

EXHIBIT C

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION**

RED BEND LTD., and
RED BEND SOFTWARE INC.,

Plaintiffs,

v.

GOOGLE INC.,

Defendant.

Civil Action No. 09-cv-11813-DPW

**PLAINTIFFS' RESPONSES AND OBJECTIONS TO DEFENDANT GOOGLE INC.'S
REQUESTS FOR PRODUCTION FOR DOCUMENTS AND THINGS RELATED TO
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION (NOS. 1-42)**

Plaintiffs Red Bend Ltd. and Red Bend Software Inc. (collectively "Red Bend") hereby respond and object in accordance with Rules 26 and 34 of the Federal Rules of Civil Procedure to Defendant Google Inc.'s ("Google") "First Set of Requests for Production for Documents and Things Related to Plaintiffs' Motion for Preliminary Injunction (Request for Production Nos. 1-42)," dated December 4, 2009 ("Google's First Set of Requests"). This response is made despite the parties' agreement after the December 2, 2009, conference that the parties were to proceed with letter requests, and without waiving:

(i) any and all questions as to competency, relevancy, materiality, privilege, work product protection, and admissibility as evidence, for any purpose, of any of the documents produced or to be produced hereunder, or of the subject matter of any of those documents in any subsequent proceedings or the trial of this or any other action;

(ii) the right to object to the use of any of the documents produced or to be produced hereunder in any subsequent proceeding in, or the trial of, this or any other action;

(iii) the right to supplement further these objections and responses at any time; and

(iv) the right to object on any ground at any time to a demand for further response to these or other document or discovery requests in this action. This response, being served only one business day after receipt of Google's First Set of Requests, is made with the expectation that Google will similarly treat Red Bend's first letter request for documents, dated December 3, 2009, on an expedited basis and as if submitted and served pursuant a formal request for documents, as agreed at the December 2, 2009, conference.

Moreover, despite the objections lodged below, Red Bend, as it advised in its December 3rd letter, is prepared to start the first waive of document production this Wednesday, December 9th. Red Bend further is prepared to do so on the basis it outlined in its December 3rd letter, with Confidential and Highly Confidential documents exchanged for Outside Counsel Eyes' Only. Red Bend still awaits Google's comments on Red Bend's proposed Protective Order, which it forwarded to Google on November 24, 2009, but Red Bend, determined not to slow the start or progress of production, is prepared to move forward without a formal Protective Order in place. Red Bend, though, still waits for Google's agreement to proceed as proposed in this paragraph.

GENERAL OBJECTIONS

1. Red Bend objects to the Requests, including the Definitions and Instructions, to the extent that they purport to impose obligations on Red Bend beyond those or different from those obligations imposed by the Federal Rules of Civil Procedure and the Civil Local Rules of this Court.

2. Red Bend objects to the Requests to the extent that they call for the production of documents unrelated to Red Bend's Motion for a Preliminary Injunction. In responding to each

Request, Red Bend will produce documents in accord with the Court's Order of December 2, 2009.

3. Red Bend objects to the Requests to the extent that they call for the production of irrelevant documents and documents the production of which are not reasonably calculated to lead to the discovery of admissible evidence.

4. Red Bend objects to the Requests to the extent that they seek confidential and proprietary information in the absence of a Protective Order or Confidentiality Agreement. Until a Protective Order is entered in this action or a Confidentiality Agreement is reached between the parties as proposed above, all confidential documents produced by Red Bend will be produced on an Outside Attorneys' Eyes Only basis.

5. Red Bend objects to the Requests to the extent that they assume against Red Bend disputed facts or legal conclusions in defining or setting forth the documents requested. Red Bend hereby denies any such disputed facts or legal conclusions. Any objection or information provided by Red Bend with respect to any such Request is without prejudice to this objection.

6. Red Bend objects to the Requests to the extent that they seek production of information that is already in the possession of Google, or information that is more readily or equally identifiable and available to Google.

7. Red Bend objects to the Requests to the extent that the Definitions and Instructions are overly broad, unduly burdensome, and purport to require Red Bend to search for or produce documents that are not in Red Bend's possession, custody, or control.

8. Red Bend objects to the Requests to the extent that they purport to require identification and disclosure of documents and information that were prepared in anticipation of litigation, constitute attorney work product, constitute or reveal privileged attorney-client

communications, or are otherwise privileged or protected from disclosure under applicable law or rules. Red Bend hereby claims such privileges and protections to the extent implicated by each document Request, and excludes privileged and protected information from its responses to the Requests. Any disclosure of such protected or privileged information is inadvertent, and is not intended to waive those privileges and protections.

9. Red Bend objects to Google's Instructions B and C to the extent that they purport to impose on Red Bend an obligation beyond or different from the obligations imposed by Rule 26(b)(5) of the Federal Rules of Civil Procedure and/or Local Civil Rule 34.1(e). Any materials withheld by Red Bend on the grounds that such materials are privileged or protected from disclosure that were created before the filing of the Complaint in this action will be identified in accordance with Rule 26(b)(5)(A) within a reasonable time after such materials are determined to be protected from disclosure.

