

EXHIBIT 3

June 14, 2010

BY ELECTRONIC MAIL

Susan Baker Manning, Esq.
Bingham McCutchen LLP
2020 K Street NW
Washington, DC 20006-1806

Jennifer C. Tempesta
TEL +1 212-408-2571
FAX +1 212-259-2571
jennifer.tempesta@bakerbotts.com

Re: Red Bend Ltd. v. Google Inc., Case No. 09-cv-11813

Dear Susan:

We write further to our meet and confer concerning the parties' outstanding discovery issues. Pending confirmation by you of the agreements reached, we believe our teleconference was productive, but there are a few issues that remain unresolved.

I. Google's Responses to Red Bend's Discovery Requests

A. General Objections Relating to Red Bend's Definitions of "Courgette" and "Delta Update"

During our discussion, you confirmed that Google will not apply Red Bend's definitions of "Courgette" and "Delta Update" in responding to Red Bend's document requests and interrogatories. As we explained, the definitions adopted by Google are too narrow and exclude highly relevant information including, *e.g.*, prior art and non-infringing alternatives. We were unable to reach agreement on this issue. Red Bend will seek appropriate relief from the Court in relation to this issue.

B. Requests for Production

You confirmed that Google is preparing a supplemental production of documents that we should expect to receive next week. You confirmed that this production will include documents dated after Google's December 2009 production from the same custodians as Google's prior production. When we inquired about whether these documents would include those from Nir-Bar Lev and Yossi Matias (two Google employees who communicated with Red Bend in 2007), you indicated that next week's production may not include these documents, but that these custodians had been added to the pipeline of Google's forthcoming document productions in this case.

Upon our further inquiry regarding whether Google's forthcoming document production would include damages related documents, you indicated that some damages related documents would be included in the production. However, Google has objected to several of

Red Bend's damages related document requests without agreeing to produce documents subject to its objections, specifically Request for Production Nos. 52 (licensing practices), 54 (market analyses) and 59 (valuation practices). These requests are directed to highly relevant information that should be produced in this case. Indeed, Google has produced these documents in connection with the damages analyses in other infringement actions. *See, e.g., Function Media, LLC v. Google Inc.*, No. 2:07-cv-279, 2010 WL 272409 (E.D. Tex. Jan. 15, 2010) (referring to documents that had been produced evidencing the amounts paid by Google in acquiring companies, including the Doubleclick, Applied Semantics, dMarc YouTube and AdMob acquisitions; marketing Agreements, including the Google / AOL Interactive Marketing Agreement; and Houlihan Lokey valuation analyses). We request that all of those documents be produced in this case.

As to the remaining Requests for Production that Google objected to without agreeing to produce responsive documents, we propose the following:

- Request for Production No. 42 – We are willing to narrow this request as follows: All documents, including but not limited to patents, relating to Delta Update techniques, which Google considered or reviewed in connection with its decision to use Courgette or make the Courgette source code available in open source.
- Request for Production No. 44 – This document request calls for highly relevant information, *i.e.*, all documents concerning or relating to the commercial success of Google's Chrome web browser. When Google introduced the Chrome web browser, it did so into a crowded market and distinguished Chrome from others by emphasizing its speed and security, including promoting its "auto-updates" which Google asserted were "smaller" "faster" and "safer" than its competition. These distinguishing characteristics, which are integrally tied to Courgette, undoubtedly play a large role in the Chrome web browser's success and documents relating to that success are highly relevant to damages. Please let us know if Google will produce documents responsive to this request.
- Request for Production No. 46 – we are willing to limit this to the use, supply and/or distribution of the Chrome web browser (and not Chrome OS).
- Request for Production No. 60 – we indicated our belief that this request is not overbroad and asked that you reconsider Google's response to this request, which consists entirely of objections.

Please let us know if Google will produce documents responsive to Request for Production Nos. 42, 44, 46, 52, 54, 59 and 60 based on the foregoing.

We also asked that Google produce its agreements retaining Dr. Frankel and Mr. Percival as consultants. You asked that we identify a Request for Production that these would be responsive to. Since the agreements relate to the '552 Patent, these agreements are responsive to at least Request for Production Nos. 29 and 31.

C. Interrogatories

You confirmed that Google has not withheld any information based on its objections to Interrogatory No. 4.

