

EXHIBIT A

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

From: P. Andrew Fleming [andrewf@novackmacey.com]
Sent: Wednesday, May 12, 2010 12:33 PM
To: Finn, Herbert (Shld-Chi-IP/Tech)
Cc: John Shonkwiler; John B. Haarlow; martym@villageinvestments.com; Dunning, Jeffrey (Assoc-Chi-IP/Tech); Nelson, Cameron (Assoc-Chi-IP/Tech)
Subject: RE: Specht/Google - Rubin Deposition

Herb, June 3rd does not work. Please let me know if any of the following dates are available: June 8,9,10, 24,25, 28,29 or 30 or July 1,5,6,7 or 8. Andrew

P. Andrew Fleming

andrewf@novackmacey.com

312.419.6900 T
 312.419.6928 F

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From: FinnH@gtlaw.com [mailto:FinnH@gtlaw.com]
Sent: Wednesday, May 12, 2010 12:24 PM
To: P. Andrew Fleming
Cc: John Shonkwiler; John B. Haarlow; martym@villageinvestments.com; DunningJ@gtlaw.com; NelsonC@gtlaw.com
Subject: Specht/Google - Rubin Deposition

Andrew,

As indicated in my prior email, the availability for Mr. Rubin's deposition in June is limited. That said, we can proceed with Mr. Rubin's deposition on June 3rd. Please confirm that we are proceeding on that date.

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: P. Andrew Fleming [mailto:andrewf@novackmacey.com]
Sent: Wednesday, May 12, 2010 9:05 AM
To: Finn, Herbert (Shld-Chi-IP/Tech)
Cc: John Shonkwiler; John B. Haarlow; martym@villageinvestments.com; Dunning, Jeffrey (Assoc-Chi-IP/Tech); Nelson, Cameron (Assoc-Chi-IP/Tech)
Subject: RE: Specht/Google - Depositions

Herb, I will be taking the deposition of Mr. Rubin. I will not be taking the deposition of Lucasfilms. Accordingly, it is wrong for you to assume that we do not want to take Mr Rubin's deposition on June 2nd because we want to conduct the deposition of Lucasfilms on that date. Also, because of Lucasfilms' previous objection to the Subpoena served upon it, we anticipate that the deposition of Lucasfilms may not go forward absent a Court Order and that any such Order may not be obtained prior to June 2nd. Accordingly, please provide us with alternative dates for Mr Rubin's deposition in June. Sincerely. Andrew

P. Andrew Fleming

andrewf@novackmacey.com

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 312.419.6928 F

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From: FinnH@gtlaw.com [mailto:FinnH@gtlaw.com]
Sent: Tuesday, May 11, 2010 8:47 PM
To: P. Andrew Fleming
Cc: John Shonkwiler; John B. Haarlow; martym@villageinvestments.com; DunningJ@gtlaw.com; NelsonC@gtlaw.com
Subject: Specht/Google - Depositions

Andrew,

We are a bit confused.

This morning you asked the Court to direct us to look for deposition dates during the week of May 31st. The Court appropriately indicated that its involvement was, at best, premature. Nonetheless, in effort to work together on scheduling, within hours, we provided you an available date for Mr. Rubin's deposition -- June 2nd. Two hours after receiving our email, John Haarlow then provides us notice of a subpoena being issued to Lucasfilms -- for a deposition on that same day in the San Francisco area. Notably, the subpoena to Lucasfilms was executed today and accordingly we assume that it was, at best, in the process of being served as of the time we provided you Mr. Rubin's availability. Fifteen minutes later, you indicate that you are not available to conduct the

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deposition of Mr. Rubin on June 2nd -- presumably because Plaintiffs want to conduct the deposition of Lucasfilms on that date.

Your decision to forego the deposition of Mr. Rubin for an attempt to take the deposition of Lucasfilms is curious at best -- especially after you sought some sort of Court involvement in arranging this deposition. The Lucasfilms deposition is not yet set for June 2nd and, based upon Lucasfilms' prior positions and conduct, there is little reason to believe that it will appear without at least some further discussion amongst counsel and/or Court involvement. All of which makes the June 2nd date for Lucasfilms deposition extremely unlikely.

Moreover, I had previously indicated that the availability to conduct Mr. Rubin's deposition was limited in June. If we do not proceed on June 2nd, due to scheduling issues, there is a possibility that we will not be able to proceed with his deposition until July. Accordingly, we ask that you reconsider conducting Mr. Rubin's deposition on June 2nd.

