Plaintiffs' Answers and Objections to Google, Inc.'s Second Set of Interrogatories to Plaintiffs dated March 1, 2010, which are not waived.

Interrogatory No. 13

Identify each instance of which Plaintiffs are aware in which any person was confused, mistaken or deceived as to the affiliation, connection or association of Google with any of the Plaintiffs and/or any of the Plaintiffs with Google due to Google's use of the mark ANDROID.

SUPPLEMENTAL ANSWER:

Plaintiffs object to this Interrogatory as vague and ambiguous, as the phrase "any person who was confused, mistaken, or deceived" is undefined. Plaintiffs further object to this

Interrogatory as it asks Plaintiffs to be “aware” of other people’s subjective feelings towards Google’s use of the mark ANDROID, which is not something Plaintiffs are capable of knowing. Finally, Plaintiffs object to this Interrogatory as premature, as the issue of likelihood of confusion is a subject for expert discovery that has not yet been conducted.

Plaintiffs further state that discovery in this case is ongoing, and Plaintiffs expect that additional information responsive to this Interrogatory will be ascertained. Accordingly, Plaintiffs reserve their right to supplement this Answer.

Interrogatory No. 14

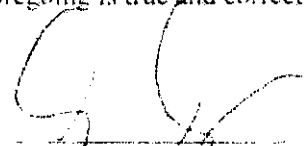
Identify the complete factual and legal basis for Plaintiffs’ claim that they are entitled to recover damages from Google as a result of the conduct alleged in Plaintiffs’ Second Amended Complaint, including the nature of the injury to Plaintiffs caused by the alleged conduct, the amount of damages each Plaintiff has suffered, the method by which those damages were calculated, and the evidence on which Plaintiffs intend to rely at trial to establish their claim for damages.

SUPPLEMENTAL ANSWER:

Plaintiffs object to this Interrogatory as a premature contention interrogatory. A contention interrogatory requires an answering party to “commit to a position and give factual specifics supporting its claim.” Ziemack v. Centel Corp., No. 92 C 3551, 1995 WL 72925, at *2 (N.D. Ill. Dec. 7, 1995). Federal Rule 33(c) provides that a court can order that a contention interrogatory “need not be answered until after designated discovery has been completed or until a pre-trial conference or other later time.” Indeed, the “general policy is to defer contention interrogatories until discovery is near an end, in order to promote efficiency and fairness.” Ziemack, 1995 WL 72925, at *2 (denying motion to compel certain premature contention interrogatories because there was no end date set for discovery at the time and there had been insufficient discovery to answer those interrogatories); see also Gregg v. Local 205 IBEW, No. 1:08-cv-160, 2009 WL 1325103, at *6 (N.D. Ind. May 13, 2009) (denying motion to compel

VERIFICATION OF ERICH SPECHT

I, Erich Specht, state that I have answered the foregoing Plaintiffs' Supplemental Answers And Objections To Google Inc's Second Set Of Interrogatories on behalf of myself individually and as the authorized agent of Android Data Corporation and The Android's Dungeon, Inc., and I declare under penalty of perjury that the foregoing is true and correct.


.....
Erich Specht

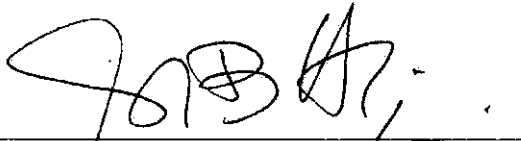
4/15/2010
.....
Date

CERTIFICATE OF SERVICE

John Haarlow, Jr., an attorney, certifies that he served the foregoing Plaintiffs' Supplemental Answers And Objections To Google Inc's Second Set Of Interrogatories, by causing a true and correct copy to be delivered by electronic mail to:

Herbert F. Finn
Jeffrey P. Dunning
GREENBERG TRAURIG, LLP
77 West Wacker Drive
Suite 3100
Chicago, IL 60601
finnh@gtlaw.com
dunningj@gtlaw.com

on this 20th day of April, 2010.



John Haarlow, Jr.

EXHIBIT 6

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ERICH SPECHT, et al.,)	
	)	Civil Action No. 09-cv-2572
Plaintiffs,)	
v.	)	Judge Leinenweber
)	
GOOGLE INC.,	)	Magistrate Judge Cole
)	
Defendant.)	

