

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

**DEFENDANT'S GOOGLE, INC.'S MOTION TO STAY PROCEEDINGS PENDING  
*INTER PARTES* REEXAMINATION OF THE PATENTS-IN-SUIT**

Defendant Google, Inc. (“Google”) respectfully moves the Court to stay the proceedings in this case pending *inter partes* reexamination of U.S. Patent Nos. 7,680,256 (“the ‘256 patent”) and 7,440,565 (“the ‘565 patent”). In support of this Motion to Stay, Google states as follows:

1. One Number Corporation (“One Number”) filed its Complaint against Google approximately six months ago, on March 16, 2010, alleging that the Google Voice® application infringes the ‘565 and ‘256 patents. Dkt. 1. Google answered the Complaint and filed counterclaims on July 23, 2010. Dkt. 25. One Number answered the counterclaims on August 11, 2010. Dkt. 27.

2. The ‘256 patent and the ‘565 patent are now in reexamination before the United States Patent and Trademark Office (“PTO”). In Office Actions dated October 21 and 22, 2010, the PTO granted Google, Inc.’s requests for *inter partes* reexamination on all the claims of the ‘256 and ‘565 patents. The PTO rejected all claims of the ‘256 patent as invalid and all but two dependent claims of the ‘565 patent as invalid. Even the two non-rejected dependent claims of the ‘565 patent—which are narrow and likely not applicable to the accused service—remain in reexamination before the PTO. Therefore, they remain in jeopardy of a final rejection as invalid.

3. The Court should stay this lawsuit until the PTO completes its review of the '256 and '565 patents and determines whether any relevant patent claim remains valid. For this reason, and for the reasons discussed in Google's supporting Memorandum of Law in Support of its Motion to Stay (filed herewith), this case should be stayed pending the outcome of the PTO reexamination.

4. Counsel for Google conferred with counsel for One Number regarding this Motion to Stay on and after October 29, 2010. Counsel for Google was unable to reach an agreement regarding this Motion to Stay with counsel for One Number.

WHEREFORE, Google respectfully requests that this Court grant its Motion and stay this litigation until the PTO completes its reexamination of the patents-in-suit.

November 2, 2010

Respectfully submitted,

/s/ Jeff M. Barron

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## **CERTIFICATE OF SERVICE**

Notice of this filing will be sent to the following counsel of record by operation of the Court's electronic filing system on November 2, 2010. Parties may access this filing through the Court's system.

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