D. Red Bend's Request for Discovery from Mr. Percival

During our call, we informed you that Red Bend will seek to obtain evidence from Mr. Percival through the letters rogatory process if Google is unwilling to agree to make him available for a deposition because his testimony as a fact witness is relevant to several issues in this case. As we indicated on the phone, we are willing to narrow the list of possible document requests and topics for Mr. Percival's deposition that we identified in our correspondence of June 11th. As we explained, we believe that Mr. Percival is the only one who can testify about his communications and conversations with Stephen Adams, his contributions to Courgette, and his own writings on bsdiff and delta updating in general, including but not limited to his thesis, all highly relevant topics. You said you would respond to our request in writing.

II. Red Bend's Responses to Google's Discovery Requests

A. Interrogatories

In response to David Magee's letter of June 11th, we agreed to supplement Red Bend's interrogatory responses. Specifically, we will supplement the responses to Interrogatory Nos. 11 and 12 by June 21st and will supplement the responses to Interrogatory Nos. 3-8 and 10 by June 30th.

B. Requests for Production

We confirmed that Red Bend will be making a supplemental production of documents by Friday, June 18th and that this upcoming production will complete the production from Red Bend's custodians whose files were searched in connection with this case. (*See* Tempesta 6.14 Letter, identifying custodians).

Please let us know as soon as possible if we misdescribed in any way our discussions.

BAKER BOTTS_{LLP}

Susan Baker Manning, Esq.

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June 14, 2010

Very truly yours,

Jennifer C. Tempesta

Jennifer C. Tempesta

BAKER BOTTS L.L.P.

30 ROCKEFELLER PLAZA
NEW YORK, NEW YORK
10112-4498

TEL +1 212.408.2500
FAX +1 212.408.2501
www.bakerbotts.com

ABU DHABI
AUSTIN
BEIJING
DALLAS
DUBAI
HONG KONG
HOUSTON
LONDON
MOSCOW
NEW YORK
PALO ALTO
RIYADH
WASHINGTON

June 29, 2010

BY ELECTRONIC MAIL

David Magee, Esq.
Bingham McCutchen LLP
One Federal Street
Boston, MA 02110

Jennifer C. Tempesta
TEL +1 212-408-2571
FAX +1 212-259-2571
jennifer.tempesta@bakerbotts.com

Re: Red Bend Ltd. v. Google Inc., Case No. 09-cv-11813

Dear David:

We do not anticipate any further modifications to the search terms Red Bend requests that Google apply to its document collections in connection with its production of documents in this case. As such, please produce all non-privileged responsive documents retrieved as a result of the search terms identified by Red Bend and the search terms identified in your correspondence of June 14th as soon as possible.

For clarity, we list all of the search terms below:

Google's Original Search Terms	
1.	("552 patent")
2.	("6,546,552")
3.	("6546522")
4.	("Chee" and "Compression")
5.	("compression" w/25 "update")
6.	("Courgette")
7.	("Red Bend")
8.	((("Adobe Systems Incorporated") w/25 ("delta" or "update" or "bsdif" or "binary diff" or "differential compression"))
9.	((Eliot w/2 Williams) and "Baker Botts")
10.	((Robert w/2 Scheinfeld) and "Baker Botts")
11.	(552 w/5 "patent")
12.	(Daniel w/2 Cloherty and ("Dwyer & Collora" or "Baker Botts"))
13.	(Morten w/2 Grauballe)
14.	(redbend)
15.	(Richard w/2 Kinder)
16.	(Roger w/2 Wilson)
17.	(Sharon w/2 Peleg)
18.	(Yoram w/2 Salinger)

Additional Search Terms Requested by Red Bend	
19.	("differential compression")
20.	((delta or compress* or differential or diff) w/3 (updater or updates or patch*)) and (Chrome or Chromium or ChromeOS or ChronOS or Android or Courgette or Omaha or "Google Updater" or "Red Bend" or RedBend)
21.	((Houlihan w/2 Lokey) and (Chrome or Chromium or ChromeOS or Android or Courgette))
22.	((IP or "intellectual property") w/10 valu*) and (Chrome or Chromium or ChromeOS or ChronOS or Android or Courgette or Omaha or "Google Updater" or "Red Bend" or RedBend)
23.	(Android w/3 updater)
24.	(bsdifff)
25.	(bspatch)
26.	(Chrome w/10 (benefit* or profit* or revenue*))
27.	(Chrome w/5 (updater or patch*))
28.	(ChromeOS w/5 (updater or patch*))
29.	(FOTA)
30.	(Percival or cperciva*)
31.	(small* w/5 (updater or patch*)) and (Chrome or Chromium or ChromeOS or ChronOS or Android or Courgette or Omaha or "Google Updater" or "Red Bend" or RedBend)

