

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FILED

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U. S. DISTRICT COURT
EASTERN MICHIGAN

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.

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**EX PARTE MOTION AND BRIEF IN SUPPORT OF MOTION FOR LEAVE TO FILE
BRIEF IN SUPPORT OF GOOGLE'S MOTION FOR SUMMARY JUDGMENT**

NOW COMES Google Inc., by its attorneys, and moves this Court pursuant to E.D. Mich. LR 7.1(c)(3)(A) for leave to file a reply brief in support of its Motion for Summary Judgment that exceeds the page limit. In support of this Ex-Parte Motion, Google states as follows:

1. Google's Motion for Summary Judgment Of Non-Infringement And Invalidity Of The '172 Patent involves analyses of both non-infringement and invalidity of the patents-in-suit. The Motion and Brief in Support examine, in necessary detail, not only the prosecution history of the patent but also the accused product and one prior art reference. The Brief in Support also proposes Google's construction of five relevant claim terms necessary for deciding the motion.

2. On September 27, 2005, Plaintiff NetJumper filed a Response Brief totaling 37 pages, including a substantive declaration in support from Prof. Bernard Galler that is 31 pages long. The arguments contained in the Response Brief and accompanying declaration are complex and involve a detailed analysis of the issues raised by Google's Motion concerning non-infringement and invalidity of the '172 patent.

3. On October 19, 2005, this Court entered an Ex-Parte Order allowing NetJumper to file a Brief in Response in excess of the page limit finding that the complex nature of the patent issue before the Court warranted granting NetJumper additional pages to present its arguments.

4. Likewise, given the complex nature of the patent issues before this Court, Google similarly requests additional pages for a Reply Brief in Support to address the arguments raised in NetJumper's Response Brief. Specifically, Google will need additional space to insert graphics, compare the claim construction positions, and address the non-infringement and invalidity issues raised by NetJumper's Response Brief and supporting declarations.

5. Google will endeavor to use the fewest pages possible in presenting its arguments to the Court and believes it can address these issues in 12 pages or less.

WHEREFORE, Google respectfully request this Court enter the attached Order granting Google leave of the Court to file a reply brief of not more than twelve pages.

Respectfully submitted,

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