

EXHIBIT B

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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

**DEFENDANT GOOGLE INC.'S FIRST SET OF
REQUESTS FOR PRODUCTION FOR DOCUMENTS AND THINGS
RELATED TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION
(Request for Production Nos. 1 - 42)**

Defendant Google Inc., pursuant to the Court's Order of December 2, 2009, as well as Rules 26 and 34 of the Federal Rules of Civil Procedure, hereby propounds the following requests for production to plaintiffs Red Bend Ltd. and Red Bend Software, Inc. (collectively, "Red Bend"). Red Bend shall produce the requested documents and things for inspection and copying at the offices of Bingham McCutchen LLP, located at One Federal Street, Boston, MA, 02110-1726, on or before December 22, 2009.

DEFINITIONS

1. The terms "Red Bend," "Plaintiffs," "you," and "your" refer to plaintiffs Red Bend Ltd. and Red Bend Software, Inc. and their past and present predecessors, successors, subsidiaries, divisions, parents and affiliates, and all past and present officers, directors, affiliates, agents, employees, consultants, accountants, attorneys, representatives, and any other person or entity acting on any behalf of any of the foregoing.

2. The term “communication” means the transmittal of information (in the form of facts, ideas, inquiries or otherwise).

3. The term “document” is defined to be synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34(a), including, without limitation, electronic or computerized data compilations. A draft or non-identical copy is a separate document within the meaning of this term.

4. The term “person” is defined as any natural person or any business, legal or governmental entity or association.

5. The term “concerning” means relating to, referring to, describing, evidencing or constituting. The term “related to” shall be understood to be synonymous with “concerning.”

6. The term “including” means including but not limited to.

7. The terms “any” and “each” shall be construed to include and encompass “all.”

8. Use of the word “the” shall not be construed as limiting the scope of any request.

9. The words “and” and “or” shall be used conjunctively or disjunctively, whichever makes the request, definition or instruction more inclusive.

10. The use of the singular shall be deemed to include the plural, and the use of one gender shall include the other as are appropriate in the context.

11. The term “‘52 patent” refers to U.S. Patent No. 6,546,552 and the application(s) from which it issued.

12. The term “patent-in-suit” refers to the ‘52 patent.

13. The term “related patents and applications” refers to all related foreign and U.S. applications or counterparts, whether pending, issued, or abandoned, that share any portion of a common specification with any patent-in-suit (e.g., parent applications, provisional applications,

continuing applications, continuations, continuations-in-part, divisional applications, continuation prosecution applications, continued prosecution applications, requests for continued application, interferences, reissues, reexaminations, extensions, improvements, or other intellectual property claiming priority based on any of the foregoing).

14. The term “prior art” shall be construed in accordance with the meaning given that term in Title 35, United States Code, and interpretations thereof provided by the federal judiciary.

15. The terms “infringe” and “infringement” shall be construed in accordance with the meaning given those terms in Title 35, United States Code, and interpretations thereof provided by the federal judiciary, and shall be understood to refer to direct infringement, contributory infringement, inducement, literal infringement, and infringement under the doctrine of equivalents.

INSTRUCTIONS

A. Documents shall be produced either as kept in the usual course of business or shall be organized and labeled to correspond with the number of each request to which a produced document is responsive. If you choose to produce documents as they are as kept in the usual course of business, the documents are to be produced in the boxes, file folders, bindings, and other containers in which the documents are found. The titles, labels, and other descriptions on the boxes, file folders, bindings, and other containers are to be left intact.

B. If you claim any form of privilege or discover protection as a ground for not producing or for redacting any document, provide the following information for each document withheld or redacted: (1) the document’s preparation date and the date appearing on the document; (2) the name, present and last known home and business addresses, the telephone

numbers, the title (and position), and the occupation of those individuals who prepared, produced, and reproduced, and who were the recipients of said document; (3) the number of pages withheld; and (4) a description sufficient to identify the document without revealing the information for which the privilege is claimed, including the general subject matter and character of the document (*e.g.*, letter, memorandum, notes).

C. If only a portion of a responsive document is privileged or otherwise protected against disclosure, you must produce the responsive non-privileged portion of the document in redacted form, provided that the redacted material is identified and the basis for the claim of privilege stated as provided in instruction B above.

