

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

NETJUMPER SOFTWARE, L.L.C.,  
a Michigan limited liability corporation,

Plaintiff,

vs.

GOOGLE INC.,  
a Delaware corporation,

Defendant.

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Case No. 04-70366-CV  
Hon. Julian Abele Cook  
Magistrate Judge R. Steven Whalen

**PLAINTIFF'S F.R.C.P. 26(a)(3)(A) PRETRIAL DISCLOSURES**

**1. Pursuant to F.R.C.P. 26(a)(3)(A)(i):**

Plaintiff will call the following NetJumper witnesses at trial:

1. Gilbert Borman
2. Anup Mathur (live or by deposition)
3. John Piscitello (Google 30(b)(6) witness) (live or by deposition)
4. Garry Kitchen (expert)
5. Phillip Green (expert)

The address and telephone numbers of each have previously been provided.

Plaintiff may call the following witnesses at trial:

1. Rajat Bhatnagar (live or by deposition)
2. Hubert Pan (Google 30(b)(6) witness) (live or by deposition)
3. Alexander Pau (Google 30(b)(6) witness) (live or by deposition)
4. Steve Schimmel (live or by deposition)
5. Breen Hagan (Google 30(b)(6) witness) (live or by deposition)
6. Jeff Schardell (Google Rule 30(b)(6) witness)

**2. Pursuant to F.R.C.P. 26(a)(3)(A)(ii):**

Plaintiff designates the following deposition designations:

1. Hubert Pan

| <u>From</u>  | <u>To</u>    |
|--------------|--------------|
| p. 6, l. 11  | p. 7, l. 15  |
| p. 7, l. 21  | p. 8, l. 1   |
| p. 8, l. 23  | p. 11, l. 6  |
| p. 12, l. 13 | p. 21, l. 15 |
| p. 29, l. 16 | p. 31, l. 21 |
| p. 33, l. 4  | p. 46, l. 20 |
| p. 47, l. 17 | p. 60, l. 12 |
| p. 61, l. 19 | p. 70, l. 18 |

2. John Piscitello

| <u>From</u>   | <u>To</u>     |
|---------------|---------------|
| p. 5, l. 5    | p. 57, l. 25  |
| p. 58, l. 9   | p. 91, p. 23  |
| p. 92, l. 22  | p. 102, l. 4  |
| p. 103, l. 23 | p. 112, l. 20 |

3. Alexander Pau

| <u>From</u> | <u>To</u>   |
|-------------|-------------|
| p. 5, l. 10 | p. 55, l. 2 |



4. Breen Hagan

| <u>From</u>     | <u>To</u>    |
|-----------------|--------------|
| p. 3, l. 20     | p. 4, l. 12  |
| p. 6, l. 7      | p. 8, l. 10  |
| p. 19, l. 13-18 |              |
| p. 19 l. 25     | p. 20, l. 14 |
| p. 22, l. 22    | p. 23, l. 4  |
| p.23, l. 17     | p. 28, l. 13 |
| p. 29, l. 7     | p. 31, l. 18 |
| p.32, l. 18     | p. 34, l. 21 |
| p. 45, l.1-22   |              |
| p. 47, l. 6     | p. 71, l. 23 |
| p. 121, l. 11   | p. 126, l. 4 |
| p. 128, l. 1    | p. 128, l. 8 |

5. Jeff Schardell

| <u>From</u>  | <u>To</u>    |
|--------------|--------------|
| p. 6, l. 15  | p. 16, l. 18 |
| p. 17, l. 9  | p. 23, l. 11 |
| p. 25, l. 22 | p. 26, l. 2  |
| p. 27, l. 16 | p. 28, l. 8  |
| p. 29, l. 1  | p. 31, p. 6  |
| p. 32, l. 20 | p. 33, l. 8  |
| p. 34, l. 12 | p. 35, l. 19 |
| p. 41, l. 9  | p. 45, l. 3  |
| p. 46, l. 1  | p. 71, l. 2  |
| p. 72, l. 19 | p. 77, l. 14 |
| p. 79, l. 11 | p. 90, l. 23 |
| p. 92, l. 7  | p. 93, l. 24 |
| p. 95, l. 16 | p. 103, l. 3 |