As requested in our prior correspondence (*see, e.g.*, our letter of June 22nd) and reiterated during our meet and confer of June 25th, this search should be conducted in the files of the following custodians:

1. All those previously searched (listed in your June 14th letter);
2. Yossi Mathias;
3. Nir Bar-Lev;
4. All programmers involved with Chrome, Chromium, ChromeOS and/or Android updating; and
5. Google's Chief Financial Officer, head of finance and those additional employees responsible for providing accounting or finance support for Chrome, Chromium, ChromeOS and/or Android.

Please confirm by the end of the day tomorrow that Google agrees to produce documents responsive to Red Bend's Requests for Production using the foregoing search terms in the files of all requested custodians.

BAKER BOTTS_{LLP}

David Magee, Esq.

- 3 -

June 29, 2010

Very truly yours,

Jennifer C. Tempesta

Jennifer C. Tempesta

BAKER BOTTS L.L.P.

30 ROCKEFELLER PLAZA
NEW YORK, NEW YORK
10112-4498

TEL +1 212.408.2500
FAX +1 212.408.2501
www.bakerbotts.com

ABU DHABI
AUSTIN
BEIJING
DALLAS
DUBAI
HONG KONG
HOUSTON
LONDON
MOSCOW
NEW YORK
PALO ALTO
RIYADH
WASHINGTON

July 1, 2010

BY ELECTRONIC MAIL

Susan Baker Manning, Esq.
Bingham McCutchen LLP
2020 K Street NW
Washington, DC 20006-1806

Eliot D. Williams
TEL +1 212-408-2563
FAX +1 212-259-2563
eliot.williams@bakerbotts.com

Re: Red Bend Ltd. v. Google Inc., Case No. 09-cv-11813

Dear Susan:

We write further to our meet and confer concerning the parties' outstanding discovery issues. During our call, you agreed that Google will utilize all of the search terms listed in our correspondence of June 29th in order to retrieve potentially responsive documents in connection with Google's document production in this case, and would perform a responsiveness review from within those documents. Regarding whose files will be searched, you indicated that the files of all of the custodians identified in your June 14th correspondence in addition to the files of Nir Bar-Lev and Yossi Matthias would be searched.

We have also requested that Google search the documents of relevant programmers in the Chrome, Chromium, Chrome OS and Android divisions. (*See* our correspondence of June 22nd and June 29th). Specifically, we seek documents from the files of persons involved with the updater(s) used in connection with those divisions. You indicated that you are currently checking to see whether those custodians are already included in the list of custodians identified in your correspondence of June 14th. Please let us know as soon as possible.

Additionally, we have asked that Google search the documents of relevant custodians in Google's financial department(s). You indicated that you would prefer to take a more targeted approach to retrieving financial related documents (*i.e.*, not using search terms to scrub the files of particular individuals). You indicated that this approach would entail retrieving documents from people who might have the relevant information. We asked whether there is a primary person at Google who is responsible for finance in relation to the Chrome web browser. You indicated that you are not certain. We request that you determine whether there is such an individual and let us know. In the meantime, we seek documents showing, *inter alia*: (1) the value the Chrome web browser brings to Google; and/or (2) the value Courgette brings to the Chrome web browser and/or to Google; and (3) business plans for the Chrome web browser. These documents are responsive to at least Red Bend's Request for Production Nos. 45 and 54. In this regard, we note that during the recent emergency status conference, Judge Woodlock indicated that "there's a business plan that's behind all of this and they're entitled to some exploration of that." (6/21/10 Hrg. Tr.). Please confirm that Google will provide the requested financial information.

BAKER BOTTS_{LLP}

Susan Baker Manning, Esq.