As to the Rule 30(b)(6) deposition, we are working on available dates and will advise you when we have more clarity on the issue.

Herb Finn

Herbert H. Finn
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From: P. Andrew Fleming [mailto:andrewf@novackmacey.com]
Sent: Tuesday, May 11, 2010 2:52 PM
To: Finn, Herbert (Shld-Chi-IP/Tech); John Shonkwiler; John B. Haarlow
Cc: Dunning, Jeffrey (Assoc-Chi-IP/Tech); martym@villageinvestments.com
Subject: RE: Specht/Google - Depositions

Herb, We are not available to take Mr Rubin's deposition on June 2nd. Please let us know what alternative dates are available for the deposition in June. Also, please let us know what dates are available for the deposition(s) of the Rule 30(b)(6) witness(es). Andrew

P. Andrew Fleming

andrewf@novackmacey.com

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From: FinnH@gtlaw.com [mailto:FinnH@gtlaw.com]
Sent: Tuesday, May 11, 2010 12:27 PM
To: P. Andrew Fleming; John Shonkwiler; John B. Haarlow
Cc: DunningJ@gtlaw.com
Subject: Specht/Google - Depositions

Counsel,

In view of your statements in Court this morning regarding deposition dates, we have investigated Mr. Rubin's availability for dates in the week following May 26th. We confirm that Mr. Rubin is available for deposition on June 2nd. In addition, Mr. Rubin requests that the deposition be conducted at the offices of Greenberg Traurig at:

Greenberg Traurig, LLP
 1900 University Avenue, 5th Floor
 East Palo Alto, CA 94303

Should we not be able to proceed on June 2nd, the availability to conduct Mr. Rubin's deposition becomes more limited. Please confirm that we are proceeding on June 2nd.

Herb Finn

Herbert H. Finn
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 Tel 312.456.8427 | Fax 312.456.8435
FinnH@gtlaw.com | www.gtlaw.com



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EXHIBIT B

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

From: P. Andrew Fleming [andrewf@novackmacey.com]
Sent: Thursday, May 20, 2010 5:30 PM
To: Finn, Herbert (Shld-Chi-IP/Tech)
Cc: John Shonkwiler; John B. Haarlow; Dunning, Jeffrey (Assoc-Chi-IP/Tech); Nelson, Cameron (Assoc-Chi-IP/Tech); martym@villageinvestments.com
Subject: RE: Specht/Google - Rubin Deposition

Herb, We will take Mr Rubin's deposition on July 9th. We would like to start the deposition at 8.00 or 8.30am that day. Please confirm that that is acceptable. Andrew

P. Andrew Fleming

andrewf@novackmacey.com

312.419.6900 T
312.419.6928 F

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From: FinnH@gtlaw.com [mailto:FinnH@gtlaw.com]
Sent: Thursday, May 20, 2010 2:55 PM
To: P. Andrew Fleming
Cc: John Shonkwiler; John B. Haarlow; DunningJ@gtlaw.com; NelsonC@gtlaw.com; martym@villageinvestments.com
Subject: Specht/Google - Rubin Deposition

Andrew,

We do not appear to have received a response. Please advise so that we may either confirm or release the date with Mr. Rubin.

Herb Finn

Herbert H. Finn
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FinnH@gtlaw.com | www.gtlaw.com



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From: Finn, Herbert (Shld-Chi-IP/Tech)
Sent: Wednesday, May 12, 2010 3:08 PM
To: P. Andrew Fleming
Cc: John Shonkwiler; John B. Haarlow; Dunning, Jeffrey (Assoc-Chi-IP/Tech); Nelson, Cameron (Assoc-Chi-IP/Tech); martym@villageinvestments.com
Subject: Specht/Google - Rubin Deposition

Andrew,

Can we proceed with Mr. Rubin's deposition on July 9th?

Herb Finn

Herbert H. Finn
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EXHIBIT C

EXHIBIT D

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

From: P. Andrew Fleming [andrewf@novackmacey.com]
Sent: Monday, June 21, 2010 3:41 PM
To: Finn, Herbert (Shld-Chi-IP/Tech); Dunning, Jeffrey (Assoc-Chi-IP/Tech); Nelson, Cameron (Assoc-Chi-IP/Tech)
Cc: marty@villageinvestments.com; John Shonkwiler; John B. Haarlow
Subject: Re: Deposition Scheduling

Herb, Please let us know when you are available over the next couple of days to discuss deposition scheduling. The 24th will not work for the Eide deposition. Andrew