6. Anup Mathur

| <u>From</u>  | <u>To</u>    |
|--------------|--------------|
| p. 7, l. 2   | p. 7, l. 12  |
| p. 8, l. 25  | p. 13, l. 17 |
| p. 14, l. 5  | p. 15, l. 3  |
| p. 16, l. 25 | p. 17, l. 7  |
| p. 17, l. 10 | p. 19, l. 17 |
| p. 20, l. 15 | p. 20, l. 23 |
| p. 27, l. 3  | p. 29, l. 2  |
| p. 30, l. 8  | p. 31, l. 21 |
| p. 32, l. 12 | p. 38, l. 21 |
| p. 40, l. 21 | p. 41, l. 23 |

|               |               |
|---------------|---------------|
| p. 42, l. 14  | p. 47, l. 21  |
| p. 49, l. 3   | p. 51, l. 16  |
| p. 52, l. 20  | p. 57, l. 5   |
| p. 59, l. 11  | p. 62, l. 17  |
| p. 66, l. 23  | p. 68, l. 18  |
| p. 69, l. 16  | p. 70, l. 9   |
| p. 70, l. 13  | p. 74, l. 24  |
| p. 81, l. 1   | p. 83, l. 3   |
| p. 100, l. 1  | p. 103, l. 16 |
| p. 114, l. 8  | p. 117, l. 17 |
| p. 118, l. 6  | p. 118, l. 15 |
| p. 125, l. 8  | p. 126, l. 12 |
| p. 129, l. 14 | p. 132, l. 4  |
| p. 146, l. 19 | p. 161, l. 3  |
| p. 162, l. 16 | p. 164, l. 24 |
| p. 165, l. 7  | p. 168, l. 2  |

7. Rajat Bhanagar

| <u>From</u> | <u>To</u> |
|-------------|-----------|
| p. 4-3      | p.4-13    |
| p. 6-8      | p. 6-17   |
| p. 13-11    | p. 6-17   |
| p. 15-4     | p. 15-13  |
| p. 15-24    | p. 16-5   |
| p. 17-7     | p. 18-7   |
| p.20-4      | p. 20-24  |
| p. 23-11    | p. 23-17  |
| p. 24-15    | p. 27-6   |
| p. 42-14    | p. 43-13  |
| p. 43-17    | p. 44-11  |
| p. 45-6     | p. 47-4   |
| p. 47-12    | p. 50-19  |
| p. 60-3     | p. 61-6   |
| p. 66-24    | p. 69-9   |
| p. 73-3     | p. 74-20  |
| p.77-6      | p. 78-5   |

8. Steven Schimmel

| <u>From</u> | <u>To</u> |
|-------------|-----------|
| p. 5-6      | p. 5-11   |
| p. 6-11     | p. 7-16   |
| p. 8-5      | p. 8-25   |
| p. 10-20    | p. 12-6   |
| p.12-18     | p. 13-11  |

p. 14-1            p. 14-24  
 p. 18-9            p. 20-1  
 p. 22-24          p. 23-25

Plaintiff incorporates all exhibits referenced in these designations as potential trial exhibits to the extent these have not been identified below in Section 3.

**3. Pursuant to F.R.C.P. 26(a)(3)(A)(iii):**

Plaintiff will use the following exhibits in its case: PX 1 - PX 37, PX 54 – PX 59. If necessary, Plaintiff will offer if need arises: PX 41-PX 55, PX 58-PX59. Plaintiff will offer various deominstratives.

| EXHIBIT | DESCRIPTION  |
|---------|--|
| PX 1    | US 5, 890, '172 Patent and File History (G000073-310) ('172 Patent at G000075-98)                  |
| PX 2    | Garry Kitchen Expert Report on Infringement  |
| PX 3    | Garry Kitchen Expert Report on Invalidity (incorporating Bernard Galler Report) (Rebuttal)         |
| PX 4    | Deposition Exhibit No. 1 (G73-310)   |
| PX 5    | Deposition Exhibit No. 3 (HCL Bates Nos. 12-14)  |
| PX 6    | Deposition Exhibit No. 4 (NetJumper Bates No. 746-751)   |
| PX 7    | Deposition Exhibit No. 5 (NetJumper Bates No. 899-905)   |
| PX 8    | Deposition Exhibit No. 19 (Not bate-stamped; obtained from Anup Mathur's Deposition dated 3/15/05) |
| PX 9    | Deposition Exhibit No. 30 (G73-1250)   |
| PX 10   | Deposition Exhibit No. 44 (HCL Bates Nos. 040-046)   |