D. Each requested document is to be produced in its entirety without deletion and excision (except as qualified by instructions B and C above), regardless of whether you consider the entire document to be relevant or responsive to these Requests for Production.

E. If you have no documents responsive to a particular request in your possession, custody or control, please so state in your written response to the particular request.

F. For those produced documents that are not in the English language, please produce English translations thereof.

G. Pursuant to Federal Rule of Civil Procedure Rule 26(e), your responses to the following Requests for Production are to be promptly supplemented to include any subsequently acquired documents and information.

DOCUMENT REQUESTS

REQUEST FOR PRODUCTION NO. 1:

All documents supporting or tending to refute your infringement, validity or irreparable harm contentions made in the Motion for a Preliminary Injunction, the supporting Memorandum, or the supporting declarations of Yoram Salinger and Dr. Stephen A. Edwards.

REQUEST FOR PRODUCTION NO. 2:

All documents supporting or tending to refute your contentions regarding infringement and irreparable harm made in the Opposition to Google, Inc.'s Emergency Motion for Modification of the Preliminary Injunction Briefing Schedule, and the supporting declaration of Yoram Salinger.

REQUEST FOR PRODUCTION NO. 3:

All documents and things reviewed or relied upon by Yoram Salinger in preparing any declaration or other testimony in this action, or that he plans to reference or rely upon at any hearing or at trial.

REQUEST FOR PRODUCTION NO. 4:

All documents and things reviewed or relied up on by Dr. Stephen A. Edwards in preparing any declaration or other testimony in this action, in preparing any report related to this action, or that he plans to reference or rely upon at any hearing or at trial.

REQUEST FOR PRODUCTION NO. 5:

All documents referenced in the November 17, 2009 declaration of Dr. Stephen A. Edwards.

REQUEST FOR PRODUCTION NO. 6:

All documents and things related to your contention that Google has infringed the '552 patent, and all documents and things relied upon by Dr. Stephen Edwards to make his declaration.

REQUEST FOR PRODUCTION NO. 7:

All documents and things related to your contention that Google has induced the infringement of the '552 patent or contributed to the infringement of the '552 patent, including but not limited to, documents related to the alleged infringement of the '552 patent by any third party; to whether Google has intended to induce the infringement of the '552 patent by any third party; to whether the Courgette algorithm is a component or material element of any patented machine or apparatus for practicing a process covered by the '552 patent; to whether the Courgette algorithm has any substantial non-infringing use; or to whether Google has knowledge that Courgette has been or is being used as a component or material element in an infringing product.

REQUEST FOR PRODUCTION NO. 8:

All documents and things related to Android, Google Chrome web browser, and the Courgette algorithm.

REQUEST FOR PRODUCTION NO. 9:

All documents related to the '552 patent, including but not limited to all documents related to the validity, invalidity, enforceability, unenforceability, or scope of the '552 patent.

REQUEST FOR PRODUCTION NO. 10:

All documents related to Israeli patent application no. 125846, including invention records, draft patent applications, correspondence and the record of prosecution of the patent application.

REQUEST FOR PRODUCTION NO. 11:

All documents related to any foreign counterpart of the '552 patent, including but not limited to all documents related to the validity, invalidity, enforceability, unenforceability, or scope of any foreign counterpart of the '552 patent.

REQUEST FOR PRODUCTION NO. 12:

All documents and things related to the prosecution of the applications that issued as the '552 patent, or to the prosecution of all related patents and applications, including the records of prosecution, drafts and correspondence.

REQUEST FOR PRODUCTION NO. 13:

All documents and things related to your contention that the '552 patent is valid.

REQUEST FOR PRODUCTION NO. 14:

All prior art related to the '552 patent identified at any time by Red Bend, any third party, or otherwise that Red Bend and the inventor are aware of.

REQUEST FOR PRODUCTION NO. 15:

Each document reviewed or considered by you, or by any of your attorneys, agents or employees, to determine whether such document is material prior art to the '552 patent.

REQUEST FOR PRODUCTION NO. 16:

All documents related to the conception and reduction to practice of the '552 patent, including invention records corroborating evidence, or any actual reduction to practice including source code.

