

EXHIBIT 39



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SUITE 100

SAN DIEGO, CA 92130-2040

EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. 90/009,670.

PATENT NO. 6546552.

ART UNIT 3992.

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/009,670	01/22/2010	6546552	GOOGLE 3.6-141	4316

22242 7590 03/16/2010
FITCH EVEN TABIN & FLANNERY
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SUITE 1600
CHICAGO, IL 60603-3406

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 03/16/2010

Please find below and/or attached an Office communication concerning this application or proceeding.

Order Granting / Denying Request For Ex Parte Reexamination	Control No. 90/009,670	Patent Under Reexamination 6546552	
	Examiner ANDREW L. NALVEN	Art Unit 3992	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The request for *ex parte* reexamination filed 22 January 2010 has been considered and a determination has been made. An identification of the claims, the references relied upon, and the rationale supporting the determination are attached.

Attachments: a) PTO-892, b) PTO/SB/08, c) Other: Decision on Request

1. The request for *ex parte* reexamination is GRANTED.

RESPONSE TIMES ARE SET AS FOLLOWS:

For Patent Owner's Statement (Optional): TWO MONTHS from the mailing date of this communication (37 CFR 1.530 (b)). **EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c).**

For Requester's Reply (optional): TWO MONTHS from the **date of service** of any timely filed Patent Owner's Statement (37 CFR 1.535). **NO EXTENSION OF THIS TIME PERIOD IS PERMITTED.** If Patent Owner does not file a timely statement under 37 CFR 1.530(b), then no reply by requester is permitted.

2. The request for *ex parte* reexamination is DENIED.

This decision is not appealable (35 U.S.C. 303(c)). Requester may seek review by petition to the Commissioner under 37 CFR 1.181 within ONE MONTH from the mailing date of this communication (37 CFR 1.515(c)). **EXTENSION OF TIME TO FILE SUCH A PETITION UNDER 37 CFR 1.181 ARE AVAILABLE ONLY BY PETITION TO SUSPEND OR WAIVE THE REGULATIONS UNDER 37 CFR 1.183.**

In due course, a refund under 37 CFR 1.26 (c) will be made to requester:

- a) by Treasury check or,
- b) by credit to Deposit Account No. _____, or
- c) by credit to a credit card account, unless otherwise notified (35 U.S.C. 303(c)).

cc:Requester (if third party requester)

DECISION GRANTING EX PARTE REEXAMINATION

A substantial new question of patentability affecting claims 1-68 of United States Patent Number 5,546,552 (hereafter "the '552 patent") is raised by the request for *ex parte* reexamination submitted on January 22, 2010.

Extensions of time under 37 CFR 1.136(a) will not be permitted in these proceedings because the provisions of 37 CFR 1.136 apply only to "an applicant" and not to parties in a reexamination proceeding. Additionally, 35 U.S.C. 305 requires that *ex parte* reexamination proceedings "will be conducted with special dispatch" (37 CFR 1.550(a)). Extensions of time in *ex parte* reexamination proceedings are provided for in 37 CFR 1.550(c).

Notification of Concurrent Proceedings

The patent owner is reminded of the continuing responsibility under 37 CFR 1.985 to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving the '552 patent throughout the course of this reexamination proceeding. The third party requester is also reminded of the ability to similarly apprise the Office of any such activity or proceeding throughout the course of this reexamination proceeding. See MPEP § 2686 and 2686.04.

PROSECUTION HISTORY

The '552 patent was issued on April 8, 2003 from an application filed August 18, 1999.

During the prosecution of the '552 patent, the claims were rejected in view of the Okuzumi and Kenji references. Following claim amendments, the claims were allowed in a notice of allowance mailed on 8/27/2002. In that notice of allowance, the Examiner stated that the reasons for allowance was the failure of the prior art to teach or suggest "generating a modified new file and using the modified new file and the modified old file to generate a difference result" (see *'552 Patent, Notice of Allowance mailed 8/27/2002, Page 2*). The limitation that most closely relates to these reasons for allowance states: "generating said difference result utilizing directly or indirectly at least said modified old program and modified new program" (see *Claim 1*).

PROPOSED SUBSTANTIAL NEW QUESTIONS OF PATENTABILITY

Third Party Requester ("Requester") requested reexamination of claims 1-68 of the '552 patent based upon the following prior art patents and publications:

1. U.S. Patent No. 5,481,713 to Wetmore et al entitled "Method And Apparatus For Patching Code Residing On A Read Only Memory Device," issued on January 2, 1996 (hereafter "Wetmore"). Wetmore was not cited in a previous examination. Wetmore qualifies as prior art under 102(b).

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2. IBM Technical Disclosure Bulletin, Batalden, G.D., et al., "Maintainable ROS Code Through The Combination of ROM And EEPROM." Vol.32 No. 9A, p.273-76, published in February, 1990 (hereafter "Batalden"). Batalden was not cited in a previous examination. Batalden qualifies as prior art under 102(b).
3. U.S. Patent No. 4,111,853 to Dummermuth entitled "Jump Structure For A Digital Control System," filed on December 21, 1976, and issued on September 19, 1978 (hereafter "Dummermuth"). Dummermuth was not cited in a previous examination. Dummermuth qualifies as prior art under 102(b).
4. U.S. Patent No. 5,790,796 to Sadowsky entitled "Polymorphic Package Files To Update Software Components," filed on June 14, 1996, and issued on August 4, 1998 (hereafter "Sadowsky"). Sadowsky was not cited in a previous examination. Sadowsky qualifies as prior art under 102(b).
5. Coppieters, K., "A Cross-Platform Binary Diff," Dr. Dobb's Journal, US, San Mateo, California, pp. 32, XP 000610668, was published in May 1995 (hereafter "Coppieters"). Coppieters was cited in, but not discussed or applied in an earlier examination. Coppieters qualifies as prior art under 102(b).

