

EXHIBIT 3

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

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

**GOOGLE INC.'S SUPPLEMENTAL RESPONSES TO PLAINTIFFS'
FIRST SET OF INTERROGATORIES TO GOOGLE**

Defendant GOOGLE INC. ("Google") hereby supplements its prior responses to the First Set of Interrogatories propounded by Plaintiffs ERICH SPECHT ("Specht"), ANDROID DATA CORPORATION ("ADC"), and THE ANDROID'S DUNGEON, INCORPORATED ("ADI"), collectively referred to hereinbelow as "Plaintiffs," pursuant to Fed.R.Civ.P. 33, as follows. Google incorporates by reference the general and specific objections set forth in Google's Responses to Plaintiffs' First Set of Interrogatories that were served on Plaintiffs on August 26, 2009.

INTERROGATORY NO. 1

Identify, separately, by member, each member of the OHA, including:

- A. all known names and aliases;
- B. all known business addresses in the United States and elsewhere;
- C. the earliest date in which the member contacted Google or was contacted by Google regarding joining an alliance with Google on Android OS or teaming up in some other way on developing source code, applications, goods, services, and/or products with Google;
- D. the date the member first joined the OHA;

- E. the name, title, and all known addresses of each person signing any document indicating the members willingness or agreement to be known as a member of the OHA;
- F. a brief description document or documents [sic] referred to in your answer to (E) above;
- G. each date and contribution the member has agreed to make or has made to the Android OS; and
- H. identify any documents or conversations regarding the due diligence that each member of the OHA were advised to perform.

ORIGINAL RESPONSE TO INTERROGATORY NO. 1:

Google objects to this interrogatory as exceeding the limited scope of early discovery authorized by the Court. Plaintiffs were expressly limited to written discovery concerning steps taken by Google prior to Google's adoption of the ANDROID mark to investigate the scope of Plaintiffs' purported trademark rights, if any, in the ANDROID DATA mark. Google also objects to Plaintiffs' definition of "Android O/S" as being vague and indefinite in its use of the undefined phrase "and the like." Google further objects to subparts (A), (B), (E), (G) and (H) as being overly broad, unduly burdensome, and calling for information not within the possession, custody or control of Google. Google further objects to this interrogatory as constituting at least six (6) discrete subparts, each of which constitutes a separate interrogatory under the Federal Rules of Civil Procedure. Google objects to producing any confidential, proprietary or trade secret information and/or documents as no protective order regarding the handling of such information/documentation has been agreed to by the parties or entered by the Court in this case. Google further objects to this interrogatory to the extent that it seeks information which is publicly available and therefore obtainable by Plaintiffs by other, less burdensome means.

Subject to and without waiving the foregoing objections, and to the extent that this interrogatory is understood and not otherwise objectionable, Google will supplement its response, after full discovery has commenced, in accordance with Fed. R. Civ. P. 26(e) at an appropriate time during the discovery period.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 1:

In addition to the foregoing responses and objections, Google further objects to this interrogatory as being overly broad, unduly burdensome, and calling for information outside the possession, custody or control of Google, to the extent that it requests the identification of "all known names or aliases" and "all known business addresses in the United States and elsewhere" for each member of the OHA. Google further responds to this interrogatory as follows:

Subject to and without waiving all of the foregoing objections, with respect to subparts (A), (B), (D), (E) and (F) of this interrogatory, the requested information may be determined by

examining Google's business records pursuant to Fed. R. Civ. P. 33(d) and 34, and the burden of deriving or ascertaining the requested information is substantially the same for either party. Google will produce for inspection and copying pursuant to Rule 33(d) and Rule 34, available, relevant and non-privileged documents, at a time and place mutually agreeable to the parties subject to a Court-entered Protective Order, pertaining to the handling of discovery in this matter or in the absence of such a Court entered Protective order, any other agreement amongst the parties controlling the handling of confidential discovery.

With regard to subpart (C), Google continues to investigate its records, and will identify any such information identified after a reasonable search.

With regard to subpart (G), none of the OHA members agreed to make any contribution to the creation or development of the Android Operating System (OS) software as part of their participation in the OHA. Unrelated and prior to its involvement in the OHA, PacketVideo, under a separate agreement with Google, carried out certain modifications to the source code for the Android OS software.