REQUEST FOR PRODUCTION NO. 17:

All documents related to the first use, sale, or offer for sale of any apparatus that practices any claim of the '552 patent.

REQUEST FOR PRODUCTION NO. 18:

All documents related to whether any invention claimed by the '552 patent is non-obvious, including but not limited to documents related to copying, long felt but unsolved need, failure of others, commercial success, unexpected results created by the claimed invention, unexpected properties of the claimed invention, licenses showing industry respect for the invention, and skepticism of skilled artisans before the invention.

REQUEST FOR PRODUCTION NO. 19:

All documents, including license agreements, related to the licensing of the '552 patent, the attempted licensing of the '552 patent, or discussions regarding actual or possible licensing of the '552 patent, or any product alleged to be covered by the '552 patent.

REQUEST FOR PRODUCTION NO. 20:

Documents sufficient to identify each and every Red Bend software product that Red Bend contends practices any claim of the '552 patent; and, for each Red Bend software product that Red Bend contends practices any claim of the '552 patent, all documents and things

supporting or tending to refute the assertion that the Red Bend software product practices any claim of the '552 patent.

REQUEST FOR PRODUCTION NO. 21:

Documents sufficient to show the amount of any royalty payment(s) received by Red Bend under any license for the '552 patent, from whom it was received, the date on which it was received, and a copy of the relevant agreement(s).

REQUEST FOR PRODUCTION NO. 22:

Documents sufficient to show the amount of any royalty payment(s) received by Red Bend under any software license for a product that Red Bend contends practices any claim of the '552 patent, from whom it was received, the date on which it was received, and a copy of the relevant agreement(s).

REQUEST FOR PRODUCTION NO. 23:

All documents supporting, tending to refute or otherwise related to the contention that Red Bend and Google are competitors. Salinger Decl. ¶ 3 (Nov. 25, 2009).

REQUEST FOR PRODUCTION NO. 24:

All documents related to the claim that “[u]pon information and belief, several of Red Bend’s actual and/or potential customers have used or are considering use of Google’s update software instead of Red Bend’s update software to generate updates in a mobile phone environment.” Salinger Decl. ¶ 3 (Nov. 25, 2009).

REQUEST FOR PRODUCTION NO. 25:

All documents supporting, tending to refute or otherwise related to the contention that “the Internet connected PC market and the mobile phone market have converged.” Salinger Decl. ¶ 4 (Nov. 25, 2009).

REQUEST FOR PRODUCTION NO. 26:

All documents related to Red Bend’s claim that it is suffering irreparable harm, including but not limited to documents related to Red Bend’s claim that it is damaged by the alleged infringement; whether Red Bend has or is likely to lose any customer or potential customer as a result of the alleged infringement of the ‘552 patent; whether Red Bend has or is likely to lose market share as a result of the alleged infringement, including but not limited to documents sufficient to identify the relevant market; whether Red Bend has lost or is likely to lose revenue as a result of the alleged infringement; whether the prices Red Bend is or likely will be able to charge have been eroded as a result of the alleged infringement; whether Red Bend’s reputation or goodwill has been damaged by the alleged infringement; whether Red Bend’s purported damages are quantifiable, and Red Bend’s business model, customers and product offerings.

REQUEST FOR PRODUCTION NO. 27:

All documents related to the contention that “[t]he balance of the hardships weighs in favor of Red Bend,” Memorandum in Support of Motion or Preliminary Injunction at 18, including but not limited to all documents related to the contention that “issuance of an injunction would cause Google little or no harm,” *id.*

REQUEST FOR PRODUCTION NO. 28:

All documents related to the contention that the public interest would be served by the injunctive relief requested in the Motion for Preliminary Injunction.

REQUEST FOR PRODUCTION NO. 29:

All documents related to the contention that “Red Bend has invested many years and considerable funds to further the growth of the company through research and development and the formation of customer relationships.” Memorandum in Support of Motion or Preliminary Injunction at 18.

REQUEST FOR PRODUCTION NO. 30:

All documents evidencing the level of ordinary skill in the art pertaining to any of the inventions of the ‘552 patent.

REQUEST FOR PRODUCTION NO. 31:

All documents, including but not limited to dictionary definitions, citations to learned treatises and prior art, related to your proposed construction of any claim term, phrase, or clause of the ‘552 patent, including but not limited to those claim constructions referenced in Exhibit A to Dr. Edwards’s November 17, 2009 declaration.