Requestor has alleged a substantial new question of patentability in light of the proposed rejections:

Issue 1 - Claims 1, 4, 8, 11, 14, 17, 21, 24, 27, 28, 35, 38, 42, 45, 48, 51, 55, 58, 61, and 62 are anticipated by Wetmore under 35 U.S.C. §102(b).

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Issue 2 - Claims 1, 4, 8, 11, 14, 17, 21, 24, 27, 28, 35, 38, 42, 45, 48, 51, 55, 58, 61, and 62 are obvious over Wetmore under 35 U.S.C. §103(a).

Issue 3 - Claims 1, 4, 8, 11, 14, 17, 21, 24, 27, 28, 35, 38, 42, 45, 48, 51, 55, 58, 61, and 62 are obvious over Wetmore in view of Batalden under 35 U.S.C. §103(a).

Issue 4 - Claims 1, 4, 8, 11, 14, 17, 21, 24, 27, 28, 35, 38, 42, 45, 48, 51, 55, 58, 61, and 62 are obvious over Wetmore in view of Dummermuth under 35 U.S.C. §103(a).

Issue 5 - Claims 2, 3, 9, 10, 15, 16, 22, 23, 27, 28, 36, 37, 43, 44, 49, 50, 56, 57, 61, and 62 are obvious over Wetmore in view of Sadowsky or Coppieters under 35 U.S.C. §103(a).

Issue 6 - Claims 2, 3, 9, 10, 15, 16, 22, 23, 27, 28, 36, 37, 43, 44, 49, 50, 56, 57, 61, and 62 are obvious over Wetmore in view of Batalden and in further view of Sadowsky or Coppieters under 35 U.S.C. §103(a).

Issue 7 - Claims 2, 3, 9, 10, 15, 16, 22, 23, 27, 28, 36, 37, 43, 44, 49, 50, 56, 57, 61, and 62 are obvious over Wetmore in view of Dummermuth and in further view of Sadowsky or Coppieters under 35 U.S.C. §103(a).

Issue 8 - Claims 5, 12, 13, 18, 25, 26, 31, 34, 39, 46, 47, 52, 59, 60, 65, and 68, are obvious over Wetmore under 35 U.S.C. §103(a).

Issue 9 - Claims 5, 12, 13, 18, 25, 26, 31, 34, 39, 46, 47, 52, 59, 60, 65, and 68, are obvious over Wetmore in view of Batalden under 35 U.S.C. §103(a).

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Issue 10 - Claims 5, 12, 13, 18, 25, 26, 31, 34, 39, 46, 47, 52, 59, 60, 65, and 68, are obvious over Wetmore in view of Dummermuth under 35 U.S.C. §103(a).

Issue 11 - Claims 6, 7, 19, 20, 29, 30, 32, 33, 40, 41, 53, 54, 63, 64, 66, and 67, are obvious over Wetmore in view of Batalden and in further view of Sadowsky or Coppieters under 35 U.S.C. §103(a).

Issue 12 - Claims 6, 7, 19, 20, 29, 30, 32, 33, 40, 41, 53, 54, 63, 64, 66, and 67, are obvious over Wetmore in view of Dummermuth and in further view of Sadowsky or Coppieters under 35 U.S.C. §103(a).

ANALYSIS OF SUBSTANTIAL NEW QUESTIONS OF PATENTABILITY

Summary

Requestor has shown a substantial new question of patentability with regards to claims 1-68 as presented in issues 1-12.

Analysis

A substantial new question of patentability is raised by a cited patent or printed publication when there is a substantial likelihood that a reasonable examiner would consider the prior art patent or printed publication important in deciding whether or not the claim is patentable. A substantial new question of patentability is not raised by prior art presented in a reexamination request if the Office has previously considered (in an

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earlier examination of the patent) the same question of patentability as to a patent claim favorable to the patent owner based on the same prior art patents or printed publications. In re Recreative Technologies, 83 F.3d 1394, 38 USPQ2d 1776 (Fed. Cir. 1996).

Wetmore Patent.

Wetmore raises a substantial new question of patentability regarding claims 1-68 as presented in Issues 1-12. Wetmore raises a substantial new question by providing teachings that were not considered in a previous examination and that are relevant to the designated allowable subject matter.

For example, Wetmore at least discloses generating said difference result utilizing directly or indirectly at least said modified old program and modified new program (*Wetmore, column 10 line 55 – column 11 lines 12*). Wetmore discloses this feature by teaching the identification of the differences between two versions of vectorized ROM code where the two versions correspond to an old and a new version of software (*Wetmore, column 11 lines 1-12*). The vectorized code is created by modifying the old and new versions of software by replacing certain instructions (*Wetmore, column 5 lines 18-56, Figures 3-5; column 6 lines 47-62 – compile assemble source into object files then modify object files to create vectorized object files*). Thus, vectorized code is created which corresponds to the claimed modified old and new programs. The vectorized code is then compared to generate a difference result.

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These teachings would be important to a reasonable examiner in deciding patentability because the prosecution history suggests that these features were the reason for allowance of the claims. Thus, there is a substantial likelihood that a reasonable examiner would consider Wetmore important in deciding whether or not the claims are patentable. Accordingly, Wetmore raises a substantial new question of patentability as to claims 1-68 that has not been decided in a previous examination.