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July 1, 2010

Very truly yours,

/s/ Eliot D. Williams

Eliot D. Williams

Liquori, Steve

From: Magee, David M. [david.magee@bingham.com]
Sent: Wednesday, July 21, 2010 10:08 AM
To: Scheinfeld, Robert C.
Cc: Manning, Susan Baker; Williams, Eliot D.; Bertin, Robert C.; Tempesta, Jennifer C.; Abrams, William F.
Subject: RE: Discovery

Sent on Bill's behalf:

Rob,

1) As to your first point, we have consistently told Red Bend that there is no likelihood that additional Google products infringe the '552 Patent. We will oppose Red Bend's motion on this issue.

2) Concerning your second point, Google has offered to collect damages related documents in a structured fashion. Red Bend declined that offer, insisting that Google run search terms against its financial custodian for the Chrome project. In its request, Red Bend cites the search (Chrome w/ 10 (benefit* or profit* or revenue*)) as a search likely to result in financial and damages related documents. Google has run this search and identified an additional 1,100 documents that Google must now review for production - likely an entire day of attorney time.

Red Bend now insists that Google run all of its search terms against its financial custodian's collection. Google declines to do so. The remainder of Red Bend's search requests relate to technical matters for which Red Bend will have voluminous documents from Google's technical custodians. Further, many of Red Bend's searches, including the Android, and ChromeOS terms have no relation to Red Bend's damages model. Red Bend must demonstrate a nexus between its searches and the need for running them against Google's financial custodian. Google believes that Red Bend will get the information that it requires through the (Chrome w/ 10 (benefit* or profit* or revenue*)) search that Google has agreed to run. Should Red Bend wish to run a subset of its searches other than what Google has agreed to for purposes of its financial custodian, please specify which searches and why the documents should come from Google's financial custodian.

3.1) Mr. Percival has reviewed Red Bend's document requests and will respond formally, through Bingham, with his objections. The major problem is that Red Bend's requests are overbroad. For instance, Mr. Percival, an individual, foreign citizen and third party in this matter, has many personal contacts throughout the industry, including within Google. Red Bend has requested all of his communications with Google. Mr. Percival declines to search for and produce irrelevant and personal communications with Google employees who have nothing to do with the events or issues in this case. Equally unreasonable and vague is Red Bend's request for all "[d]ocuments showing the operation of, and/or [his] understanding of the operation of, bsdiff." Mr. Percival created bsdiff in the early 2000's. Since then he has had innumerable communications with third parties regarding bsdiff and its operation. Mr. Percival declines to produce all of these documents. As stated above, Mr. Percival will respond this week with his formal list of objections and responses to Red Bend's July 2, 2010 list of documents and deposition topics.

3.2) Concerning Red Bend Document Requests 52 (All documents concerning Google's software and/or patent licensing practices, including licenses that Google has entered into, offers of license made and/or received by Google, and negotiations for such licenses (not including off-the-shelf licenses) and 59 (All documents showing Google's practices, methods and/or techniques for valuing the technology of Third Party companies, including but not limited to its valuation practices, methods and techniques it has applied to the technology, products and/or services offered by Third Party companies), Google stands by its objections that these requests call for large volumes of data relating to Google's corporate acquisitions and investments in other companies, issues neither relevant to nor reasonably calculated to lead to the discovery of admissible evidence in this case. Google's valuation of its investments and acquisitions (and any formal or informal strategic and valuation metrics applied, if any) have no bearing upon the issues in this case. Red Bend's request is unreasonable, overbroad and harassing.

Bill

From: Robert.Scheinfeld@bakerbotts.com [mailto:Robert.Scheinfeld@bakerbotts.com]
Sent: Monday, July 19, 2010 11:15 AM
To: Magee, David M.; Abrams, William F.
Cc: Manning, Susan Baker; Eliot.Williams@bakerbotts.com; Bertin, Robert C.; jennifer.tempesta@bakerbotts.com
Subject: RE: Discovery

Bill/David,

Thanks for getting back to us Friday on these open issues.

1) We agree that the parties have reached an impasse regarding Red Bend's definition of Delta Update. As we have explained previously, we do not view Red Bend's definition as overbroad at least because documents relating to Delta Update techniques (not limited to Courgette) are relevant to important issues in this case including prior art to the '552 Patent, validity of the '552 Patent (e.g., how alternative software update techniques are inferior to the claimed solution), the existence and effectiveness of non-infringing alternatives, and the likelihood (based on documents already provided by Google in this case, see for example GOOG-41541; GOOG-41185; GOOG-23935; GOOG-27845-6) that additional Google products may infringe the '552 Patent.

