UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RED BEND LTD. and
RED BEND SOFTWARE INC.,
 	
                          Plaintiffs,
 	
       v.
 	
GOOGLE INC.,
 	
                          Defendant.
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GOOGLE INC.,
 	
               Counterclaim-Plaintiff,
 	
       v.
 	
RED BEND LTD. and
RED BEND SOFTWARE INC.,
 	
            Counterclaim-Defendants.
	)
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CIVIL ACTION
NO. 09-cv-11813

**DECLARATION OF BRIAN BERSHAD IN SUPPORT OF
DEFENDANT AND COUNTERCLAIM-PLAINTIFF GOOGLE INC.'S
OPPOSITION TO RED BEND'S MOTION FOR A PRELIMINARY INJUNCTION**

I, Brian Bershad, declare as follows:

1.   I am over 18 years of age. I have personal knowledge of the facts stated herein, except those stated on information and belief, and, if called upon, could and would testify competently to them. I make this declaration in support of Defendant and Counterclaim-Plaintiff Google Inc.'s Opposition To Red Bend's Motion For A Preliminary Injunction.

2.   I am employed by Google as a Director of Engineering. I have worked at Google since 2007. My job responsibilities include managing engineers and engineering projects based in Mountain View, Seattle and Kirkland.

3.   I understand that Plaintiffs Red Bend Ltd. and Red Bend Software, Inc. accuse the Courgette differential compression algorithm of infringing U.S. Patent No.

6,546,522. Dr. Stephen Adams, one of the engineers working at Google under my supervision, developed the Courgette algorithm in 2008-09. The Courgette code, along with the Chrome web browser code, is published as open source code. Courgette is subject to a BSD license. Courgette was first made publicly available by posting it on the Internet on July 15, 2009.

4.   Google uses Courgette as part of its process for updating Chrome web browsers running on Windows platform personal computers. To the best of my knowledge, Google does not use Courgette in a Google product for anything else. In particular, to the best of my knowledge, Google does not use Courgette as part of a process for updating mobile telephones, including mobile telephones running the Android platform, or any firmware or software installed on those telephones.
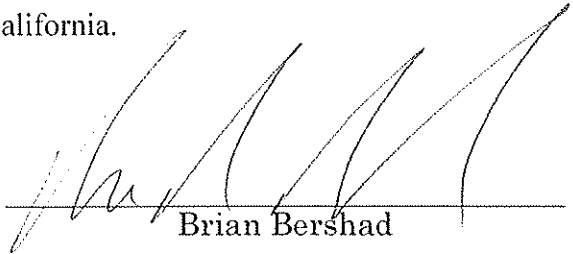
5.   Courgette works only on the x86 instruction set and Microsoft Windows portable executable file format. That is, Courgette does not create patches for software that will run on any other platform, and keys on formats and details of the x86 instruction set and Windows portable executable file format in order to work. Based on this, I understand that Courgette is not appropriate for creating updates for mobile telephones, because mobile telephones use instruction sets and formats that are different from x86 instructions and Windows executables.

6.   I am not aware of any third party use of the Courgette algorithm, or any derivative software work based on the Courgette algorithm, to create updates for mobile telephones. Nor am I aware of any specific encouragement by Google directed at third parties to use the Courgette algorithm, or any software based on the Courgette algorithm, to create updates for mobile telephones.

7.   The version of Courgette that Google uses to update the Chrome web browser running on Windows platform personal computers is the same as what is published.

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 25, 2010, at Mountain View, California.

Brian Bershad

CERTIFICATE OF SERVICE

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on March 1, 2010.

/s/ David M. Magee