Batalden, Dummermuth, Sadowsky, and Coppieters References

The Batalden, Dummermuth, Sadowsky, and Coppieters references each provide teachings that are relevant to the claimed limitations and particularly to some of the dependent claims. However, Batalden, Dummermuth, Sadowsky, and Coppieters fail to disclose any limitations relevant to "generating said difference result utilizing directly or indirectly at least said modified old program and modified new program." Accordingly, Batalden, Dummermuth, Sadowsky, and Coppieters did not alone raise a substantial new question of patentability. However, as noted above, Wetmore alone raises a substantial new question sufficient to grant reexamination of claims 1-68. Thus, Issues 1-12 raise a substantial new question in light of the discussion above.

CORRESPONDENCE

All correspondence relating to this ex parte reexamination proceeding should be directed:

Art Unit: 3992

By EFS: Registered users may submit via the electronic filing system EFS-Web, at <https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html>.

By Mail to: Mail Stop *Ex Parte* Reexam
Central Reexamination Unit
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX to: (571) 273-9900
Central Reexamination Unit

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

For EFS-Web transmissions, 37 CFR 1.8(a)(1)(i) (C) and (ii) states that correspondence (except for a request for reexamination and a corrected or replacement request for reexamination) will be considered timely filed if (a) it is transmitted via the Office's electronic filing system in accordance with 37 CFR 1.6(a)(4), and (b) includes a certificate of transmission for each piece of correspondence stating the date of transmission, which is prior to the expiration of the set period of time in the Office action.

Any inquiry concerning this communication or earlier communications from the Examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7705.

Signed:

Application/Control Number: 90/009,670

Page 10

Art Unit: 3992

/Andrew Nalven/

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CRU Examiner
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Conferee: ESK

Conferee: FOF



90009670

Doc Code: IDS
 Document Description: Information Disclosure Statement filed

PTO/SB/42 (07-09)
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 U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE


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37 CFR 1.501 INFORMATION DISCLOSURE CITATION IN A PATENT (Sheet 1 of 1)	Docket Number (Optional) GOOGLE 3.6-141	Patent Number 6,546,552
	Applicant Sharon Peleg	
	Issue Date April 8, 2003	Art Unit N/A

U.S. PATENT DOCUMENTS					
EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	FILING DATE IF APPROPRIATE
<i>AW</i>	4,115,853	09-19-1978	Dummermuth		12-21-1976
<i>AW</i>	5,481,713	01-02-1996	Wetmore et al.		05-06-1993
<i>AW</i>	5,790,796	08-04-1998	Sadowsky		06-14-1996

FOREIGN PATENT DOCUMENTS							
DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION		
					YES	NO	

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)	
<i>AW</i>	Batalden et al., IBM Technical Disclosure Bulletin, "Maintainable ROS Code Through The Combination of ROM and EEPROM," 32(9A); 273-276, (1990).
<i>AW</i>	Coppieters, "A Cross-Platform Binary Diff", Dr. Dobb's Journal, 34-36, May 1995.
EXAMINER	DATE CONSIDERED <i>3/15/10</i>

Search Notes 	Application/Control No. 90009670	Applicant(s)/Patent Under Reexamination 6546552
	Examiner	Art Unit 3992


COPY
for your reference

SEARCHED			
Class	Subclass	Date	Examiner
717	170		

SEARCH NOTES		
Search Notes	Date	Examiner
Reviewed Patented File's Prosecution History	3/15/10	aln

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner

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Reexamination 	Application/Control No. 90/009,670	Applicant(s)/Patent Under Reexamination 6546552
	Certificate Date	Certificate Number

Requester	Correspondence Address:	<input type="checkbox"/> Patent Owner	<input checked="" type="checkbox"/> Third Party
MORRISON & FOERSTER LLP 12531 HIGH BLUFF DRIVE SUITE 100 SAN DIEGO, CA 92130-2040		COPY <i>For your reference</i>	

LITIGATION REVIEW <input checked="" type="checkbox"/>	aln <small>(examiner initials)</small>	3/15/10 <small>(date)</small>
Case Name		Director Initials
09cv11813-DPW - Red Bend v Google		<i>ai Neal to an</i>

COPENDING OFFICE PROCEEDINGS	
TYPE OF PROCEEDING	NUMBER
1.	
2.	
3.	
4.	

COPY

**United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:09-cv-11813-DPW**

Red Bend Software, Inc. et al v. Google
Assigned to: Judge Douglas P. Woodlock
Cause: 35:271 Patent Infringement

Date Filed: 10/26/2009
Jury Demand: Both
Nature of Suit: 830 Patent
Jurisdiction: Federal Question

Plaintiff

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COPY
For your reference

United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:09-cv-11813-DPW

Red Bend Software, Inc. et al v. Google
Assigned to: Judge Douglas P. Woodlock
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Plaintiff