With regard to subpart (H), none of the OHA members were advised by Google to perform any "due diligence," to the extent that Google understands that term, relative to participation in the OHA.

INTERROGATORY NO. 2

Identify, separately, by defendant, any and all compensation or consideration paid, and/or agreed to be paid, to, or on behalf of, Andy Rubin, Nick Sears, Chris White, Rich Miner and any other party by Google, or any other known party, in connection with Google's acquisition of Android, Inc., the Android trademark, and/or Android OS, including, but not limited to:

- A. identification of the source, type of compensation, value, valuation date, and the date paid or promised of;
 1. all cash payments;
 2. stock transferred;

3. stock options granted, transferred, or promised transferred and/or promised; employment salaries promised and/or paid;
4. bonuses;
5. all other consideration of any type or kind promised or paid;
6. the identification and value of any compensation paid to Chris White upon his employment with Google terminating;
7. the identification of all persons with knowledge of the purchase/sale of Android, Inc.; and
8. the list of assets and consideration paid for each asset included in the purchase of Android, Inc. by Google.

ORIGINAL RESPONSE TO INTERROGATORY NO. 2:

Google objects to this interrogatory as being incomprehensible. Google further objects to this interrogatory as exceeding the limited scope of early discovery by Plaintiffs authorized by the Court. Plaintiffs were expressly limited to written discovery concerning steps taken by Google prior to Google's adoption of the ANDROID mark to investigate the scope of Plaintiffs' purported trademark rights, if any, in the ANDROID DATA mark. Google also objects to Plaintiffs' definition of "Android O/S" as being vague and indefinite in its use of the undefined phrase "and the like." Google further objects to this interrogatory as seeking information which is neither relevant nor calculated to lead to the discovery of admissible evidence. Google further objects to this interrogatory as constituting at least four (4) discrete subparts, each of which constitutes a separate interrogatory under the Federal Rules of Civil Procedure. Google objects to producing any confidential, proprietary or trade secret information and/or documents as no protective order regarding the handling of such information/documentation has been agreed to by the parties or entered by the Court in this case.

Subject to and without waiving the foregoing objections, and to the extent that this interrogatory is understood and not otherwise objectionable, Google will supplement its response, after full discovery has commenced, in accordance with Fed. R. Civ. P. 26(e) at an appropriate time during the discovery period.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 2:

Subject to and without waiving any of the foregoing objections, Google responds to this interrogatory as follows: With regard to subparts (A)(1) through (A)(5) and (A)(7) through (A)(8) of this interrogatory, the requested information may be determined by examining Google's business records pursuant to Fed. R. Civ. P. 33(d), and the burden of deriving or ascertaining the requested information is substantially the same for either party. On or about June 30, 2005 Google entered into a Stock Purchase Agreement with Android, Inc. and its stockholders, and on or about March 20, 2008 Google entered into an Amendment to Stock

Purchase Agreement with the stockholders of Android, Inc. The Stock Purchase Agreement and Amendment to Stock Purchase Agreement disclose the forms and amounts of consideration that Google has agreed to pay to the stockholders of Android, Inc. in connection with Google's acquisition of Android, Inc. Because the burden of ascertaining the answer to this interrogatory is substantially the same for either party, Plaintiffs may ascertain the requested information from reviewing the aforementioned documents.

With regard to subpart (A)(6) of this interrogatory, Google further objects to providing this information on the basis that the requested information is neither relevant to any claim or defense asserted by any party nor likely to lead to the discovery of admissible evidence.

While Google objects to the request in subpart (A)(7) that it identify "all persons" with knowledge of that transaction, on the basis that it is overly broad, Google identifies Andrew Rubin, Richard Miner and Nickolas Sears as the individuals having the most knowledge regarding that transaction.

