

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ORIGINAL <sup>6</sup>

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

Plaintiff,

Civil Action No. 04-70366-CV  
Hon. Julian Abele Cook

v.

Magistrate Judge R. Steven Whalen

GOOGLE INC.,  
a California corporation

Defendant.

Andrew Kochanowski  
Nabeel M. Hamamch  
Sommers Schwartz, PC  
2000 Town Center, Suite 900  
Southfield, MI 48075

Kathleen A. Lang (P34695)  
L. Pahl Zinn (P57516)  
DICKINSON WRIGHT PLLC  
500 Woodward Avenue, Suite 4000  
Detroit, MI 48226-3425  
(313) 223-3500

Michael H. Baniak  
Baniak Pine & Gannon  
150 North Wacker Drive, Suite 1200  
Chicago, IL 60606

Frank E. Scherkenbach  
FISH & RICHARDSON P.C.  
225 Franklin Street  
Boston, MA 02110-2804

*Attorneys for NetJumper Software, L.L.C.*

Howard G. Pollack  
FISH & RICHARDSON P.C.  
500 Arguello Street, Suite 500  
Redwood City, CA 94063

*Attorneys for Google Inc.*

GOOGLE INC.'S WITNESS LIST

FILED

05 OCT 11 P2 52

FILED

NOW COMES Google Inc., by their attorneys Fish & Richardson P.C. and Dickinson Wright PLLC, and in furtherance to the Court's Amended Scheduling Order of September 12, 2005 lists witnesses Google may call at trial. This list was sent by mail and facsimile to counsel for NetJumper Software, L.L.C. ("NetJumper") on October 10, 2005 (Exhibit A) and identifies the following lay and expert witnesses who may be called at trial:

1. Breen Hagan (Google toolbar)
2. Joseph Hardin (expert witness)
3. Randall Stark (fact witness, prior art)
4. Howard Harowitz (fact witness, prior art)
5. Edward Mendelson (fact witness, prior art)
6. Gilbert Borman (fact witness, inequitable conduct)
7. Any additional fact and expert witnesses to testify on the use, licensing, and value of the Google Toolbar, as well as any of the other topics in NetJumper's 30(b)(6) deposition notices.
8. Any additional fact and expert witnesses to testify on the function, structure, operation, use and value of the Google Viewer.
9. Any additional witnesses whose identities become known during the course of discovery, including witnesses identified by NetJumper, as well as witnesses to authenticate any documents or things for which the authenticity and/or admissibility is disputed by NetJumper.
10. Any rebuttal fact and expert witnesses to address any alleged facts, claims, reports, or testimony advanced by NetJumper or its witnesses, including but not limited to

NetJumper's allegation of willful infringement.

Respectfully submitted,

By: 

Kathleen A. Lang (P34695)  
L. Pahl Zinn (P57516)  
DICKINSON WRIGHT PLLC  
500 Woodward Avenue, Suite 4000  
Detroit, MI 48226-3425  
(313) 223-3500

Frank E. Scherkenbach  
FISH & RICHARDSON P.C.  
225 Franklin Street  
Boston, MA 02110-2804

Howard G. Pollack  
FISH & RICHARDSON P.C.  
500 Arguello Street, Suite 500  
Redwood City, CA 94063

*Attorneys for Google Inc.*

Dated: October 11, 2005

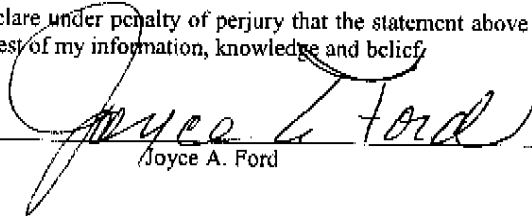
DETROIT 28155-1 901698v2

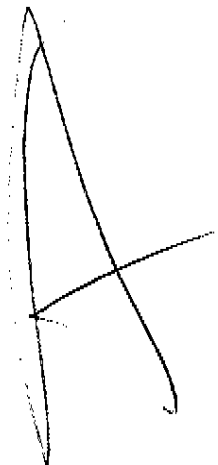
CERTIFICATE OF SERVICE

The undersigned certifies that a copy of Google Inc.'s Witness List and Certificate of Service was served upon all parties and/or attorneys of record to the above cause herein at their respective street addresses as disclosed on the pleadings and/or their respective email addresses and/or their respective facsimile numbers on October 11, 2005, via:

<input checked="" type="checkbox"/> U. S. Mail	<input type="checkbox"/> Facsimile
<input type="checkbox"/> Overnight Courier	<input type="checkbox"/> Hand Delivery
<input type="checkbox"/> Email	<input type="checkbox"/> Federal Express

I declare under penalty of perjury that the statement above is true to be best of my information, knowledge and belief.

  
\_\_\_\_\_  
Joyce A. Ford

A handwritten mark or signature consisting of a vertical line on the left, a curved line on the right, and a horizontal line crossing both.

# FISH & RICHARDSON P.C.

12390 El Camino Real  
San Diego, California  
92130

Telephone  
858 678-5070

Facsimile  
858 678-5099

Web Site  
www.fr.com

Frederick P. Fish  
1855-1930

W.K. Richardson  
1859-1951

## VIA FACSIMILE AND U.S. MAIL

October 10, 2005

Andrew Kochanowski, Esq.  
Sommers Schwartz  
2000 Town Center, Suite 900  
Southfield, MI 48075

Re: NetJumper Software, L.L.C. v. Google Inc.  
USDC-E.D. MI - Case No. 2:04CV70366



Dear Andy:

This letter is further to the Amended Scheduling Order entered on September 12, 2005. Google may call the following witnesses at trial:

- Breen Hagan (Google Toolbar)
- Joseph Hardin (expert witness, liability)
- Randall Stark (fact witness, prior art)
- Howard Harowitz (fact witness, prior art)
- Edward Mendelson (fact witness, prior art)
- Gilbert Borman (fact witness, inequitable conduct)

Google may call additional fact and expert witnesses (e.g., damages and survey experts) to testify on the use, licensing, and value of the Google Toolbar, as well as any of the other topics in NetJumper's 30(b)(6) deposition notice. Google may also call additional witnesses to testify on the function, structure, operation, use, and value of the Google Viewer. Furthermore, Google may call additional witnesses whose identities become known during the course of discovery, including witnesses identified by NetJumper, as well as witnesses to authenticate any documents or things for which the authenticity and/or admissibility is disputed by NetJumper.

Google may call rebuttal fact and expert witnesses to address any alleged facts, claims, reports, or testimony advanced by NetJumper or its witnesses, including but not limited to NetJumper's allegations of willful infringement.

Very truly yours,

Jason W. Wolff

cc: Michael H. Baniak, Baniak Pine & Gannon

- AUSTIN
- BOSTON
- DALLAS
- DELAWARE
- NEW YORK
- SAN DIEGO
- SILICON VALLEY
- TWIN CITIES
- WASHINGTON, DC