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Date Filed	#	Docket Text
10/26/2009	<u>1</u>	COMPLAINT against Google Inc., Red Bend Software, Inc., Red Bend, Ltd. Filing fee: \$ 350, receipt number 0101000000002639553, filed by Red Bend Software, Inc., Red Bend, Ltd.. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Category Sheet, # <u>3</u> Form AO 120)(Cloherty, Daniel) (Entered: 10/26/2009)
10/26/2009	<u>2</u>	CORPORATE DISCLOSURE STATEMENT by Red Bend Software, Inc., Red Bend, Ltd.. (Cloherty, Daniel) (Entered: 10/26/2009)
10/26/2009		ELECTRONIC NOTICE of Case Assignment. Judge Douglas P. Woodlock assigned to case. If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Judith G. Dein (Cummings, Mary) (Entered: 10/26/2009)
10/26/2009	<u>3</u>	General Order 09-1, dated January 6, 2009 regarding the E-Government Act and Personal Identifiers entered. (Cummings, Mary) (Entered: 10/26/2009)
10/26/2009	<u>4</u>	Summons Issued as to Google Inc.. Counsel receiving this notice electronically should download this summons, complete one for each defendant and serve it in accordance with Fed.R.Civ.P. 4 and LR 4.1. Summons will be mailed to plaintiff(s) not receiving notice electronically for completion of service. (Cummings, Mary) (Entered: 10/26/2009)
10/26/2009	<u>5</u>	AMENDED DOCUMENT by Red Bend Software, Inc., Red Bend, Ltd.. Amendment to <u>1</u> Complaint,. (Attachments: # <u>1</u> Exhibit A)(Cloherty, Daniel) (Entered: 10/26/2009)
11/05/2009	<u>6</u>	(RE-DOCKETED) AMENDED COMPLAINT against Google Inc., filed by Red Bend Software, Inc., Red Bend, Ltd.. (Notice to Counsel, incorrect event used, event Amended Complaint should have been selected) (York, Steve) (Additional attachment(s) added on 11/13/2009: # <u>2</u> Signed Amended Complaint, # <u>3</u> Exhibit) (York, Steve). (Entered: 11/05/2009)
11/05/2009	<u>7</u>	Summons Issued as to Google Inc.. Counsel receiving this notice electronically should download this summons, complete one for each defendant and serve it in accordance with Fed.R.Civ.P. 4 and LR 4.1. Summons will be mailed to plaintiff(s) not receiving notice electronically for completion of service. (York, Steve) (Entered: 11/05/2009)
11/17/2009	<u>8</u>	MOTION for Preliminary Injunction by Red Bend Software, Inc., Red Bend, Ltd..(Cloherty, Daniel) (Entered: 11/17/2009)
11/17/2009	<u>9</u>	MEMORANDUM in Support re <u>8</u> MOTION for Preliminary Injunction <i>Enjoining Google's Infringement</i> filed by Red Bend Software, Inc., Red Bend, Ltd.. (Attachments: # <u>1</u> Declaration of Jennifer Tempesta (Part 1), # <u>2</u> Declaration of Jennifer Tempesta (Part 2), # <u>3</u> Declaration of Yoram Salinger, # <u>4</u> Declaration of Stephen Edwards)(Cloherty, Daniel) (Entered: 11/17/2009)
11/17/2009	<u>10</u>	MOTION to Expedite <i>Hearing</i> by Red Bend Software, Inc., Red Bend, Ltd..

		(Cloherty, Daniel) (Entered: 11/17/2009)
11/18/2009	<u>11</u>	SUMMONS Returned Executed Google Inc. served on 11/17/2009, answer due 12/7/2009. (Cloherty, Daniel) (Entered: 11/18/2009)
11/23/2009	<u>12</u>	NOTICE of Appearance by Jonathan M. Albano on behalf of Google Inc. (Albano, Jonathan) (Entered: 11/23/2009)
11/23/2009	<u>13</u>	MOTION for Leave to Appear Pro Hac Vice for admission of Robert C. Scheinfeld, Eliot D. Williams and Jennifer C. Tempesta by Red Bend Software, Inc., Red Bend, Ltd.. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(Cloherty, Daniel) (Entered: 11/23/2009)
11/23/2009	<u>14</u>	NOTICE OF ATTORNEY PAYMENT OF FEES by Plaintiffs Red Bend Software, Inc., Red Bend, Ltd.. Filing fee \$ 150, receipt number 01010000000002677255. Payment Type : PRO HAC VICE. (Cloherty, Daniel) (Entered: 11/23/2009)
11/23/2009	<u>15</u>	MOTION for Leave to Appear Pro Hac Vice for admission of William F. Abrams Filing fee \$ 50, receipt number 01010000000002677540. by Google Inc.. (Attachments: # <u>1</u> Affidavit in support of pro hac vice motion)(Albano, Jonathan) (Entered: 11/23/2009)
11/23/2009	<u>16</u>	MOTION for Leave to Appear Pro Hac Vice for admission of Robert C. Bertin Filing fee \$ 50, receipt number 01010000000002677559. by Google Inc.. (Attachments: # <u>1</u> Affidavit in support of pro hac vice motion)(Albano, Jonathan) (Entered: 11/23/2009)
11/23/2009	<u>17</u>	MOTION for Leave to Appear Pro Hac Vice for admission of Susan Baker Manning Filing fee \$ 50, receipt number 01010000000002677581. by Google Inc.. (Attachments: # <u>1</u> Affidavit in support of pro hac vice motion)(Albano, Jonathan) (Entered: 11/23/2009)
11/24/2009		Judge Douglas P. Woodlock: Electronic ORDER entered granting <u>13</u> Motion for Leave to Appear Pro Hac Vice; Added Robert C Scheinfeld for Red Bend Software, Inc. and Red Bend, Ltd., Eliot D Williams for Red Bend Software, Inc. and Red Bend, Ltd., Jennifer C Tempesta for Red Bend Software, Inc. and Red Bend, Ltd.. Attorneys admitted Pro Hac Vice must register for electronic filing. To register go to the Court website at www.mad.uscourts.gov . Select Case Information, then Electronic Filing (CM/ECF) and go to the CM/ECF Registration Form. (York, Steve) (Entered: 11/24/2009)
11/24/2009		Judge Douglas P. Woodlock: Electronic ORDER entered granting <u>15</u> Motion for Leave to Appear Pro Hac Vice; Added Williams F Abrams for Google Inc.. Attorneys admitted Pro Hac Vice must register for electronic filing. To register go to the Court website at www.mad.uscourts.gov . Select Case Information, then Electronic Filing (CM/ECF) and go to the CM/ECF Registration Form. (York, Steve) (Entered: 11/24/2009)
11/24/2009		Judge Douglas P. Woodlock: Electronic ORDER entered granting <u>16</u> Motion for Leave to Appear Pro Hac Vice; Added Robert C Bertin for Google Inc.. Attorneys admitted Pro Hac Vice must register for electronic filing. To register go to the Court website at www.mad.uscourts.gov . Select Case Information, then Electronic Filing (CM/ECF) and go to the CM/ECF Registration Form. (York, Steve) (Entered: 11/24/2009)
11/24/2009		Judge Douglas P. Woodlock: Electronic ORDER entered granting <u>17</u> Motion for Leave to Appear Pro Hac Vice; Added Baker Manning for Google Inc..