P. Andrew Fleming

andrewf@novackmacey.com

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EXHIBIT E

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

From: P. Andrew Fleming [andrewf@novackmacey.com]
Sent: Monday, June 21, 2010 6:08 PM
To: Finn, Herbert (Shld-Chi-IP/Tech)
Cc: Dunning, Jeffrey (Assoc-Chi-IP/Tech); Nelson, Cameron (Assoc-Chi-IP/Tech); martym@villageinvestments.com; John Shonkwiler; John B. Haarlow
Subject: Re: Deposition Scheduling

Ok. We'll talk then. Andrew

Sent from my iPhone

On Jun 21, 2010, at 5:53 PM, "FinnH@gtlaw.com<mailto:FinnH@gtlaw.com>" <FinnH@gtlaw.com<mailto:FinnH@gtlaw.com>> wrote:

Andrew,

We are generally available the next few days. We suggest tomorrow at 11 am to discuss deposition scheduling.

Herb Finn

Herbert H. Finn, Esq.
GREENBERG TRAURIG LLP
77 West Wacker Drive
Chicago, Illinois 60601
312/456-8400 (phone)
312/456-8435 (fax)
finnh@gtlaw.com<mailto:finnh@gtlaw.com> (email)

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From: P. Andrew Fleming <andrewf@novackmacey.com<mailto:andrewf@novackmacey.com>>
To: Finn, Herbert (Shld-Chi-IP/Tech); Dunning, Jeffrey (Assoc-Chi-IP/Tech); Nelson, Cameron (Assoc-Chi-IP/Tech)
Cc: martym@villageinvestments.com<mailto:martym@villageinvestments.com> <martym@villageinvestments.com<mailto:martym@villageinvestments.com>>; John Shonkwiler <jshonkwiler@novackmacey.com<mailto:jshonkwiler@novackmacey.com>>; John B. Haarlow <JHaarlow@novackmacey.com<mailto:JHaarlow@novackmacey.com>>
Sent: Mon Jun 21 15:41:07 2010
Subject: Re: Deposition Scheduling

Herb, Please let us know when you are available over the next couple of days to discuss deposition scheduling. The 24th will not work for the Eide deposition. Andrew

<http://mm1.lettermark.net/novackandmacey/card/SMUM_4.map>
[http://mm1.lettermark.net/novackandmacey/card/SMUM_4.gif]

[<http://www.lettermark.net/Staging/mm1/novackandmacey/images/disclaimer.gif>]

EXHIBIT F

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

From: Finn, Herbert (Shld-Chi-IP/Tech)
Sent: Tuesday, June 29, 2010 11:30 AM
To: 'P. Andrew Fleming'; Shonkwiler, John (email); 'John B. Haarlow'; 'martym@villageinvestments.com'
Cc: Dunning, Jeffrey (Assoc-Chi-IP-Tech); Nelson, Cameron (Assoc-Chi-IP/Tech)
Subject: Specht/Google - Deposition Scheduling
Attachments: Document.pdf; Document.pdf

Counsel,

This is in furtherance of our discussions of last Thursday, June 24th relating to the scheduling of various depositions.

The following depositions have been confirmed:

July 7th - Eide CPA - at our offices in Chicago
July 9th - Rule 30(b)(6)/Andy Rubin - starting at 8:30 am at our offices in East Palo Alto
July 14th - Rule 30(b)(6)/Jennifer Flannery - starting at 9:00 am at our offices in East Palo Alto
July 21st - Rule 30(b)(6)/Erich Specht - starting at 8:30 am at our offices in Chicago

In furtherance of these depositions, we are attaching Google's Notice of Rule 30(b)(6) Deposition of Plaintiffs and Google's Objections to Plaintiffs' Notice of Rule 30(b)(6) Deposition to Google. We further formally identify Mr Rubin as a corporate designee responding to disposition subject matter category nos. 1-16 and 27-32 and Ms. Flannery as a corporate designee responding to deposition subject matter category nos. 17-23 and 25.

In addition to the depositions that were confirmed, we are working on getting confirmation of the depositions of Investigative Networks and Linda Tong. In view of various schedules, the deposition of Investigative Networks will not be proceeding on July 8th as subpoenaed, but will more likely be during the week of July 26th. You have requested that we investigate the possibility of conducting the deposition in the San Francisco area -- presumably close to Ms. Tong's deposition.

We also discussed the potential deposition of Chris White. In accord with the Court's request, I engaged in an extensive discussion with Mr. White regarding the deposition and Plaintiffs' efforts to serve him with a subpoena. As I explained, despite my efforts and explanation of the Court's request and the situation, we are unable to provide any further information regarding his location or any assistance in effort to serve a subpoena upon him.