**GOOGLE INC.'S SECOND SET OF REQUESTS FOR
DOCUMENTS AND/OR THINGS TO PLAINTIFFS**

Defendant GOOGLE INC. ("Google"), pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Plaintiffs ERICH SPECHT ("Specht"), doing business as ANDROID DATA CORPORATION ("ADC"), and THE ANDROID'S DUNGEON INCORPORATED ("ADI") (collectively "Plaintiffs") produce within thirty (30) days of service of these requests, the following documents that are in Plaintiffs' possession, custody or control, at the offices of GREENBERG TRAURIG, LLP, 77 West Wacker Drive, Suite 3100, Chicago, IL 60601, or at such other time and place as may be agreed upon by the parties.

DEFINITIONS AND INSTRUCTIONS

The Definitions and Instructions set forth in Google's First Set of Requests for Documents and/or Things to Plaintiffs shall likewise apply to these requests. In addition:

As used herein:

A. "Document" shall mean any writing, record and/or electronically stored information ("ESI") of every type and description in the possession, custody or control of Plaintiffs including, without limitation, correspondence; memoranda; stenographic or handwritten notes; studies; books, charts; agreements; communications, including intra-company

REQUEST NO. 62

Any and all Documents and/or things which record, refer or relate to the preparation and/or filing with the Illinois Secretary of State and/or any other government body of any annual corporate report for The Android's Dungeon Incorporated.

REQUEST NO. 63

Any and all Documents and/or things which record, refer or relate to Android Data Corporation's failure to file an annual corporate report with the Illinois Secretary of State for the years 2003, 2004, 2005, 2006, 2007 and 2008.

REQUEST NO. 64

Any and all Documents and/or things which record, refer or relate to any and all domain names that were owned by any of the Plaintiffs at any time from 1998 to date.

REQUEST NO. 65

Any and all Documents and/or things which record, refer or relate to any and all domain names that were used by any of the Plaintiffs at any time from 1998 to date.

REQUEST NO. 66

Any and all Documents and/or things which record, refer or relate to any communications or discussions between anyone associated with or acting on behalf of Plaintiffs, including but not limited to Specht and Plaintiffs' counsel, and any third person or entity, including but not limited to representatives of newspapers, magazines, television, radio, and Internet media, regarding Google, the ANDROID software platform, the OHA or its members, the ANDROID DATA mark, Plaintiffs and/or this litigation.

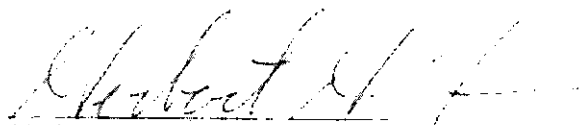
REQUEST NO. 67

Any and all Documents and/or things provided by Plaintiffs to any consultant or other expert consulted or retained by any Plaintiff in connection with this litigation.

REQUEST NO. 68

All Documents and/or things not specifically requested elsewhere, which are identified in, or otherwise refer or relate to, or relied upon by Plaintiffs in responding to Google's First Set of Interrogatories.

Dated: September 18, 2009



Herbert H. Finn
Richard D. Harris
Jeffrey P. Dunning
GREENBERG TRAURIG, LLP
77 West Wacker Drive, Suite 3100
Chicago, IL 60660

COUNSEL FOR GOOGLE INC.

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of GOOGLE INC.'S SECOND SET OF REQUESTS FOR DOCUMENTS AND/OR THINGS TO PLAINTIFFS was served upon counsel for Plaintiffs on the date set forth below, via electronic mail and first-class mail addressed to:

Martin J. Murphy, Esq. (martym@villageinvestments.com)
2811 RFD
Long Grove, IL 60047

P. Andrew Fleming (andrewf@novackmacey.com)
John Shonkwiler (jshonkwiler@novackmacey.com)
John Haarlow, Jr. (jhaarlow@novackmacey.com)
NOVACK AND MACEY LLP
100 North Riverside Plaza
Chicago, IL 60606-1501

Dated: September 18, 2009

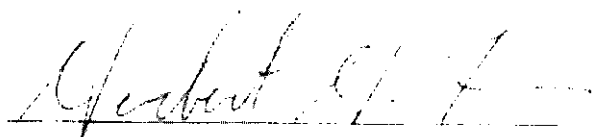


EXHIBIT 7

Finn, Herbert (Shld-Chi-IP/Tech)