2) We appreciate your agreement (1) to produce all of Google's third-party agreements relating to the distribution of the Chrome web browser; and (2) to search the files of the Senior Manager of Partner Strategy & Analytics for the Chrome project for the (Chrome w/ 10 (benefit* or profit* or revenue*)) search term. We request that you also search this custodian's files for the additional search terms identified in our correspondence of June 29th (i.e., all 31 terms identified by Red Bend). Please let us know today if you agree (or don't). If so, then we believe we have resolved this issue. We, of course, reserve the right to address this issue at a later date if Google's document production appears to be deficient.

3) A few remaining issues we didn't discuss: (1) Percival: we sent you a letter regarding the topics for Mr. Percival's deposition and related document requests on July 2nd. We have yet to hear back from you; and (2) Document Requests 52 and 59 (related to Google's licensing and valuation practices): we referred to these in our correspondence on open discovery issues on several occasions. Will Google produce these requested documents? Please let us have your response on these issues today, if possible.

4) We agree that August 20th is a reasonable date for the completion of Google's document production -- thank you for providing us with a date.

Best regards,

Rob

From: Magee, David M. [mailto:david.magee@bingham.com]
Sent: Friday, July 16, 2010 11:05 AM
To: Scheinfeld, Robert C.; Abrams, William F.
Cc: Manning, Susan Baker; Williams, Eliot D.; Bertin, Robert C.; Tempesta, Jennifer C.
Subject: RE: Discovery

Rob,

Bill is getting on a flight and asked that I send to you the following message in furtherance of our Tuesday meet and confer:

1) We do appear to have reached an impasse with respect to Red Bend's definition of "Delta Update" as Red Bend remains unwilling to alter its definition proposed in its Requests for Production. Red Bend's definition is so broad as to cover any technique used to update any of Google's applications. As Google is a software company,

7/21/2010

we continue to view this request to be vastly overbroad. Red Bend's Delta Update definition is incorporated into Red Bend Request Nos. 1, 15, 20, 21, 24, 53, 54, 60 and 64. For example, Request No. 20 seeks "[a]ll documents concerning or relating to Google's research, development or implementation of any Delta Update technique (including but not limited to Courgette), and Request No. 21 seeks "[a]ll documents concerning or relating to Google's actual or potential use of any Delta Update technique (including but not limited to Courgette)." We maintain our position that these requests are overbroad, extremely burdensome and irrelevant to the issues in this case.

We do not agree that the parties negotiation of search terms somehow resolves this issue. Your suggestion that the search term ((delta or compress* or differential or diff) w/3 (updater or updates or patch*)) and (Chrome or Chromium or ChromeOS or ChronOS or Android or Courgette or Omaha or "Google Updater" or "Red Bend" or RedBend)) results in a "reasonable" return or 12,860 documents (for this single search) is unreasonable given that Omaha is the system responsible for updating numerous Google applications. This single search, when broken down into its components, results in 125 different searches being run. As we expressed to you, and as Red Bend has previously agreed, the search terms assist parties in ediscovery in identifying documents for review. It is the document requests in light of objections and responses that dictate the responsiveness of any particular document. Red Bend's outright refusal to amend its definition of Delta Update when read into its requests does not alleviate the fundamental issue resulting in the parties' disagreement. Red Bend's request would require the collection of documents from every Google engineer who works on any program updated with a program that utilizes a comparison including bsdiff, xdiff or any other open source solution. Red Bend is couching its need on the basis of secondary considerations of non-obviousness and speculates that a document may say that an update technique is beneficial or detrimental. The time, effort and expense of processing, reviewing, and producing a potentially enormous number of documents, most or all of which will be irrelevant, far outweighs the unknown benefit of Red Bend's suspicions of what a Google engineer may or may not have said.

2) We disagree that you have not received documents related to the value that Courgette brings to Google. As we mentioned during our call, Google has provided these documents and responded to Red Bend's Interrogatory Nos. 5 and 6 concerning the value brought to Google by Courgette. As you correctly recite in your email, Google is preparing its third-party Chrome distribution agreements for production to Red Bend. Red Bend has undertaken this same exercise, so it should be aware of the timing involved in doing so. We do intend to produce planning and financial documents relating to the Chrome web browser from the already collected custodians including the Chrome projects' managers. We will also agree to collect and run the (Chrome w/ 10 (benefit* or profit* or revenue*)) search term on the Senior Manager of Partner Strategy & Analytics for the Chrome project (the financial custodian) we have identified as having primary responsibility for financial reporting related to the Chrome browser. Google believes that this resolves the issue.