		Attorneys admitted Pro Hac Vice must register for electronic filing. To register go to the Court website at www.mad.uscourts.gov . Select Case Information, then Electronic Filing (CM/ECF) and go to the CM/ECF Registration Form. (York, Steve) (Entered: 11/24/2009)
11/24/2009	<u>18</u>	Opposition re <u>10</u> MOTION to Expedite <i>Hearing and Emergency Motions of Google to Modify Briefing Schedule and for Status Conference</i> filed by Google Inc.. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit)(Albano, Jonathan) (Entered: 11/24/2009)
11/25/2009		ELECTRONIC NOTICE of Hearing : regarding request for Status Conference. Hearing set for 12/2/2009 at 11:00 AM in Courtroom 1 before Judge Douglas P. Woodlock. (York, Steve) (Entered: 11/25/2009)
11/27/2009	<u>19</u>	Response by Red Bend Software, Inc., Red Bend, Ltd. to <u>18</u> Opposition to <u>10</u> MOTION to Expedite Hearing & Emergency Motion of Google Inc. for Modification of the Preliminary Injunction Briefing Schedule. (Attachments: # <u>1</u> Exhibit Declaration of Yoram Salinger)(Cloherty, Daniel) Modified on 12/1/2009 (to correct text) (York, Steve). (Entered: 11/27/2009)
11/27/2009	<u>20</u>	DECLARATION of Jennifer C. Tempesta in Support of Plaintiffs' Opposition to Google Inc.'s Emergency Motion for Modification of the Preliminary Injunction Briefing Schedule by Red Bend Software, Inc., Red Bend, Ltd.. (Attachments: # <u>1</u> Exhibit Letter, # <u>2</u> Exhibit Letter, # <u>3</u> Exhibit Letter) (Cloherty, Daniel) (Entered: 11/27/2009)
11/30/2009	<u>21</u>	Motion for Leave to File Reply in Support of <u>18</u> Opposition to <u>10</u> Motion to Expedite Hearing and Emergency Motion for Modification of Briefing Schedule by Google Inc.. (Attachments: # <u>1</u> Exhibit)(Albano, Jonathan) Modified on 12/1/2009 (to correct text to this entry) (York, Steve). (Additional attachment(s) added on 1/12/2010: # <u>2</u> Corrected Main Document) (York, Steve). (Entered: 11/30/2009)
12/01/2009		Judge Douglas P. Woodlock: Electronic ORDER entered granting <u>21</u> MOTION for Leave to File Reply in Support of <u>18</u> Emergency Motion for Modification of Briefing Schedule by Google Inc; Counsel using the Electronic Case Filing System should now file the document for which leave to file has been granted in accordance with the CM/ECF Administrative Procedures. Counsel must include - Leave to file granted on (date of order)- in the caption of the document. (Lovett, Jarrett) (Entered: 12/01/2009)
12/01/2009	<u>22</u>	Reply in Support of <u>21</u> MOTION for Leave to File <i>Reply in Support of Emergency Motion for Modification of Briefing Schedule</i> filed by Google Inc.. (Manning, Susan) Modified on 12/2/2009 (to edit text) (York, Steve). (Additional attachment(s) added on 1/12/2010: # <u>1</u> Corrected Main Document) (York, Steve). (Entered: 12/01/2009)
12/01/2009	<u>23</u>	Interim MOTION to Dismiss <i>Plaintiffs' Indirect Infringement Claims</i> by Google Inc.. (Attachments: # <u>1</u> Text of Proposed Order Granting Defendant Google Inc.'s Motion to Dismiss Plaintiffs' Indirect Infringement Claim) (Manning, Susan) (Entered: 12/01/2009)
12/01/2009	<u>24</u>	MEMORANDUM in Support re <u>23</u> Interim MOTION to Dismiss <i>Plaintiffs' Indirect Infringement Claims</i> filed by Google Inc.. (Manning, Susan) (Entered: 12/01/2009)
12/01/2009	<u>25</u>	CORPORATE DISCLOSURE STATEMENT by Google Inc.. (Manning, Susan) (Entered: 12/01/2009)