We also discussed arranging the depositions of Jordan May of Hutech and Warren Crum of Northwest Recovery. As your firm is identified as the contact for these parties, we requested that you identify their availability for deposition on a date after Mr. Specht's. If they are not available after July 21st, then we would consider their availability anytime after July 6th and before July 30th. After identification of available dates, we will serve an appropriate subpoena.

Finally, in accord with Judge Leinenweber's June 25th Order, please advise when Mr. Murphy is available for deposition.

Herb Finn

Herbert H. Finn
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EXHIBIT G

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

From: Finn, Herbert (Shld-Chi-IP-Tech)
Sent: Tuesday, July 06, 2010 4:30 PM
To: Shonkwiler, John (email)
Cc: 'P. Andrew Fleming'; 'John B. Haarlow'; Dunning, Jeffrey (Assoc-Chi-IP-Tech); Nelson, Cameron (Assoc-Chi-IP-Tech)
Subject: Deposition Scheduling

John,

As advised during our discussion last week on scheduling depositions, Ms. Tong is no longer an employee of Google. We are waiting for your confirmation that Plaintiffs remain interested in taking Ms. Tong's deposition and we will obtain her last known address towards Plaintiffs issuing a subpoena. We are also waiting for your confirmation of the proposed July 28th date for the deposition of Investigative Networks in Arizona.

Further, although we raised the issue two weeks ago, we still have not received any available dates for the deposition of Jordan May of Hutech or Warren Crum of Northwest Recovery. We had hoped to work with you towards scheduling their respective depositions, but your silence is not making that possible. Please advise if you are unwilling or unable to provide proposed dates and we will serve a subpoena and proceed on a date of our choosing.

Similarly, in accord with Judge Leinenweber's Order, please provide available dates for Mr. Murphy's deposition.

Herb Finn

Herbert H. Finn
 Shareholder
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finnh@gtlaw.com | www.gtlaw.com



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EXHIBIT H

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

From: Finn, Herbert (Shld-Chi-IP-Tech)
Sent: Monday, July 12, 2010 11:52 AM
To: Shonkwiler, John (email)
Cc: 'P. Andrew Fleming'; 'John B. Haarlow'; Dunning, Jeffrey (Assoc-Chi-IP-Tech); Nelson, Cameron (Assoc-Chi-IP-Tech)
Subject: Specht/Google - Depositions

John,

In furtherance of our discussions prior to Mr. Eide's deposition, we confirm that we would like to proceed with Mr. May's deposition on July 27th and Mr. Murphy's deposition on July 30th. We do not anticipate Mr. May's deposition being all day. We will provide formal Notices later this week.

With respect to Warren Crum of Northwest Recovery, as of the date of our discussions, you are unable to confirm his availability. While we appreciate your offer to co-ordinate his deposition, unless you are able to confirm available dates by tomorrow, we will proceed with formal service of the subpoena.

With respect to Linda Tong, as advised, she no longer is employed by Google. In view of your confirmation that you will seek her deposition despite her no longer being employed by Google, we are providing her last known address:

1480 Fulton Street, Apt 3
San Francisco, CA 94117

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

From: John B. Haarlow [JHaarlow@novackmacey.com]
Sent: Monday, July 12, 2010 3:30 PM
To: Finn, Herbert (Shld-Chi-IP-Tech); John Shonkwiler
Cc: P. Andrew Fleming; Dunning, Jeffrey (Assoc-Chi-IP-Tech); Nelson, Cameron (Assoc-Chi-IP-Tech)
Subject: RE: Specht/Google - Depositions

Herb - Further to your email below, we confirm we will proceed with the deposition of Investigative Networks in Phoenix on July 28. Please let us know whether the deposition will be taken at your offices in Phoenix or whether we need to obtain a conference room.

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: Monday, July 12, 2010 11:52 AM
To: John Shonkwiler
Cc: P. Andrew Fleming; John B. Haarlow; DunningJ@gtlaw.com; NelsonC@gtlaw.com
Subject: Specht/Google - Depositions

John,

In furtherance of our discussions prior to Mr. Eide's deposition, we confirm that we would like to proceed with Mr. May's deposition on July 27th and Mr. Murphy's deposition on July 30th. We do not anticipate Mr. May's deposition being all day. We will provide formal Notices later this week.