3) We have discussed the timing of the final production of Google documents with our client and vendor and anticipate being able to complete our production by August 20, 2010 (two days after the claim construction hearing).

Best regards,
David

BINGHAM

David M. Magee | Bingham McCutchen LLP

One Federal Street | Boston, MA 02110

V: (617) 951-8241 | F: (617) 951-8736

david.magee@bingham.com | www.bingham.com

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From: Robert.Scheinfeld@bakerbotts.com [mailto:Robert.Scheinfeld@bakerbotts.com]

Sent: Tuesday, July 13, 2010 6:51 PM

To: Abrams, William F.

7/21/2010

Cc: Manning, Susan Baker; Eliot.Williams@bakerbotts.com; Magee, David M.; Bertin, Robert C.; jennifer.tempesta@bakerbotts.com
Subject: Discovery

Bill/David -- as we see it, here are the outstanding issues:

1) Relating Red Bend's definition of the term "Delta Update" in its requests for production, Google has offered to produce documents sufficient to show that Courgette is not used in Android or ChromeOS. You suggested that such documents have already been produced but would check again to confirm and provide additional documents if appropriate. You further represented that while the engineers involved in Chrome and Chromium were/are the same, there were and are others involved with Android and ChromeOS. You further represented that the files of these Android and ChromeOS engineers have been searched, from which all documents referencing Courgette have been produced. We expressed our concern that we've yet to receive documents generated by Google's Android and/or ChromeOS engineers (and others) concerning update techniques different from Courgette. For instance, we have yet to receive any documents from Google's engineers commenting on the capabilities or performance of such update techniques. You asked about relevance and we explained that such documents, if critical of techniques other than Courgette, for instance, would tend to support Red Bend's position that its patent is not obvious. Such documents, if commenting negatively or positively on prior art or "alternative" techniques, could also be relevant to the scope of prior art, long felt need, and potentially damages. You raised the concern about breadth -- that using our definition of "delta updates" (which we've declined to narrow), you would pick up too many irrelevant documents. We mentioned, however, that our substantially revised search request ((delta or compress* or differential or diff) w/3 (updater or updates or patch*)) and (Chrome or Chromium or ChromeOS or ChronOS or Android or Courgette or Omaha or "Google Updater" or "Red Bend" or RedBend)), seemingly run against the files of Google engineers involved in developing the browser, Android and ChromeOS (please confirm), picked up a reasonable 12,860 documents. We would like all these documents to be produced (to the extent they are responsive to our document requests using Red Bend's definition of Delta Update), but Google believes that's not required. Here, we think, we've reached an impasse.

2) Regarding damages, we appreciate Google's commitment to produce its third-party agreements relating to the distribution of the Chrome browser and to produce certain business plans uncovered from a "targeted approach of collecting specific documents" as opposed to electronic searching. With regard, however, to the three categories of damages-related documents identified in my July 8 email, we expressed our concern that the files of "financial-type" custodians (those principally in a financial or accounting capacity at Google) have not been collected. We also expressed our concern that we've yet to receive any documents reflecting or referencing the value or valuation of the either Courgette or separately the Chrome browser. And, with regard to the business plans for Courgette and/or the Chrome browser (please confirm that you will produce these), we believe we're entitled to see related e-mails, drafts, and comments. During our call, without conceding relevance, you agreed to ask Google whether any documents exist relating to the value or valuation of Courgette or the Chrome web browser, and you also agreed to investigate how many financial-type people at Google may have responsive documents, particularly information relating to the value or valuation of Courgette and/or the browser. If there is a small number of such people, you indicated that Google may agree to "scrub financial custodians" and search their files for responsive documents. In any event, in response to the search (Chrome w/ 10 (benefit* or profit* or revenue*)), we would expect production of all the 5,191 documents located from the files of those custodians from whose files documents have already been collected. Please confirm.

3) Lastly, we asked for a date by when we can expect final production of Google's documents, but you indicated that it was still too soon for you to provide us with an estimate. Please provide us with a date as soon as possible, so we can start scheduling depositions.