12/02/2009		Electronic Clerk's Notes for proceedings held before Judge Douglas P. Woodlock: Status Conference held on 12/2/2009: Preliminary arguments heard as to <u>8</u> Plaintiff's Motion for Preliminary Injunction; <u>10</u> Plaintiff's Motion to Expedite Hearing on Preliminary Injunction is DENIED; <u>23</u> Defendant's Motion to Dismiss Plaintiffs' Indirect Infringement is DENIED WITHOUT PREJUDICE to reassertion after a full hearing on <u>8</u> Plaintiff's Motion for Preliminary Injunction that is set for 2/17/2010 02:30 PM in Courtroom 1 before Judge Douglas P. Woodlock; <u>18</u> Defendant's Motion for Modification of Briefing Schedule is GRANTED to the extent that opposition to the defendant's Motion for Preliminary Injunction is due by 1/25/10, and a reply is due by 2/5/10; rolling document production shall be completed by 12/22/09; the Court Orders the parties to file Declaration's in lieu of live testimony as to the 2/17/10 Preliminary Injunction Hearing; the Court will make a determination at said hearing if live testimony is necessary. (Court Reporter: Debra Joyce)(Attorneys present: Cloherty & Scheinfeld for the plttf's; S. Manning & Willett for the def't) (Lovett, Jarrett) (Entered: 12/02/2009)
12/03/2009	<u>26</u>	Transcript of Scheduling Conference held on December 2, 2009, before Judge Woodlock. Court Reporter: Debra M. Joyce at joycedebra@gmail.com. The Transcript may be purchased through the Court Reporter, viewed at the public terminal, or viewed through PACER after it is released. Redaction Request due 12/24/2009. Redacted Transcript Deadline set for 1/4/2010. Release of Transcript Restriction set for 3/3/2010. (Scalfani, Deborah) (Entered: 12/03/2009)
12/03/2009	<u>27</u>	NOTICE is hereby given that an official transcript of a proceeding has been filed by the court reporter in the above-captioned matter. Counsel are referred to the Court's Transcript Redaction Policy, a copy of which is attached to this entry.. (Scalfani, Deborah) (Entered: 12/03/2009)
12/07/2009	<u>28</u>	ANSWER to <u>6</u> Amended Complaint, <i>and</i> , COUNTERCLAIM <i>and Jury Demand</i> against all plaintiffs by Google Inc..(Albano, Jonathan) (Entered: 12/07/2009)
12/22/2009	<u>29</u>	ANSWER to <u>28</u> Answer to Amended Complaint, Counterclaim by Red Bend Software, Inc., Red Bend, Ltd..(Tempesta, Jennifer) (Entered: 12/22/2009)
01/06/2010	<u>30</u>	NOTICE of Appearance by David Michael Magee on behalf of Google Inc. (Magee, David) (Entered: 01/06/2010)
01/08/2010	<u>31</u>	Emergency MOTION to Compel Depositions or in the Alternative Strike Depositions of Yoram Salinger and Stephen Edwards and/or Preclude Reply Briefing by Google Inc. (Attachments: # <u>1</u> Exhibit A - Proposed Order) (Magee, David) (Entered: 01/08/2010)
01/08/2010	<u>32</u>	AFFIDAVIT of David M. Magee in Support re <u>31</u> Emergency MOTION to Compel <i>DEPOSITIONS OR IN THE ALTERNATIVE STRIKE DELARATIONS OF YORAM SALINGER AND STEPHEN EDWARDS AND/OR PRECLUDE REPLY BRIEFING</i> filed by Google Inc.. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5)(Magee, David) (Entered: 01/08/2010)
01/10/2010	<u>33</u>	Opposition re <u>31</u> Emergency MOTION to Compel <i>DEPOSITIONS OR IN THE ALTERNATIVE STRIKE DELARATIONS OF YORAM SALINGER AND STEPHEN EDWARDS AND/OR PRECLUDE REPLY BRIEFING</i> filed by Red Bend Software, Inc., Red Bend, Ltd.. (Tempesta, Jennifer) (Entered: 01/10/2010)

01/10/2010	<u>34</u>	AFFIDAVIT of Jennifer C. Tempesta in Opposition re <u>31</u> Emergency MOTION to Compel <i>DEPOSITIONS OR IN THE ALTERNATIVE STRIKE DELARATIONS OF YORAM SALINGER AND STEPHEN EDWARDS AND/OR PRECLUDE REPLY BRIEFING</i> filed by Red Bend Software, Inc., Red Bend, Ltd.. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2)(Tempesta, Jennifer) (Entered: 01/10/2010)
01/13/2010		ELECTRONIC NOTICE of Hearing on Motion <u>31</u> Emergency MOTION to Compel Depositions or in the Alternative Strike Depositions of Yoram Salinger and Stephen Edwards and/or Preclude Reply Briefing by Google Inc : Motion Hearing set for 1/19/2010 11:00 AM in Courtroom 1 before Judge Douglas P. Woodlock. (Lovett, Jarrett) (Entered: 01/13/2010)
01/15/2010	<u>35</u>	Joint MOTION for Protective Order <i>and Ruling on Outstanding Issues</i> by Google Inc.. (Attachments: # <u>1</u> Exhibit A - Proposed Order, # <u>2</u> Exhibit B - Correspondence, # <u>3</u> Exhibit C)(Magee, David) (Entered: 01/15/2010)
01/19/2010		Electronic Clerk's Notes for proceedings held before Judge Douglas P. Woodlock: Motion Hearing held on 1/19/2010 re <u>31</u> Emergency MOTION to Compel Depositions or in the Alternative Strike Depositions of Yoram Salinger and Stephen Edwards and/or Preclude Reply Briefing by Google Inc., <u>35</u> Joint MOTION for Protective Order: Oral arguments heard; Court GRANTS AND DENIES IN PART <u>31</u> Emergency MOTION to Compel Depositions or in the Alternative Strike Depositions of Yoram Salinger and Stephen Edwards and/or Preclude Reply Briefing by Google Inc., to the extent that the plttf's deposition shall be completed by the second week of February; def't's opposition is due by 2/26/10; the def't's depositions shall be completed by the week of 3/8/10; plttf's supplemental brief is due by 3/24/10; <u>35</u> Joint Motion for Protective Order is GRANTED AND DENIED IN PART as stated on the record; the parties shall file a proposed Protective Order reflecting the directions of the Court at today's hearing; the Motion Hearing re <u>8</u> Plaintiff's Motion for Preliminary Injunction is rescheduled for 4/14/10 at 2:00 PM in courtroom 1 before Judge Douglas P. Woodlock. (Court Reporter: Brenda Hancock)(Attorneys present: Cloherty & Scheinfeld for the plttf's; S. Manning & Magee for the def't) (Lovett, Jarrett) Modified text and regenerated NEF on 1/19/2010 (Lovett, Jarrett). (Entered: 01/19/2010)
01/19/2010	<u>36</u>	Proposed Document(s) submitted by Google Inc.. Document received: Stipulated Protective Order. (Magee, David) (Entered: 01/19/2010)
01/20/2010	<u>37</u>	Judge Douglas P. Woodlock: ORDER entered. STIPULATED PROTECTIVE ORDER (York, Steve) (Entered: 01/28/2010)
02/02/2010	<u>38</u>	Transcript of Motion Hearing held on January 19, 2010, before Judge Woodlock. Court Reporter: Brenda K. Hancock at 617/439-3214. The Transcript may be purchased through the Court Reporter, viewed at the public terminal, or viewed through PACER after it is released. Redaction Request due 2/23/2010. Redacted Transcript Deadline set for 3/5/2010. Release of Transcript Restriction set for 5/3/2010. (Scalfani, Deborah) (Entered: 02/02/2010)
02/02/2010	<u>39</u>	NOTICE is hereby given that an official transcript of a proceeding has been filed by the court reporter in the above-captioned matter. Counsel are referred to the Court's Transcript Redaction Policy, a copy of which is attached to this entry.. (Scalfani, Deborah) (Entered: 02/02/2010)
02/03/2010	<u>40</u>	Assented to MOTION for Leave to Appear Pro Hac Vice for admission of Chester W. Day Filing fee \$ 50, receipt number 01010000000002768420. by