INTERROGATORY NO. 3

Identify, separately, by date, each and every document in Google's possession, or known by Google to exist, which discuss any software, products, goods, and/or services being developed by Android, Inc., any trademarks owned or being used by Android, Inc. and any negotiations regarding Google's acquisition of Android, Inc., and other name Android Inc. has been known by including any d/b/a or alias, include:

- A. Date;
- B. describe the document type;
- C. author;
- D. intended recipient;
- E. brief description of the documents [sic] content;
- F. where the document is physically located; and

ORIGINAL RESPONSE TO INTERROGATORY NO. 3:

Google objects to this interrogatory to the extent it exceeds the limited scope of early discovery by Plaintiffs authorized by the Court. Plaintiffs were expressly limited to written discovery concerning steps taken by Google prior to Google's adoption of the ANDROID mark to investigate the scope of Plaintiffs' purported trademark rights, if any, in the ANDROID DATA mark. Google objects to this interrogatory as being overly broad and unduly burdensome, to the extent that it seeks the identification of "each and every document" that discusses any aspect of Google's acquisition of Android, Inc. Google objects to identifying voluminous business records or documents, when such records or documents can instead be made available for identification, inspection and copying by Plaintiffs pursuant to Fed.R.Civ.P. 33(d). Google objects to providing narrative responses to Plaintiffs' interrogatories where documents containing such information can instead be produced or made available for inspection pursuant to Fed.R.Civ.P. 33(d). Google further objects to this interrogatory to the extent that it seeks information which is in whole or in part protected by the Attorney-Client Privilege, Work Product Immunity and/or other applicable privileges and/or immunities. Google objects to producing any confidential, proprietary or trade secret information and/or documents as no protective order regarding the handling of such information/documentation has been entered by the Court in this case.

Subject to and without waiving the foregoing objections, and to the extent the interrogatory is understood and not otherwise objectionable, available, relevant, non-privileged and non-confidential responsive documents will be made available for inspection and copying, under Fed.R.Civ.P. 34, at a time and place mutually agreeable to the parties subject to a Court-entered Protective Order, pertaining to the handling of discovery in this matter or in the absence of such a Court entered Protective order, any other agreement amongst the parties controlling the handling of confidential discovery.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 3:

Subject to and without waiving any of the foregoing objections, Google states that while Android, Inc. exists as a legal entity it is not currently conducting business. Accordingly, no software, products, goods or services are being developed by Android, Inc. Google identifies the following documents in its possession that may be responsive to this interrogatory, each of which is being produced by Google on an "Attorney's Eyes Only" basis, subject to an interim agreement between the parties pending entry of a protective order by the Court:

1. Domain Name Purchase Agreement between Andrew E. Rubin and Android, Inc., dated on or about July 6, 2005;
2. Domain Name Purchase and Sale Agreement between Charles Mason, doing business as BeamUp, and Andrew E. Rubin, dated on or about March 19, 2004;

3. Secured Promissory Note issued by Google Inc. to Android, Inc., dated on or about May 25, 2005;
4. Security Agreement between Google Inc. and Android, Inc., dated on or about May 24, 2005;
5. Term Sheet for the Acquisition of Android, Inc. by Google Inc., dated on or about May 19, 2005; and
6. Stock Purchase Agreement by and among Google Inc., Android, Inc., the Stockholders of Android, Inc., Andrew E. Rubin, as Stockholder Agent, and U.S. Bank, National Association, as Escrow Agent, dated on or about June 30, 2005.
7. Amendment to Stock Purchase Agreement by and among Google Inc., Android, Inc., the Stockholders of Android, Inc., and Andrew E. Rubin, as Stockholder Agent, dated on or about March 20, 2008.

Google's investigation continues and it will supplement this response to the extent necessary under the Federal Rules after its investigation has been completed.

INTERROGATORY NO. 5

Identify each and every product, license, service, application, or other item bearing the Android mark which Google has knowledge of being used in commerce, including:

- A. A brief description of the item or service;
- B. whether the item or service results from a license or permission granted by Google;
- C. the date the permission or license was granted;
- D. the identity of the owner, licensee, or provider of the item or service; and
- E. the date that item or service was first used in commerce.

ORIGINAL RESPONSE TO INTERROGATORY NO. 5:

Google objects to this interrogatory to the extent it exceeds the limited scope of early discovery by Plaintiffs authorized by the Court. Plaintiffs were expressly limited to written discovery concerning steps taken by Google prior to Google's adoption of the ANDROID mark to investigate the scope of Plaintiffs' purported trademark rights, if any, in the ANDROID DATA mark. Google further objects to this interrogatory as calling for information not within the possession, custody or control of Google. Google further objects to this interrogatory as being vague and ambiguous to the extent that it calls for the identification of any "license, service, application or other item bearing the Android mark," inasmuch as licenses, services and applications are generally not capable of bearing a trademark.