With respect to Warren Crum of Northwest Recovery, as of the date of our discussions, you are unable to confirm his availability. While we appreciate your offer to co-ordinate his deposition, unless you are able to confirm available dates by tomorrow, we will proceed with formal service of the subpoena.

With respect to Linda Tong, as advised, she no longer is employed by Google. In view of your confirmation that you will seek her deposition despite her no longer being employed by Google, we are providing her last known address:

7/16/2010

1480 Fulton Street, Apt 3
San Francisco, CA 94117

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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7/16/2010

EXHIBIT J

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

From: Finn, Herbert (Shld-Chi-IP-Tech)
Sent: Thursday, July 15, 2010 6:26 PM
To: John Shonkwiler
Cc: 'P. Andrew Fleming'; 'John B. Haarlow'; 'marty@villageinvestments.com'; Harris, Richard (Shld-Chi-IP); Dunning, Jeffrey (Assoc-Chi-IP-Tech); Nelson, Cameron (Assoc-Chi-IP-Tech)
Subject: Specht/Google - Depositions

John,

This is in furtherance of our discussion earlier this afternoon concerning the remaining depositions to be taken in this case.

As things now stand, we have the deposition of Erich Specht scheduled for July 21st, the deposition of Jordan May scheduled for July 27th, the deposition of Clif Petrovsky scheduled for July 28th (in Arizona), and the deposition of Mr. Murphy scheduled for July 30th. We are also awaiting your confirmation that Warren Crum can be available for his deposition on July 29th, or on another date.

Despite the significant effort that the parties have expended towards agreeing upon a deposition schedule that accommodates both sides' desired depositions prior to the July 30, 2010 close of discovery, you informed me today that Mr. Specht, Mr. Murphy, Mr. May and Mr. Crum, will **not** be attending their scheduled depositions. Your excuse for this last minute change was that you did not want these individuals to have to be deposed twice. Accordingly, you proposed suspending these depositions until the parties named in your Third Amended Complaint have appeared and an entirely new discovery schedule has been entered -- presumably months from now. Naturally, you have proposed this only after you have completed your own Rule 30(b)(6) depositions of Google.

Google does not agree to your proposal. Plaintiffs' Third Amended Complaint is not presently before the Court -- as Plaintiffs' have neither sought or obtained leave to file it. Nor do we believe that the Court, should you seek appropriate leave, will allow the addition of parties and issues that Plaintiffs were aware months, if not years, ago with less than two weeks before the close of discovery. It is clear that Plaintiffs' Third Amended Complaint is nothing more than a carefully planned delay tactic designed for no other purpose but to unnecessarily and vexatiously increase costs and efforts in this litigation.

As I stated in our discussions, we will be moving the Court to compel the depositions to proceed as scheduled.

Herb Finn

Herbert H. Finn
 Shareholder
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 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]

7/16/2010

Sent: Thursday, July 15, 2010 2:35 PM
To: Finn, Herbert (Shld-Chi-IP-Tech)
Subject: RE: Specht/Google - Depositions

Herb, I just left you a voicemail. Please call me when you have a few minutes to talk.

Thanks.

John F. Shonkwiler

jshonkwiler@novackmacey.com

312.419.6900 T
312.419.6928 F

novack macey

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EXHIBIT K

**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,)	
)	
Plaintiffs/Counter-Defendants,)	
v.)	Civil Action No. 09-cv-2572
)	
GOOGLE INC.,)	Judge Harry D. Leinenweber
)	
Defendant/Counter-Plaintiff.)	

MOTION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT

Plaintiffs Erich Specht, an individual and doing business as Android Data Corporation and The Android's Dungeon Incorporated, by and through their attorneys, hereby move this Court, pursuant to Fed. R. Civ. P. 15(a) and 20(a)(2), for leave to file the Third Amended Complaint a copy of which is attached hereto as Exhibit A, without exhibits. In support hereof, Plaintiffs state as follows:

1. On April 28, 2009, Plaintiffs filed their Complaint for Trademark Infringement naming Google and numerous other defendants. On June 4, 2009, Plaintiffs filed their First Amended Complaint ("FAC") again naming Google and numerous other defendants. On August 3, 2009, the Court dismissed the FAC as to all defendants other than Google without prejudice and granted Plaintiffs leave to file a second amended complaint. Among other things, the Court found that Plaintiffs needed to allege more factual detail concerning the nature of the other defendants' involvement in the alleged infringing activity. The Court did not set a deadline for Plaintiffs to file the second amended complaint.