		Google Inc.. (Attachments: # <u>1</u> Exhibit 1)(Magee, David) (Entered: 02/03/2010)
02/03/2010	<u>41</u>	Assented to MOTION for Leave to Appear Pro Hac Vice for admission of Elizabeth B. Austern Filing fee \$ 50, receipt number 0101000000002768450. by Google Inc.. (Attachments: # <u>1</u> Exhibit 1)(Magee, David) (Entered: 02/03/2010)
02/04/2010		Judge Douglas P. Woodlock: Electronic ORDER entered granting <u>40</u> Motion for Leave to Appear Pro Hac Vice; Added Chester W Day for Google Inc.. Attorneys admitted Pro Hac Vice must register for electronic filing. To register go to the Court website at www.mad.uscourts.gov . Select Case Information, then Electronic Filing (CM/ECF) and go to the CM/ECF Registration Form. (York, Steve) (Entered: 02/04/2010)
02/04/2010		Judge Douglas P. Woodlock: Electronic ORDER entered granting <u>41</u> Motion for Leave to Appear Pro Hac Vice; Added Elizabeth B Austern for Google Inc.. Attorneys admitted Pro Hac Vice must register for electronic filing. To register go to the Court website at www.mad.uscourts.gov . Select Case Information, then Electronic Filing (CM/ECF) and go to the CM/ECF Registration Form. (York, Steve) (Entered: 02/04/2010)
02/23/2010	<u>42</u>	Assented to MOTION for Leave to File Excess Pages by Google Inc..(Magee, David) (Entered: 02/23/2010)
02/24/2010		Judge Douglas P. Woodlock: Electronic ORDER entered granting <u>42</u> Assented to Motion for Leave to File Memorandum in Excess Pages. (Lovett, Jarrett) (Entered: 02/24/2010)
02/25/2010	<u>43</u>	Assented to MOTION for Extension of Time to 03/01/2010 to File <i>Opposition to Motion for Preliminary Injunction</i> by Google Inc.(Magee, David) (Entered: 02/25/2010)
02/25/2010		Judge Douglas P. Woodlock: Electronic ORDER entered granting <u>43</u> Assented to Motion for Extension of Time Until 3/1/10 to File Opposition to <u>8</u> MOTION for Preliminary Injunction. (Lovett, Jarrett) (Entered: 02/25/2010)
02/25/2010	<u>44</u>	Assented to MOTION for Leave to Appear Pro Hac Vice for admission of Catherine C. Lacavera Filing fee \$ 50, receipt number 0101000000002798118. by Google Inc.. (Attachments: # <u>1</u> Certification of Catherine C. Lacavera)(Magee, David) (Entered: 02/25/2010)
03/01/2010	<u>45</u>	Opposition by Google Inc.. (Magee, David) (York, Steve). Modified on 3/18/2010 (York, Steve). (THIS DOCUMENT HAS BEEN CORRECTED AND RE-DOCKETED AS ENTRY <u>55</u>) (Entered: 03/01/2010)
03/01/2010	<u>46</u>	DECLARATION re <u>45</u> Opposition to Motion by <i>Susan Baker Manning</i> by Google Inc.. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9, # <u>10</u> Exhibit 10, # <u>11</u> Exhibit 11, # <u>12</u> Exhibit 12, # <u>13</u> Exhibit 13, # <u>14</u> Exhibit 14, # <u>15</u> Exhibit 15, # <u>16</u> Exhibit 16, # <u>17</u> Exhibit 17, # <u>18</u> Exhibit 18, # <u>19</u> Exhibit 19, # <u>20</u> Exhibit 20, # <u>21</u> Exhibit 21, # <u>22</u> Exhibit 22, # <u>23</u> Exhibit 23, # <u>24</u> Exhibit 24, # <u>25</u> Exhibit 25, # <u>26</u> Exhibit 26, # <u>27</u> Exhibit 27, # <u>28</u> Exhibit 28, # <u>29</u> Exhibit 29, # <u>30</u> Exhibit 30, # <u>31</u> Exhibit 31, # <u>32</u> Exhibit 32, # <u>33</u> Exhibit 33, # <u>34</u> Exhibit 34, # <u>35</u> Exhibit 35, # <u>36</u> Exhibit 36, # <u>37</u> Exhibit 37)(Magee, David) (Entered: 03/01/2010)
03/01/2010	<u>47</u>	DECLARATION re <u>45</u> Opposition to Motion by <i>W. Christopher Bakewell</i> by Google Inc.. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u>