Google objects to identifying voluminous business records or documents, when such records or documents can instead be made available for identification, inspection and copying by Plaintiffs pursuant to Fed.R.Civ.P. 33(d). Google objects to providing narrative responses to Plaintiffs' interrogatories where documents containing such information can instead be produced or made available for inspection pursuant to Fed.R.Civ.P. 33(d). Google further objects to this interrogatory to the extent that it seeks information which is in whole or in part protected by the Attorney-Client Privilege, Work Product Immunity and/or other applicable privileges and/or immunities. Google objects to producing any confidential, proprietary or trade secret information and/or documents as no protective order regarding the handling of such information/documentation has been entered by the Court in this case.

Subject to and without waiving the foregoing objections, and to the extent that this interrogatory is understood and not otherwise objectionable, Google will supplement its response, after full discovery has commenced, in accordance with Fed. R. Civ. P. 26(e) at an appropriate time during the discovery period.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 5:

Google further objects to this interrogatory as calling for a legal conclusion as to what constitutes "use in commerce." Subject to and without waiving any of the foregoing objections, Google identifies the following products presently utilizing the Android OS software that have been sold or distributed in the U.S.:

1. The G1 mobile phone, also known as the HTC Dream, which is manufactured by HTC Corporation and distributed in the United States by T-Mobile USA, Inc. According to the best information available to Google, the G1 phone was commercially released in the United States on or about October 2008.
2. The myTouch 3G mobile phone, also known as the HTC Magic, which is manufactured by HTC Corporation and distributed in the United States by T-Mobile USA, Inc. According to the best information available to Google, the myTouch 3G phone was commercially released in the United States on or about August 2009.
3. The Hero mobile phone, which is manufactured by HTC Corporation and distributed in the United States by Sprint. According to the best information available to Google, the Hero phone was commercially released in the United States on or about October 2009.

To the extent that the ANDROID mark may be utilized on or in connection with these products, it is pursuant to permission from Google, which owns all rights in and to the ANDROID mark.

INTERROGATORY NO. 6

Identify each and every quality control used by Google to protect the Android mark and to insure the nature, quality, and distribution channel of products, services, and applications using the Android mark are of high quality, including:

- A. A brief description of the control;
- B. the date the control was initiated;
- C. the identity of the person responsible for the quality control; and
- D. any action taken against any person in protection of the mark or enforcing the quality control, including:
 - 1. the identity of the person taking the action;
 - 2. the identity of the person the action was taken against;
 - 3. a brief description of the action;
 - 4. the date action was taken; and
 - 5. the result of taking the action.

ORIGINAL RESPONSE TO INTERROGATORY NO. 6:

Google objects to this interrogatory to the extent it exceeds the limited scope of early discovery by Plaintiffs authorized by the Court. Plaintiffs were expressly limited to written discovery concerning steps taken by Google prior to Google's adoption of the ANDROID mark to investigate the scope of Plaintiffs' purported trademark rights, if any, in the ANDROID DATA mark. Google further objects to this interrogatory as calling for information which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Google further objects to this interrogatory as being vague and ambiguous to the extent that it calls for the identification of any "quality control," which term is undefined. Google further objects to this interrogatory as constituting at least two (2) discrete subparts, each of which constitutes a separate interrogatory under the Federal Rules of Civil Procedure. Google objects to providing narrative responses to Plaintiffs' interrogatories where documents containing such information can instead be produced or made available for inspection pursuant to Fed.R.Civ.P. 33(d). Google further objects to this interrogatory to the extent that it seeks information which is in whole or in part protected by the Attorney-Client Privilege, Work Product Immunity and/or other applicable privileges and/or immunities. Google objects to producing any confidential, proprietary or trade secret information and/or documents as no protective order regarding the handling of such information/documentation has been entered by the Court in this case.

Subject to and without waiving the foregoing objections, and to the extent that this interrogatory is understood and not otherwise objectionable, Google will supplement its response,

after full discovery has commenced, in accordance with Fed. R. Civ. P. 26(e) at an appropriate time during the discovery period.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 6:

Subject to and without waiving any of the foregoing objections, Google responds that it has adopted and published a set of Brand Guidelines that apply to use of the ANDROID mark and associated logos by third parties, which is made available to the public at <http://www.android.com/branding.html>. Additionally, Google maintains a set of Guidelines and Terms and Conditions that apply to the use of Google's trademarks by third parties, which are made available to the public at <http://www.google.com/permissions/guidelines.html> and <http://www.google.com/permissions/brand terms.html>, respectively. The Android Brand Guidelines specifically require that any third party using the ANDROID mark in accordance with those Brand Guidelines include the following attribution: "Android is a trademark of Google Inc. Use of this trademark is subject to Google Permissions."