|       |  |
|-------|--|
| PX 11 | Deposition Exhibit No. 47 (NetJumper Bates No. 1156)   |
| PX 12 | Deposition Exhibit No. 65 (NetJumper Bates Nos. 1901-1904)   |
| PX 13 | Deposition Exhibit No. 66 (NetJumper Bates Nos. 1885-1890)   |
| PX 14 | Deposition Exhibit No. 67 (NetJumper Bates Nos. 1911-1947)   |
| PX 15 | Deposition Exhibit No. 86 (NetJumper Bates Nos. 921-923)   |
| PX 16 | Deposition Exhibit No. 100 (G2594-2599)  |
| PX 17 | Deposition Exhibit No. 109 (G4618-4631)  |
| PX 18 | Deposition Exhibit No. 110 (G5355-5380)  |
| PX 19 | Deposition Exhibit No. 111 (G5381-5385)  |
| PX 20 | Deposition Exhibit No. 112 (G5386-5389)  |
| PX 21 | Deposition Exhibit No. 113 (G4926-4934)  |
| PX 22 | Deposition Exhibit No. 115 (Not bated stamped; obtained from Alexander Pau's Deposition dated 11/9/05)   |
| PX 23 | Deposition Exhibit No. 116 (Not bated stamped; obtained from Alexander Pau's Deposition dated 11/9/05)   |
| PX 24 | Deposition Exhibit No. 116.1 (Not bated stamped; obtained from Alexander Pau's Deposition dated 11/9/05) |
| PX 25 | Deposition Exhibit No. 121 (Not bated stamped; obtained from Google's 30(b)(6) Deposition dated 2/23/06) |
| PX 26 | Deposition Exhibit No. 122 (G5470-5555)  |
| PX 27 | Deposition Exhibit No. 123 (G5556-5568)  |
| PX 28 | Deposition Exhibit No. 124 (G5569-5596)  |
| PX 29 | Deposition Exhibit No. 125 (G5597-5631)  |
| PX 30 | Deposition Exhibit No. 126 (G5632-5637)  |
| PX 31 | Deposition Exhibit No. 127 (G5355-5380)  |

|       |  |
|-------|--|
| PX 32 | Deposition Exhibit No. 128 (no bates stamp, marked at Piscitello Deposition dated June 2, 2006)  |
| PX 33 | Deposition Exhibit No. 129 (G5762-5773)  |
| PX 34 | Deposition Exhibit No. 130 (G5774-5798)  |
| PX 35 | Deposition Exhibit No. 131 (5799-5842)   |
| PX 36 | Deposition Exhibit No. 132 (G5843-5873)  |
| PX 37 | Deposition Exhibit No. 133 (G5756-5761)  |
| PX 41 | NetJumper Bates No. 502  |
| PX 42 | NetJumper Bates No. 504  |
| PX 43 | NetJumper Bates No. 505  |
| PX 44 | NetJumper Bates No. 506  |
| PX 45 | NetJumper Bates No. 530  |
| PX 46 | G1325-1365   |
| PX 47 | G15981   |
| PX 48 | G4585-4586   |
| PX 49 | G4587-4588   |
| PX 50 | Deposition Exhibit 38 (Schimmel) (G4112-4152)  |
| PX 51 | G4639-4658   |
| PX 52 | G13317   |
| PX 53 | G13318   |
| PX 54 | Three licensing agreements not produced because of third-party objection (see July 21, 2005 letter from Julie Wheeler to Nabeel Hamameh) |
| PX 55 | Google's Answers to Interrogatories  |



|       |  |
|-------|--|
| PX 56 | Demonstrative Exhibits associated with Garry Kitchen testimony |
| PX 57 | Demonstrative Exhibits associated with Phillip Green testimony |
| PX 58 | Deposition Exhibit 6 (HCL 063-73)                              |
| PX 59 | Deposition Exhibit 7 (HCL 052-56)                              |

Respectfully submitted,

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Dated: June 23, 2008

**PROOF OF SERVICE**

I certify that on 6-23-08, I electronically filed the forgoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

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