		Exhibit 4)(Magee, David) (Entered: 03/01/2010)
03/01/2010	<u>48</u>	DECLARATION re <u>45</u> Opposition to Motion by <i>Martin G. Walker, PhD</i> by Google Inc.. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J, # <u>11</u> Exhibit K, # <u>12</u> Exhibit L, # <u>13</u> Exhibit M, # <u>14</u> Exhibit N, # <u>15</u> Exhibit O)(Magee, David) (Entered: 03/01/2010)
03/01/2010	<u>49</u>	DECLARATION re <u>45</u> Opposition to Motion by <i>Brian Bershad</i> by Google Inc.. (Magee, David) (Entered: 03/01/2010)
03/01/2010	<u>50</u>	Sealed Opposition by Google Inc. (York, Steve) Modified on 3/18/2010 (York, Steve). (THIS DOCUMENT HAS BEEN CORRECTED AND RE-DOCKETED AS ENTRY <u>56</u>) (Entered: 03/02/2010)
03/01/2010	<u>51</u>	Sealed Declaration of Susan Baker Manning re <u>50</u> Sealed Opposition re <u>45</u> Opposition to <u>8</u> MOTION for Preliminary Injunction. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9, # <u>10</u> Exhibit 10, # <u>11</u> Exhibit 11, # <u>12</u> Exhibit 12, # <u>13</u> Exhibit 13, # <u>14</u> Exhibit 14, # <u>15</u> Exhibit 15, # <u>16</u> Exhibit 16, # <u>17</u> Exhibit 17, # <u>18</u> Exhibit 18, # <u>19</u> Exhibit 19, # <u>20</u> Exhibit 20, # <u>21</u> Exhibit 21, # <u>22</u> Exhibit 22, # <u>23</u> Exhibit 23, # <u>24</u> Exhibit 24, # <u>25</u> Exhibit 25, # <u>26</u> Exhibit 26, # <u>27</u> Exhibit 27, # <u>28</u> Exhibit 28, # <u>29</u> Exhibit 29 part 1, # <u>30</u> Exhibit 29 part 2, # <u>31</u> Exhibit 30, # <u>32</u> Exhibit 31, # <u>33</u> Exhibit 32, # <u>34</u> Exhibit 33, # <u>35</u> Exhibit 34, # <u>36</u> Exhibit 35, # <u>37</u> Exhibit 36, # <u>38</u> Exhibit 37) (York, Steve) (Entered: 03/02/2010)
03/01/2010	<u>52</u>	Sealed Declaration of Christopher Bakewell re <u>50</u> Sealed Opposition re <u>45</u> Opposition to <u>8</u> MOTION for Preliminary Injunction.. (York, Steve) (Entered: 03/02/2010)
03/01/2010	<u>53</u>	Sealed Declaration of Martin G Walker re <u>50</u> Sealed Opposition re <u>45</u> Opposition to <u>8</u> MOTION for Preliminary Injunction. (Attachments: # <u>1</u> Part 2, # <u>2</u> Part 3, # <u>3</u> Part 4, # <u>4</u> Part 5)(York, Steve) (Entered: 03/02/2010)
03/01/2010	<u>54</u>	Declaration . (Additional attachment(s) added on 3/2/2010: # <u>1</u> Corrected Main Document) (York, Steve). Modified on 3/2/2010 (to with draw document incorrectly filed) (York, Steve). (Entered: 03/02/2010)
03/02/2010		Judge Douglas P. Woodlock: Electronic ORDER entered granting <u>44</u> Motion for Leave to Appear Pro Hac Vice; Added Catherine C Lacavera for Google Inc.. Attorneys admitted Pro Hac Vice must register for electronic filing. To register go to the Court website at www.mad.uscourts.gov . Select Case Information, then Electronic Filing (CM/ECF) and go to the CM/ECF Registration Form. (York, Steve) (Entered: 03/02/2010)
03/02/2010		Notice of correction to docket made by Court staff. Correction: Entry <u>54</u> has been removed because it was incorrectly filed as a sealed document in this case (York, Steve) (Entered: 03/02/2010)
03/18/2010	<u>55</u>	Opposition re <u>8</u> MOTION for Preliminary Injunction (<i>CORRECTED</i>) filed by Google Inc.. (Magee, David) (Entered: 03/18/2010)
03/18/2010	<u>56</u>	Corrected Sealed Opposition re <u>55</u> Opposition re <u>8</u> Motion for Preliminary Injunction. (York, Steve) (Entered: 03/18/2010)
03/19/2010	<u>57</u>	Assented to MOTION for Leave to File Excess Pages by Red Bend Software, Inc., Red Bend, Ltd..(Tempesta, Jennifer) (Entered: 03/19/2010)
03/22/2010		Judge Douglas P. Woodlock: Electronic ORDER entered granting <u>57</u> Assented

to MOTION for Leave to File Excess Pages by Red Bend Software, Inc., Red Bend, Ltd. (Lovett, Jarrett) (Entered: 03/22/2010)

PACER Service Center			
Transaction Receipt			
03/22/2010 15:27:49			
PACER Login:	mf0071	Client Code:	99990-0000969-08834
Description:	Docket Report	Search Criteria:	1:09-cv-11813-DPW
Billable Pages:	9	Cost:	0.72