10. Red Bend's specific responses are based upon information presently known and/or available to Red Bend through reasonable and diligent inquiry. Red Bend reserves the right to supplement and/or amend its responses and objections, subject to the general objections above, should additional information become available.

11. The foregoing general objections are incorporated into each specific objection and response below as though fully set forth therein.

SPECIFIC OBJECTIONS AND RESPONSES

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.

RESPONSE:

Red Bend objects to this Request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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.

RESPONSE:

Red Bend objects to this Request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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.

RESPONSE:

Red Bend objects to this Request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Red Bend further objects to this Request as premature to the extent that it seeks not-yet-determined documents that Mr. Salinger may "reference or rely upon at any

hearing or at trial.” Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court’s Order of December 2, 2009.

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.

RESPONSE:

Red Bend objects to this Request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Red Bend further objects to this Request as premature to the extent that it seeks not-yet-determined documents that Dr. Edwards may “reference or rely upon at any hearing or at trial.” Red Bend further objects to the extent this request purports to seek from Red Bend documents solely in the possession, custody and control of a non-party. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court’s Order of December 2, 2009.

REQUEST FOR PRODUCTION NO. 5:

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

RESPONSE:

Red Bend objects to the extent this request purports to seek from Red Bend documents solely in the possession, custody and control of a non-party. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant

documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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.

RESPONSE:

Red Bend objects to this Request as ambiguous (e.g., "related to") and to the extent that it seeks information that is equally available to Google. Red Bend objects to this Request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Red Bend further objects to the extent this request purports to seek from Red Bend documents solely in the possession, custody and control of a non-party. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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.

RESPONSE:

Red Bend objects to this Request as ambiguous (e.g., "related to") and to the extent that it seeks information that is more readily or equally available to Google. Red Bend further objects

to this Request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

REQUEST FOR PRODUCTION NO. 8:

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

RESPONSE:

Red Bend objects to this Request as ambiguous (e.g., "related to") and to the extent that it seeks information that is more readily or equally available to Google. Red Bend objects to this Request as overbroad, unduly burdensome, and to the extent it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Red Bend further objects to this Request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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.

RESPONSE:

Red Bend objects to this Request as ambiguous, overbroad, unduly burdensome, and to the extent it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Red Bend further objects to this Request to the extent that it seeks to

elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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.

RESPONSE:

Red Bend objects to this Request as ambiguous, overbroad, unduly burdensome, and to the extent it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Red Bend further objects to this Request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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.

RESPONSE:

Red Bend objects to this Request as ambiguous, overbroad, unduly burdensome, and to the extent it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Red Bend further objects to this Request to the extent that it seeks to

elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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.

RESPONSE:

Red Bend objects to this Request as ambiguous, overbroad, unduly burdensome, and to the extent it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Red Bend further objects to this Request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

REQUEST FOR PRODUCTION NO. 13:

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

RESPONSE:

Red Bend objects to this Request as ambiguous and to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this

Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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.

RESPONSE:

Red Bend objects to this Request as ambiguous and to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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.

RESPONSE:

Red Bend objects to this Request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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.

RESPONSE:

Red Bend objects to this Request as ambiguous, overbroad, unduly burdensome, and to the extent it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Red Bend notes that the request (to the extent not duplicative of other requests, e.g. Request No. 10) appears directed to material that would only be relevant if and when an issue of priority date or invalidity under 35 U.S.C. 102(g) were raised. Unless and until Google makes a showing that such issues are relevant to the preliminary injunction motion, Red Bend objects to producing documents in response to this request.

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.

RESPONSE:

Red Bend objects to this Request as ambiguous, overbroad, unduly burdensome, and to the extent it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Red Bend further objects to this Request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

REQUEST FOR PRODUCTION NO. 18:

All documents related to whether any invention claimed by the '552 patent is nonobvious, 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.

RESPONSE:

Red Bend objects to this Request as ambiguous, overbroad, unduly burdensome, and to the extent it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Red Bend further objects to this Request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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.

RESPONSE:

Red Bend objects to this Request as ambiguous, overbroad, unduly burdensome, and to the extent it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Red Bend further objects to this Request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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.

RESPONSE:

Red Bend objects to this Request as duplicative of Request No. 32. Red Bend objects to this Request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Red Bend further objects to the request as overly broad and unduly burdensome to the extent it is intended to call for the source code of Red Bend's products. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009, except to the extent the request calls for source code.

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).

RESPONSE:

Subject to and without waiving the foregoing general objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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).

RESPONSE:

Subject to and without waiving the foregoing general objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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).

