ASCENTIVE, LLC v. GOOGLE, INC.
Doc. 9 Att. 13

EXHIBIT 13

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Arena, Alexis

From: Nitin Jain [nizjain@hotmail.com]
Sent: Thursday, June 04, 2009 1:09 PM
To: Arena, Alexis
Subject: Re: Violation of Intellectual Property Rights of Ascentive, LLC

Have you tried contacting Google to not let us bid on those keywords? If you are so concerned about bidding on your trademarks, you should definitely do that. Moreover, I live in India and I don't think I am violating any trademarks here according to our law. Please enlighten me.

From: Arena, Alexis
Sent: Thursday, June 04, 2009 2:24 AM
To: nizjain@hotmail.com
Cc: LaVine, Jordan
Subject: RE: Violation of Intellectual Property Rights of Ascentive, LLC

To: FinallyFast.us

RE: VIOLATION OF INTELLECTUAL PROPERTY RIGHTS OF ASCENTIVE, LLC

To whom it may concern:

We represent Ascentive, LLC ("Ascentive"). Ascentive has asked us to write you concerning your unauthorized use of Ascentive's intellectual property, namely, Ascentive's "FinallyFast," "Finally Fast," and "FinallyFast.com" trademarks (collectively referred to as the "FinallyFast trademarks").

As you obviously know, Ascentive develops and sells computer software products that address various computer needs, including system performance, increasing speed, ensuring privacy, and eliminating the threat of spy ware. With a line of 13 products, Ascentive is a market leader in corporate and consumer software and has received accolades from media outlets like The Wall Street Journal, Newsweek, Forbes, Tech TV and NBC.

Since early March 2008, Ascentive has used in commerce the FinallyFast trademarks in connection with its software products and with websites where Ascentive's software products can be downloaded. Ascentive has run nationwide advertisements for its products and services offered under the FinallyFast trademarks. Ascentive owns a registration for its "FinallyFast.com" trademark in the U.S. Patent and Trademark Office, Reg. No. 3,533,775, issued November 18, 2008.

It has come to our attention that you are using the Ascentive's FinallyFast trademarks in the FinallyFast.us domain name, and has purchased the trademarks as advertising keywords with Google and perhaps other search engines. As evidence of this fact, Google searches for the wording "Finally Fast," "FinallyFast.com" and "FinallyFast" result in your website being listed among the "Sponsored Links" in the search results.

Ascentive vigorously objects to your unauthorized use of Ascentive's trademarks in domain names and as advertising keywords for a website where competitive products are advertised and/or sold. Your use of Ascentive's trademarks as keywords represents an indisputable attempt to unfairly trade upon Ascentive's goodwill in its trademarks. Through such activities, you are securing free advertising for competitive products and services. In sum, your unauthorized use of Ascentive's trademarks constitutes an infringement of Ascentive's trademarks and unfair competition under 15 U.S.C. §1125 (a) and also violates the provisions of the Anti-Cybersquatting provisions of U.S. Trademark law, entitling Ascentive to statutory damages in an amount as great as $100,000 per domain name.

Based upon the foregoing, on behalf of Ascentive, we demand that you provide your prompt written assurance that you will immediately cease using and purchasing Ascentive's trademarks as keywords, remove all Ascentive trademarks from your websites, and disable any domain names that contain Ascentive's trademarks.

We hope you appreciate the spirit in which this letter is written and that this matter can be resolved amicably. Please be

assured, however, that if you do not agree promptly to take the actions requested above, Ascentive will have no choice but to take such further action against you is necessary to protect its valuable trademark rights.

Please confirm by no later than June 6, 2009, that you will cease this unauthorized use of Ascentive's trademarks.

The offer of compromise contained in this letter is, of course, without prejudice to any action that may be necessary to protect the valuable rights of Ascentive in its trademarks, including seeking injunctive relief, damages, and its attorney's fees.

Very truly yours,

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