INTERROGATORY NO. 7

Identify the factual basis for: Eric Schmidt, Google's chairman and CEO, referring to the OHA as "This partnership," in a press release officially announcing the formation of the OHA made on November 7, 2007 and Dan Morrill of Google referring to the OHA members as "our partners" in a Weblog posted September 23, 2008 announcing the release of Android 1 SDK.

ORIGINAL RESPONSE TO INTERROGATORY NO. 7:

Google objects to this interrogatory to the extent it exceeds the limited scope of early discovery by Plaintiffs authorized by the Court. Plaintiffs were expressly limited to written discovery concerning steps taken by Google prior to Google's adoption of the ANDROID mark to investigate the scope of Plaintiffs' purported trademark rights, if any, in the ANDROID DATA mark. Google further objects to this interrogatory as calling for information which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Google objects to producing any confidential, proprietary or trade secret information and/or documents as no protective order regarding the handling of such information/documentation has been agreed to by the parties or entered by the Court in this case. Google further objects to this interrogatory as constituting at least two (2) discrete subparts, each of which constitutes a separate interrogatory under the Federal Rules of Civil Procedure.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 7:

Subject to and without waiving any of the foregoing objections, Google further responds that the factual basis for the statements identified in this interrogatory is that that Open Handset Alliance constitutes a business alliance of companies with a common goal of accelerating innovation in mobile technology and offering consumers a richer, less expensive, and better mobile experience. Thus, various press releases or publications, including those identified in this interrogatory, have referred at times to the OHA as a “partnership” and to members of the OHA as “partners,” inasmuch as the OHA members share a common business objective as described above. However, the OHA does not constitute a legal partnership, and neither Google nor any of the other OHA members have ever agreed to form a legal partnership or held the OHA out to the public as constituting a legal partnership. To extent that there are agreements establishing OHA, those agreements are not amongst OHA members but between an OHA member and Google.

INTERROGATORY NO. 8

Identify each and every use of Android™ by Google by date and manner used.

ORIGINAL RESPONSE TO INTERROGATORY NO. 8:

Google objects to this interrogatory to the extent it exceeds the limited scope of early discovery by Plaintiffs authorized by the Court. Plaintiffs were expressly limited to written discovery concerning steps taken by Google prior to Google’s adoption of the ANDROID mark to investigate the scope of Plaintiffs’ purported trademark rights, if any, in the ANDROID DATA mark. Google further objects to this interrogatory as calling for information which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, and to the extent that this interrogatory is understood and not otherwise objectionable, Google will supplement its response, after full discovery has commenced, in accordance with Fed. R. Civ. P. 26(e) at an appropriate time during the discovery period.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 8:

Subject to and without waiving any of the foregoing objections, Google states that as a general rule, Google does not use the “TM” symbol in association with its ANDROID mark. While Google’s “Guidelines for Third Party Use of Google Brand Features” (at <http://www.google.com/permissions/guidelines.html>) include a reference to the “Android™ mobile technology platform,” Google does not itself use the “TM” symbol in association with the ANDROID mark on the www.android.com website or otherwise. For a brief period of time, the “TM” symbol was used in association with photos uploaded onto the Facebook website using a mobile device running the Android OS. Google is not presently aware of any other instances in which the “TM” symbol is used in association with the ANDROID mark.

INTERROGATORY NO. 9

Identify each and every use of Android® by Google by date and manner used.

ORIGINAL RESPONSE TO INTERROGATORY NO. 9:

Google objects to this interrogatory to the extent it exceeds the limited scope of early discovery by Plaintiffs authorized by the Court. Plaintiffs were expressly limited to written discovery concerning steps taken by Google prior to Google’s adoption of the ANDROID mark to investigate the scope of Plaintiffs’ purported trademark rights, if any, in the ANDROID DATA mark. Google further objects to this interrogatory as calling for information which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Google also objects to this Interrogatory as calling for a legal conclusion as to what constitutes use. Google objects to this interrogatory as duplicative of Interrogatory No. 8.