RESPONSE:

Red Bend objects to this Request to the extent that it seeks information that is equally or more readily available to Google. Red Bend further objects to this Request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 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).

RESPONSE:

Red Bend objects to this Request to the extent that it seeks information that is equally or more readily available to Google. Red Bend further objects to this Request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents

responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 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).

RESPONSE:

Red Bend objects to this Request to the extent that it seeks information that is equally or more readily available to Google. Red Bend further objects to this Request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 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.

RESPONSE:

Red Bend objects to this Request as ambiguous and to the extent that it seeks information that is equally or more readily available to Google. Red Bend also objects as overly broad and unduly burdensome to the extent the request is directed to "All ... documents related to ... Red

Bend's business model, customers and product offerings" and refuses to search for or produce documents responsive to that portion of the request. Red Bend further objects to this Request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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.*

RESPONSE:

Red Bend objects to this Request as ambiguous and to the extent that it seeks information that is equally or more readily available to Google. Red Bend further objects to this Request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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.

RESPONSE:

Red Bend objects to this Request as ambiguous and to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or

attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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.

RESPONSE:

Red Bend objects to this Request as ambiguous and to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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.

RESPONSE:

Red Bend objects to this Request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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.

RESPONSE:

Red Bend objects to this Request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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.

RESPONSE:

Red Bend objects to this Request as ambiguous, overbroad, unduly burdensome, and to the extent it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Red Bend further objects to this Request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Red Bend further objects to production of source code based on its highly sensitive confidential nature. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009, except that Red Bend will make source code available for limited inspection

only at the offices of Dwyer & Collora in Boston, Massachusetts, on terms to be agreed to by the parties.

REQUEST FOR PRODUCTION NO. 33:

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

RESPONSE:

Red Bend objects to this Request to the extent that it seeks information that is equally or more readily available to Google. Red Bend further objects to this request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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.

RESPONSE:

Subject to and without waiving the foregoing general objections, Red Bend states on information and belief that the '552 patent has not previously been asserted in litigation, and therefore, has no documents responsive to this request.

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.

RESPONSE:

Subject to and without waiving the foregoing general objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009 to the extent that any such documents exist.

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.

RESPONSE:

Subject to and without waiving the foregoing general objections, Red Bend will produce non-privileged, relevant documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

REQUEST FOR PRODUCTION NO. 37:

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

RESPONSE:

Red Bend objects to this Request to the extent that it seeks information that is equally or more readily available to Google. Red Bend objects to this Request as overbroad, unduly burdensome, and to the extent it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Red Bend further objects to this Request to the extent that it seeks to elicit documents or information protected from disclosure by the attorney-client privilege and/or attorney work-product doctrine. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant

documents responsive to this Request as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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.

RESPONSE:

Red Bend objects to the request as ambiguous and vague as to the phrase "without using over the air techniques" and to the term "that market."

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.

RESPONSE:

Red Bend objects to the request as ambiguous and vague as to the phrase "without using over the air techniques" and to the term "that market."

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.

RESPONSE:

Red Bend objects to the request as ambiguous, vague, overly broad, and not reasonably calculated to lead to the discovery of evidence admissible during the preliminary injunction phase of this action as to the phrase "products used for over the air update of mobile devices." Subject to and without waiving the foregoing general objections, Red Bend will produce non-privileged, relevant documents reflecting Red Bend's revenue associated with its products that

practice the '552 patent and reflecting Red Bend's customers for those products as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

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.

RESPONSE:

Red Bend objects to this Request as duplicative of Request No. 40. Red Bend further objects to the request as ambiguous, vague, overly broad, and not reasonably calculated to lead to the discovery of evidence admissible during the preliminary injunction phase of this action as to the phrase "products used for over the air update of mobile devices." Red Bend further objects to the request as vague and ambiguous as to the phrase "mobile devices which use a Windows-based (x86) operating system" and the term "that market."

REQUEST FOR PRODUCTION NO. 42:

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

RESPONSE:

Red Bend objects to this Request as premature, overly broad, and not reasonably calculated to lead to the discovery of evidence admissible during the preliminary injunction phase of this action. Subject to and without waiving the foregoing general and specific objections, Red Bend will produce non-privileged, relevant documents that Red Bend intends to use or introduce at any hearing during the preliminary injunction phase of this action as may be located after a reasonable search in accord with the Court's Order of December 2, 2009.

Dated: December 7, 2009

By: /s/ Jennifer C. Tempesta

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*Attorneys for Plaintiffs Red Bend Ltd. and
Red Bend Software Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on December 7, 2009, I served the foregoing **PLAINTIFFS' RESPONSES AND OBJECTIONS TO DEFENDANT GOOGLE INC.'S REQUESTS FOR PRODUCTION FOR DOCUMENTS AND THINGS RELATED TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION (NOS. 1-42)** via electronic mail to the following counsel for Defendant:

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/s/ Jennifer C. Tempesta _____