From: Finn, Herbert (Shld-Chi-IP/Tech)
Sent: Monday, May 10, 2010 2:41 PM
To: John B. Haarlow
Cc: John Shonkwiler; P. Andrew Fleming; Dunning, Jeffrey (Assoc-Chi-IP/Tech); Nelson, Cameron (Assoc-Chi-IP/Tech)
Subject: Specht/Google
Attachments: GOOGLE010194-GOOGLE010214.pdf; GOOGLE010215.pdf; GOOGLE010216-GOOGLE010219.pdf

John,

We do not agree with Plaintiffs' interpretation of Doc. Req. No. 66. To be clear, our position is that Doc. Req. No. 66, amongst others, seeks any correspondence or other documentation between Plaintiffs (and anyone on their behalf) and **any third parties** "regarding Google, the ANDROID software platform, the OHA or its members, the ANDROID DATA mark, Plaintiffs and/or this litigation." It is not limited to "third party subpoena respondents" as you have characterized it. Nor, is it directed solely to "members of the press," as you attempt to mischaracterize the Request. We understand your email below to be a refusal to produce correspondence with any and all third parties, including but not limited to the "third party subpoena respondents." During a call earlier this morning, Mr. Fleming indicated that he needed to review whether Plaintiffs would be maintaining this refusal. Accordingly, if you do not produce the documents, we will proceed on the basis that our understanding is correct and that Plaintiffs are maintaining their refusal.

As to your request for confirmation that Google has produced similar documents, as also discussed with Andrew this morning, we confirm that all non-privilege, non-immune correspondence have been produced, absent those attached. As you will see these additional correspondence are less than two weeks old. Moreover, they are being produced without Google's waiver of applicable privilege or immunity – the extent it may exist.

Herb Finn

Herbert H. Finn
 Shareholder
 Greenberg Traurig, LLP | 77 West Wacker Drive | Suite 3100 | Chicago, IL 60601
 Tel 312.456.8427 | Fax 312.456.8435
 finnh@gtlaw.com | www.gtlaw.com



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From: John B. Haarlow [mailto:JHaarlow@novackmacey.com]
Sent: Friday, May 07, 2010 2:38 PM
To: Finn, Herbert (Shld-Chi-IP/Tech); John Shonkwiler
Cc: P. Andrew Fleming; marty@m@villageinvestments.com; Dunning, Jeffrey (Assoc-Chi-IP/Tech); Nelson, Cameron (Assoc-Chi-IP/Tech)
Subject: RE: Specht/Google

Herb - In response to your below email, your position that counsel for Plaintiffs'

5/24/2010

correspondence with third party subpoena respondents (the "Correspondence") is responsive to Google's Document Request No. 66 is incorrect. That request seeks:

Any and all Documents and/or things which record, refer or relate to any communications or discussions between anyone associated with or acting on behalf of Plaintiffs, including but not limited to Specht and Plaintiffs' counsel, and any third person or entity, including but not limited to representatives of newspapers, magazines, television, radio, and Internet media, regarding Google, the ANDROID software platform, the OHA or its members, the ANDROID DATA mark, Plaintiffs and/or this litigation.

On its face, Request No. 66 only seeks Plaintiffs' and their counsel's communications with members of the press, and nothing more. To the extent the Request asks for more, it is overbroad and seeks irrelevant documents. Indeed, we objected to the Request on those bases.

Indeed, the only party to make a request that would reach counsel's correspondence with third party subpoena respondents is Plaintiffs. Specifically, Request No. 65 of Plaintiffs first set of document requests provides:

Produce all communications with any and all third parties concerning Plaintiffs, any Android Mark used by Plaintiffs, this lawsuit and/or any issues raised in this lawsuit.

Accordingly, please produce all correspondence (including emails) between Google and/or its counsel and any third party subpoena respondents or their counsel, including Motorola, the Verizon entities, Cisco Systems, Inc., Apple Inc. or Lucasfilm Ltd. concerning the subpoenas served upon those entities.

If you wish to discuss the foregoing, please let us know.