Subject to and without waiving the foregoing objections, and to the extent that this interrogatory is understood and not otherwise objectionable, Google will supplement its response, after full discovery has commenced, in accordance with Fed. R. Civ. P. 26(e) at an appropriate time during the discovery period.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9:

Subject to and without waiving any of the foregoing objections, Google states that as a general rule, it currently does not use the “®” symbol in association with its ANDROID mark,

and is not aware of any instance in which the “®” symbol is used in association with the ANDROID mark.

INTERROGATORY NO. 10

Identify each and every action, by date and type, taken by Google after Google’s registration of the Android mark was refused. Specifically, did Google make any changes to its OHA agreements, product lines, marketing plans, product releases, applications, distribution channels, licensing agreements, use of the Android mark, or the like?

ORIGINAL RESPONSE TO INTERROGATORY NO. 10:

Google objects to this interrogatory to the extent it exceeds the limited scope of early discovery by Plaintiffs authorized by the Court. Plaintiffs were expressly limited to written discovery concerning steps taken by Google prior to Google’s adoption of the ANDROID DATA mark. Google objects to this interrogatory as being vague and ambiguous as to the terms “OHA agreements” and “or the like.” Google further objects to this interrogatory as calling for information which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Google further objects to this interrogatory as being overly broad and unduly burdensome to the extent that it is not limited to actions taken by Google relative to its application for registration of the ANDROID trademark.

Subject to and without waiving the foregoing objections, and to the extent that this interrogatory is understood and not otherwise objectionable, Google will supplement its response, after full discovery has commenced, in accordance with Fed. R. Civ. P. 26(e) at an appropriate time during the discovery period.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 10:

Subject to and without waiving any of the foregoing objections, Google states that it took the following actions in response to the USPTO’s initial refusal to register Google’s ANDROID mark in connection with U.S. Trademark Application No. 77/318,565:

1. On or about August 14, 2008, Google filed a Response to Office Action with the USPTO, in which Google (i) amended the identification of goods associated with its application and (ii) submitted evidence showing that the registrant of U.S. Registration No. 2,639,556 had abandoned its registered mark.
2. On or about November 20, 2008, Google filed a Request for Reconsideration After Final Action, in which Google (i) further amended the identification of goods associated with its application and (ii) requested that the Examining Attorney either withdraw the refusal to register the mark under Section 2(d) of the Trademark Act or

alternatively suspend the examination of the application pending the final disposition of U.S. Registration No. 2,639,556.

3. On or about September 3, 2009, Google filed a Response to Suspension Inquiry or Letter of Suspension, requesting that the Examining Attorney continue the suspension of further action on the application pursuant to TMEP §716.02(d), because a proceeding relevant to the registrability of its mark is currently pending before the U.S. District Court for the Northern District of Illinois.

INTERROGATORY NO. 11

Identify for each month, the total number of copies of Android OS or Android SDK, including prior and updated versions, that were released and the fees collected in connection with the releases including:

- A. The month and year;
- B. number of copies released;
- C. identity and nature and total of fees collected; and
- D. any other revenue streams including revenue sharing with OHA members, search fees, ad fees or any other source which is connected in any way to the release of Android OS and related products.

ORIGINAL RESPONSE TO INTERROGATORY NO. 11:

Google objects to this interrogatory to the extent it exceeds the limited scope of early discovery by Plaintiffs authorized by the Court. Plaintiffs were expressly limited to written discovery concerning steps taken by Google prior to Google's adoption of the ANDROID mark to investigate the scope of Plaintiffs' purported trademark rights, if any, in the ANDROID DATA mark. Google objects to Plaintiffs' definition of "Android O/S" as being vague and indefinite in its use of the undefined phrase "and the like." Google objects to this interrogatory as being vague and ambiguous as to the terms "connected in any way" and "related products." Google further objects to this interrogatory as calling for information which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Google further objects to this interrogatory as being vague and indefinite with regard to its request for the number of copies of Android OS or Android SDK that were "released." Google is unclear as to what is meant by the term "released." Google further objects to this interrogatory as constituting at least two (2) discrete subparts, each of which constitutes a separate interrogatory under the Federal Rules of Civil Procedure.