REQUEST FOR PRODUCTION NO. 32:

All documents related to technical or advertising descriptions of each Red Bend software product alleged to be covered by the ‘552 patent, including marketing literature, functional descriptions, technical descriptions and source code of the software alleged to be covered.

REQUEST FOR PRODUCTION NO. 33:

All documents and things related to any communications or meetings between Red Bend and Google.

REQUEST FOR PRODUCTION NO. 34:

Documents sufficient to show whether the '552 patent has been the subject of previous litigation; and, if it has, the pleadings, all documents filed with any court (including briefs, motions, memoranda, declarations and affidavits, appendices, and exhibits, as well as all orders), all discovery papers (including interrogatory requests and responses thereto, document requests and responses thereto, requests for admission and responses thereto, and deposition transcripts and exhibits), all expert reports (including exhibits thereto), all hearing transcripts and exhibits, all trial transcripts and exhibits, all correspondence between and among counsel for different parties; and all agreements (including settlement agreements) related to any litigation involving the '552 patent.

REQUEST FOR PRODUCTION NO. 35:

Documents relating to any suggestion or assertion by any person that the '552 patent is invalid, unenforceable, or not infringed, in whole or in part.

REQUEST FOR PRODUCTION NO. 36:

All documents showing market analyses or business opportunities for Red Bend related to Google or the Chrome and Android platforms.

REQUEST FOR PRODUCTION NO. 37:

Documents sufficient to show all differential compression software offered by third parties.

REQUEST FOR PRODUCTION NO. 38:

Documents sufficient to show Red Bend's revenue associated with products used to update the operating systems and software of computers or other devices without using over the air techniques and to identify each customer in that market who uses Red Bend software.

REQUEST FOR PRODUCTION NO. 39:

Documents sufficient to show Red Bend's revenue associated with products used to update the Windows-based (x86) operating systems and software of computers or other devices without using over the air techniques and to identify each customer in that market who uses Red Bend software.

REQUEST FOR PRODUCTION NO. 40:

Documents sufficient to show Red Bend's revenue associated with products used for over the air update of mobile devices and to identify each customer in that market who uses Red Bend software.

REQUEST FOR PRODUCTION NO. 41:

Documents sufficient to show Red Bend's revenue associated with products used for over the air update of mobile devices which use a Windows-based (x86) operating system and to identify each customer in that market who uses Red Bend software.

REQUEST FOR PRODUCTION NO. 42:

All documents and things that Red Bend intends to use or introduce at any hearing or at trial.

Dated: December 4, 2009

Google Inc.,

By its attorneys,

/s/ Robert C. Bertin

Jonathan M. Albano, BBO #013850
jonathan.albano@bingham.com
BINGHAM McCUTCHEN LLP
One Federal Street
Boston, MA 02110-1726, U.S.A.
617.951.8000

William F. Abrams
william.abrams@bingham.com
BINGHAM McCUTCHEN LLP
1900 University Avenue
East Palo Alto, CA 94303-2223

Robert C. Bertin
robert.bertin@bingham.com
Susan Baker Manning
susan.manning@bingham.com
BINGHAM MCCUTCHEN LLP
2020 K Street, NW
Washington, DC 20006-1806, U.S.A.
202.373.6000

CERTIFICATE OF SERVICE

I hereby certify that on December 4, 2009, I served the forgoing **Defendant Google Inc.'s First Set of Requests for Production for Documents and Things Related to Plaintiff's Motion for Preliminary Injunction (Request for Production Nos. 1 - 42)** via email to the following:

Daniel Cloherty
Dwyer & Collora, LLP
600 Atlantic Avenue - 12th Floor
Boston, MA 02210-2211
Telephone: (617) 371-1000
Facsimile: (617) 371-1037

Robert C. Scheinfeld
Eliot D. Williams
Jennifer C. Tempesta
Baker Botts, L.L.P.
30 Rockefeller Plaza
44th Floor
New York, New York 10012-4498
Telephone: (212) 408-2500
Facsimile: (212) 408-2501

/s/ Elizabeth Austern
elizabeth.austern@bingham.com