Regards,

John

John Haarlow, Jr.

jhaarlow@novackmacey.com

312.419.6900 T
312.419.6928 F

novack macey

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From: FinnH@gtlaw.com [mailto:FinnH@gtlaw.com]

Sent: Wednesday, May 05, 2010 12:02 PM

To: John Shonkwiler

Cc: P. Andrew Fleming; John B. Haarlow; martym@villageinvestments.com; DunningJ@gtlaw.com;

5/24/2010

NelsonC@gtlaw.com
Subject: Specht/Google

John,

Your distinction between Plaintiffs and their attorneys is immaterial for this purpose. Each attorney is an agent or representative of their respective party. The "attorney correspondence," as you refer to them, are responsive to document requests previously posed by Google, including Doc. Req. No. 66. Accordingly, please immediately produce them. Alternatively, confirm that you are not producing them and we will approach the Court on this issue.

As to Andrew's email on exchanging "may call" lists, we are discussing the proposal with our client and will respond upon completion of those discussions.

Lastly, in view of Mrs. Specht's deposition tomorrow and the fact that we are before Judge Leinenweber of Tuesday, May 11th, we will be renoticing the Motion to Compel and for Sanctions that is currently scheduled to be presented tomorrow morning. We will re-notice it for Tuesday, May 11th.

Herb Finn

Herbert H. Finn
Shareholder
Greenberg Traurig, LLP | 77 West Wacker Drive | Suite 3100 | Chicago, IL 60601
Tel 312.456.8427 | Fax 312.456.8435
FinnH@gtlaw.com | www.gtlaw.com



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From: John Shonkwiler [mailto:jshonkwiler@novackmacey.com]
Sent: Wednesday, May 05, 2010 10:44 AM
To: Finn, Herbert (Shld-Chi-IP/Tech)
Cc: P. Andrew Fleming; John B. Haarlow; martym@villageinvestments.com; Dunning, Jeffrey (Assoc-Chi-IP/Tech); Nelson, Cameron (Assoc-Chi-IP/Tech)
Subject: RE: Specht/Google

Herb,

Plaintiffs had no correspondence with Cisco or Apple discussing the subpoenas. If you are asking for production of any attorney correspondence concerning the subpoenas you will need to tell us what discovery rule or other authority you believe supports such a request.

Also, will you please respond to Andrew's April 30 email requesting a date for the simultaneous exchange of "may call" witness lists.

5/24/2010

John F. Shonkwiler

jshonkwiler@novackmacey.com

312.419.6900 T
312.419.6928 F**novack macey**

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From: FinnH@gtlaw.com [mailto:FinnH@gtlaw.com]**Sent:** Wednesday, May 05, 2010 9:13 AM**To:** John Shonkwiler**Cc:** P. Andrew Fleming; John B. Haarlow; marty@m@villageinvestments.com; DunningJ@gtlaw.com; NelsonC@gtlaw.com**Subject:** Specht/Google

John,

We understand that neither Cisco or Apple produced any documents in response to the respective subpoenas. However, you have represented that the subpoenas have now been withdrawn. Presumably, there are communications between Plaintiffs and each of Cisco and Apple discussing the subpoenas and/or advising them that they are withdrawn. Please produce those communications.

Herb Finn

Herbert H. Finn

Shareholder

Greenberg Traurig, LLP | 77 West Wacker Drive | Suite 3100 | Chicago, IL 60601

Tel 312.456.8427 | Fax 312.456.8435

FinnH@gtlaw.com | www.gtlaw.com



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*OPERATES AS GREENBERG TRAUIG MAHER LLP

From: John Shonkwiler [mailto:jshonkwiler@novackmacey.com]**Sent:** Tuesday, May 04, 2010 5:11 PM**To:** Finn, Herbert (Shld-Chi-IP/Tech)**Cc:** P. Andrew Fleming; John B. Haarlow; marty@m@villageinvestments.com; Dunning, Jeffrey (Assoc-Chi-IP/Tech); Nelson, Cameron (Assoc-Chi-IP/Tech)**Subject:** RE: Specht/Google

Herb,

Cisco served a written objection. A copy is attached. No documents or correspondence were produced in

5/24/2010

response to either subpoena.