Subject to and without waiving the foregoing objections, and to the extent that this interrogatory is understood and not otherwise objectionable, Google will supplement its response, after full discovery has commenced, in accordance with Fed. R. Civ. P. 26(e) at an appropriate time during the discovery period.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 11:

Subject to and without waiving any of the foregoing objections, Google states that with regard to the Android OS software, it does not maintain records in the ordinary course of business that would enable it to identify the number of copies of the Android OS that have been downloaded from the www.android.com website. Google does maintain records that identify the number of devices utilizing the Android OS that have been registered with Google anywhere in the world (not just in the United States). As of October 2, 2009, approximately 2,908,216 such devices had been registered internationally. With regard to the Android Software Development Kit (SDK), based on a review of Google's relevant business records, approximately 71,186 copies of the Android SDK had been downloaded from the www.android.com website as of October 9, 2009. Google is unable to provide a further breakdown of these totals by month. Google has not collected any fees or revenues in association with the release or download of either the Android OS or the Android SDK.

INTERROGATORY NO. 14

Identify the ways in which Android OS and related products, applications, or services and data collected has or is intended to enhance the value of other products offered by Google or any of the other defendants, including information gathered regarding customer habits, search patterns, targeted search capabilities consumer interest [sic] and the like.

ORIGINAL RESPONSE TO INTERROGATORY NO. 14:

Google objects to this interrogatory to the extent it exceeds the limited scope of early discovery by Plaintiffs authorized by the Court. Plaintiffs were expressly limited to written discovery concerning steps taken by Google prior to Google's adoption of the ANDROID mark to investigate the scope of Plaintiffs' purported trademark rights, if any, in the ANDROID DATA mark. Google also objects to Plaintiffs' definition of "Android O/S" as being vague and indefinite in its use of the undefined phrase "and the like." Google further objects to this interrogatory as being vague and indefinite, inasmuch as it is unclear what constitutes "related products, applications, or services and data collected," "other products," and "and the like." Google further objects to this interrogatory as calling for information which is not within the possession, custody or control of Google. Google objects to producing any confidential, proprietary or trade secret information and/or documents as no protective order regarding the handling of such information/documentation has been agreed to by the parties or entered by the Court in this case.

Subject to and without waiving the foregoing objections, and to the extent that this interrogatory is understood and not otherwise objectionable, Google will supplement its response, after full discovery has commenced, in accordance with Fed. R. Civ. P. 26(e) at an appropriate time during the discovery period.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 14:

Subject to and without waiving any of the foregoing objections, Google states that the Android OS platform was built with the explicit goal to be the first open, complete, and free operating system platform created specifically for mobile devices. As noted on the Open Handset Alliance website (www.openhandsetalliance.com), increased openness will enable the mobile industry to innovate more rapidly and respond better to consumers' demands. This capability for more rapid and better innovation is believed to enhance the value of mobile devices that utilize the Android OS platform by providing a better mobile experience for consumers. To the extent that Google understands the remainder of this interrogatory, Google does not gather or retain information in the ordinary course of business regarding "customer habits, search patterns, targeted search capabilities consumer interest [sic] and the like" in relationship to the Android OS platform.

The undersigned counsel herein states that the foregoing objections have been posed in good faith and in accordance with the Federal Rules of Civil Procedure.

Respectfully submitted,



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Counsel for Google Inc.

Dated: October 16, 2009

VERIFICATION

I, Andrew E. Rubin, state that I am Director of Mobile Platforms for Google Inc., and am authorized to make this verification on behalf of Google Inc.; that I have read the foregoing GOOGLE INC.'S SUPPLEMENTAL RESPONSES TO PLAINTIFFS' FIRST SET OF INTERROGATORIES TO GOOGLE, and have answered them as a representative of Google Inc.; that said responses are based upon information obtained from Google Inc.'s employees and representatives having relevant knowledge; and that to the best of my knowledge, information and belief said responses are true and accurate.

Google Inc.

Dated:

10/16/09



Andrew E. Rubin

CERTIFICATE OF SERVICE

The undersigned hereby certified that a true and correct copy of the foregoing GOOGLE INC.'S SUPPLEMENTAL RESPONSES TO PLAINTIFFS' FIRST SET OF INTERROGATORIES TO GOOGLE was served upon counsel for Plaintiffs on the date set forth below, by electronic mail and first class mail, postage prepaid, addressed to:

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Dated: October 16, 2009

