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July 8, 2011

**ELECTRONICALLY FILED**

The Honorable Rya W. Zobel  
United States District Court Judge  
District of Massachusetts  
John Joseph Moakley U.S. Courthouse  
1 Courthouse Way, Suite 2300  
Boston, Massachusetts 02210

Re: *Skyhook Wireless, Inc. v. Google Inc.*, Case No. 1:10-cv-11571-RWZ  
(D. Mass.)

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Dear Judge Zobel:

I write on behalf of plaintiff Skyhook Wireless, Inc. ("Skyhook") in connection with pending cross-motions to request the Court's assistance in moving discovery forward in light of the upcoming claim construction deadlines. The parties cross-moved for entry of a protective order on May 25, 2011 (Dkt. Nos. 30, 32), and they filed oppositions on June 8, 2011 (Dkt. Nos. 35, 36). No protective order has yet been entered by the Court.

Due to the absence of a protective order, to date, no confidential documents have been produced in the instant case. To obtain the discovery that it needs pending the resolution of the cross-motions, Skyhook has offered to proceed under defendant Google Inc.'s ("Defendant") proposed protective order until the entry of a final protective order by the Court. Exs. A, B. But Defendant would not agree to make available for inspection documents related to source code prior to the entry of a final protective order. Exs. C-F. During a discovery conference on July 7, 2011, Defendant confirmed that, once a final protective order is in place, it will fulfill its Local Rule 16.6 obligations by making source code related documents available for inspection. Exs. G, H. Consequently, Skyhook could not agree to an interim protective order that would exclude these documents.

The lack of a protective order has delayed discovery of information critical to Skyhook's case. Skyhook has yet to receive any confidential documents responsive to Local Rule 16.6 disclosures or any confidential documents responsive to its requests for production, which were served seven months ago. Skyhook has been more than reasonable in trying to accommodate Defendant's concerns as Skyhook has agreed to proceed under Defendant's proposed protective order pending the Court's decision on the cross-motions.

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But the parties have reached an impasse on the source code documents responsive to Local Rule 16.6 disclosures.

Skyhook is mindful that only thirty days have elapsed since the briefing of the cross-motions was completed, and that a decision on the cross-motions may well be imminent. However, if a decision is not imminent, Skyhook respectfully requests that the Court enter an order that states that, prior to the Court's decision on the cross-motions, the terms of Defendant's proposed protective order (Dkt. No. 29-1) will apply, without prejudice to Skyhook's or Defendant's cross-motions. Defendant explained during the July 7, 2011 discovery conference that its key concern in refusing to make available for inspection documents related to source code is the enforceability of an interim protective order by the Court. Consequently, Skyhook's request should satisfy both parties' needs.

Thank you for your attention.

Respectfully submitted,

/s/ Lina F. Somait

Lina F. Somait

Enclosures

cc: Counsel on CM/ECF

**Certificate of Service**

I, Lina F. Somait, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on July 8, 2011.

*/s/ Lina F. Somait*

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Lina F. Somait