Please provide us with your comments on the above, and let us know Google's answers to your two questions raised in paragraph 2 above, as soon as possible.

Thanks,
Rob

From: Abrams, William F. [mailto:william.abrams@bingham.com]
Sent: Tuesday, July 13, 2010 1:39 PM
To: Scheinfeld, Robert C.
Cc: Manning, Susan Baker; Williams, Eliot D.; Magee, David M.; Bertin, Robert C.
Subject: RE: Discovery

Rob,

I discussed with my team the issues raised in your email and wanted to send you this note so that we can have a more productive conversation today. I had hoped to get you this earlier - if you'd like to reschedule our call so that you have more time to consider this, I'm glad to do so.

As to the first issue, my understanding is that Google has offered to provide Red Bend with documents sufficient to show the updating mechanism for Google's Android software. Red Bend has had the ability to confirm some of this information on its own as much of the code is publicly available. Our understanding is that the Google engineers involved in the Chrome/Chromium products are the same, so these documents have already been collected. Our team informed your team that Courgette is not used for any other Google product. Google cannot adopt Red Bend's definitions of Courgette or Delta Update as contained in Red Bend's document requests because they are significantly overbroad and Red Bend has made no effort to narrow them. Should Red Bend wish to accept Google's offer of documents sufficient to show that Courgette is not used to update Android or the unreleased Chrome OS, then Google would be amenable to producing these documents.

As to the second issue raised in your message, taking them out of order, 2) Google has provided Red Bend with documents, to the extent any exist, showing consideration of "value" Courgette brings to the Chrome web browser and/or Google. Relevant documents from the custodians collected to date and referencing Courgette were produced to Red Bend. As to 1) the value the Chrome web browser brings to Google, Google is in the process of providing notice to third-parties with whom Google has agreements relating to the distribution of the Chrome web browser. These agreements will show value derived from the distribution of the Chrome web browser. These agreements contain provisions requiring notification prior to production (our understanding is that Red Bend is currently undertaking a similar exercise with its contracts). Finally, as to 3), Google does not believe that scrubbing financial custodians will be a productive endeavor and has proposed to your team that the search for business plans and the like be undertaken with the more targeted approach of collecting specific documents necessary rather than wading through vastly irrelevant volumes of data (a costly and time-consuming undertaking).

On the timing point, the parties have exchanged their search terms and the documents are being processed for review and production. If there is a deposition that Red Bend sees as more pressing than another, please let us know so that we can queue those documents up so that Red Bend gets them sooner. Red Bend provided Google with this courtesy for the Peleg deposition and we would be happy to do the same. I agree that we should discuss global scheduling so that we proceed with depositions in an orderly fashion with both sides having the time needed with the documents to complete the depositions as efficiently as possible.

Thanks,

Bill

From: Robert.Scheinfeld@bakerbotts.com [mailto:Robert.Scheinfeld@bakerbotts.com]
Sent: Thursday, July 08, 2010 7:40 PM
To: Abrams, William F.
Cc: Manning, Susan Baker; Eliot.Williams@bakerbotts.com
Subject: Discovery

Bill -- I was hoping to speak with you today about our outstanding discovery disputes, but didn't get the chance. Eliot and Susan have seemingly reached a roadblock about certain of our requests, but before filing a motion to compel I wanted to give it one last shot with you. Can you please set aside time tomorrow morning (your time) or on Monday to discuss with me the following:

- 1) Documents relating to Google's use of delta update techniques (our production requests 1, 20, 21, and 24). Will Google move on its position limiting our definition of delta update to Courgette, or will it provide Red Bend with discovery related to and revealing its update techniques used in Android, Chrome OS, Google's open source Chromium and Chromium OS projects?
- 2) Documents relating to damages (our production requests 46 and 54, as well as 44, 52, 59, and 60). For instance, will Google move on its position declining to produce documents showing, inter alia: (1) the value the Chrome web browser brings to Google; (2) the value Courgette brings to the Chrome web browser and/or Google; and (3) business plans and similar documents for the Chrome web browser?
- 3) By when will Google finally produce all of its documents? We'd like to start scheduling depositions but, like Google did with Mr. Peleg, we'd like to know by when should we expect Google's final production?

Please propose a time for us to speak for a final meet/confer. I look forward to hearing from you.

Regards,
Rob

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