2. On October 6, 2009, Plaintiffs filed their Second Amended Complaint ("SAC"), which asserted five claims against Google: (a) trademark infringement under the Lanham Act

(Count I); (b) unfair competition under the Lanham Act (Count II); (c) violation of the Illinois Deceptive Trade Practices Act (Count III); (d) common law trademark infringement (Count IV); and (e) contributory infringement (Count V).

3. On February 23, 2010, the Court ordered that: “Parties to file amended pleadings by 7/15/2010.” (Dkt. 174.)

4. Plaintiffs filed a Third Amended Complaint on July 13, 2010 (the “TAC”), believing such amendment to be in compliance with the Court’s February 23, 2010 Order. The TAC asserted the same five claims against Google as in the SAC in Counts I-V. The TAC also added four new defendants to the case -- T-Mobile USA, Inc., Sprint Nextel Corporation, Cellco Partnership d/b/a Verizon Wireless and AT&T Mobility LLC (together, the “Carrier Defendants”) -- and asserted against them in Counts VI-IX the same causes of action asserted against Google in Counts I-IV.

5. Plaintiffs added the Carrier Defendants to the TAC because of information learned in discovery. On July 9, 2010, at the deposition of Andy Rubin, the manager of the Android Platform for Google, Rubin identified the four Carrier Defendants as the principal wireless carriers who sell Android mobile devices and provide wireless service for those devices. One of those carriers, AT&T Mobility LLC, only began selling Android mobile devices and associated wireless services within the past several months.

6. Plaintiffs have no choice but to pursue their claims against the Carrier Defendants because Google has taken the surprising position in discovery -- critically, in the Rule 30(b)(6) depositions taken within the past week -- that it earns essentially no revenue from the Android Platform. Google likewise is refusing to provide Plaintiffs with any information concerning its

advertising revenues earned from the use of Android mobile devices, even though its own employees account for such revenues on “Android P&L” statements.

7. At the outset of this case, Google attorneys boasted that with regard to the Android Platform, there was “somewhere between . . . \$400 to \$650, \$700 million dollars [sic] worth of products and systems . . . out there utilizing this protocol.” (May 7, 2009 Tr. at 11.) Nevertheless, Google’s own corporate representative witnesses are asserting under oath the dubious position that Google does not share in any revenue associated with these products and systems and that the revenue is earned, instead, by the Carrier Defendants and others who distribute products and services utilizing the Android Platform.

8. Plaintiffs believe they acted properly by filing the TAC within the time frame set forth in the Court’s February 23, 2010 Order, which granted the parties leave to amend the pleadings by July 15, 2010. Plaintiffs have since discussed the matter with counsel for Google, who has asserted that the TAC is improper and a “nullity” because Plaintiffs did not move for leave to file it. Accordingly, Plaintiffs file this motion in an abundance of caution, and ask the Court to grant leave to the extent such leave is required.

9. Rule 15(a) of the Federal Rules of Civil Procedure states that requests to amend pleadings should be liberally granted. Under Rule 15(a), leave to amend pleadings is freely given, unless there is undue delay, undue prejudice to the opposing party, or the amendment would be futile. See, e.g., Oil Express Nat’l, Inc. v. Burgstone, No. 96 Civ. 4816, 1998 WL 677250, at * 1 (N.D. Ill. Sept. 22, 1998).

10. Here, the proposed amendment will not result in undue prejudice or delay or for any other improper purpose. Plaintiffs are reacting promptly to information learned from Google in discovery in this case. The Court will recall that Plaintiffs filed a motion to compel Google to

provide 30(b)(6) deposition testimony in June, because Google was preventing such discovery from proceeding until the second and third weeks of July, mere days before the deadline to amend and the close of discovery.

11. Under Rule 20(a)(2) joinder of the additional Defendants in this action is proper because Plaintiffs assert a right to relief against them that arises out of and concerns the same transactions, occurrences or series of transactions or occurrences and questions of law or fact common to all Defendants will arise in this action. Moreover, it would be wasteful and inefficient for Plaintiffs to litigate their claims against the Carrier Defendants in a separate action given the prevalent common questions of law and fact.

WHEREFORE, Plaintiffs respectfully request that this Court enter an order granting Plaintiffs leave to file the Third Amended Complaint.

Respectfully submitted,

ERICH SPECHT, an individual and doing
business as ANDROID DATA
CORPORATION, and THE ANDROID'S
DUNGEON INCORPORATED

By: /s/ John F. Shonkwiler
One of Their Attorneys

P. Andrew Fleming
John F. Shonkwiler
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