John

John F. Shonkwiler

jshonkwiler@novackmacey.com

312.419.6900 T
312.419.6928 F

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From: FinnH@gtlaw.com [mailto:FinnH@gtlaw.com]

Sent: Tuesday, May 04, 2010 1:02 PM

To: John Shonkwiler

Cc: P. Andrew Fleming; John B. Haarlow; martym@villageinvestments.com; DunningJ@gtlaw.com; NelsonC@gtlaw.com

Subject: Specht/Google

John,

Thank you for your email. We can we expect the documents or correspondence relating to the Apple and Cisco subpoenas?

Herb Finn

Herbert H. Finn

Shareholder

Greenberg Traurig, LLP | 77 West Wacker Drive | Suite 3100 | Chicago, IL 60601

Tel 312.456.8427 | Fax 312.456.8435

FinnH@gtlaw.com | www.gtlaw.com



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From: John Shonkwiler [mailto:jshonkwiler@novackmacey.com]

Sent: Tuesday, May 04, 2010 11:13 AM

To: Finn, Herbert (Shld-Chi-IP/Tech)

Cc: P. Andrew Fleming; John B. Haarlow; martym@villageinvestments.com; Dunning, Jeffrey (Assoc-Chi-IP/Tech)

5/24/2010

Subject: RE: Specht/Google

Herb,

Attached is a copy of the subpoena served on LucasFilm Ltd. We disagree with the characterizations in your e-mail below including, without limitation, your contention that service of the LucasFilm subpoena was untimely, and we reserve the right to fully respond to your email at any appropriate time.

John F. Shonkwiler

jshonkwiler@novackmacey.com

312.419.6900 T
312.419.6928 F

novack•macey

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From: FinnH@gtlaw.com [mailto:FinnH@gtlaw.com]

Sent: Saturday, May 01, 2010 10:08 AM

To: John Shonkwiler

Cc: P. Andrew Fleming; John B. Haarlow; martym@villageinvestments.com; DunningJ@gtlaw.com; rtarlton@mof.com

Subject: Specht/Google

John,

Please provide any documents or correspondence between Plaintiffs and Apple or Cisco including, but not limited to, those that withdraw the subpoenas.

Also, we have become aware that Plaintiffs have issued a subpoena to LucasFilms seeking documents. While we have not seen the subpoena, it is inappropriate and violates both the Court's Orders and the Federal Rules. First, the Court Ordered, per the agreement of the parties, that written discovery closed on March 31st -- after which oral discovery began. Plaintiffs did not seek leave from the Court to issue the subpoena beyond the close date.

Second, despite already being served earlier this week, we still have yet to receive any Notice from Plaintiffs. The Federal Rules clearly requires that if the subpoena seeks documents "then before it is served, a notice must be served on each party." Rule 45(b)(1). While it certainly does not absolve the violation, please immediately provide us a copy of the subpoena. Having not seen the subpoena, we reserve all rights and objections Google may have.

Herb Finn

Herbert H. Finn
Shareholder

5/24/2010

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From: John Shonkwiler [mailto:jshonkwiler@novackmacey.com]
Sent: Friday, April 30, 2010 4:45 PM
To: Dunning, Jeffrey (Assoc-Chi-IP/Tech); P. Andrew Fleming; John B. Haarlow; martym@villageinvestments.com
Cc: Finn, Herbert (Shld-Chi-IP/Tech)
Subject: RE: Specht/Google

Jeff,

We have withdrawn the subpoenas to Apple and Cisco. We did not receive responses or documents.

John

John F. Shonkwiler

jshonkwiler@novackmacey.com

312.419.6900 T
312.419.6928 F

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From: DunningJ@gtlaw.com [mailto:DunningJ@gtlaw.com]
Sent: Wednesday, April 28, 2010 11:03 AM
To: P. Andrew Fleming; John Shonkwiler; John B. Haarlow; martym@villageinvestments.com
Cc: FinnH@gtlaw.com
Subject: Specht/Google

Counsel:

Please advise whether you have received any responses from Apple Computer, Inc. and Cisco Systems, Inc. to Plaintiffs' subpoenas dated March 31, 2010, and if so, please provide us with copies of any written responses and/or documents which you have received in response to those subpoenas.

Sincerely,

5/24/2010

Jeff Dunning

Jeffrey P. Dunning

Associate

Greenberg Traurig, LLP | 77 West Wacker Drive | Suite 3100 | Chicago, IL 60601

Tel 312.456.6612 | Fax 312.899.0351

DunningJ@gtlaw.com | www.gtlaw.com



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