

EXHIBIT J

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

BRIGHT RESPONSE, LLC

v.

GOOGLE INC., et al.

2:07-CV-371-CE

JURY

**PLAINTIFF'S OBJECTIONS AND RESPONSES TO GOOGLE'S
SECOND SET OF INTERROGATORIES**

Bright Response, LLC ("Bright Response") objects and responds to Google's first set of interrogatories, as follows:

GENERAL STATEMENTS

1. No incidental or implied admissions are intended by the responses herein. The fact that Bright Response has responded to or objected to any discovery request should not be taken as an admission that Bright Response accepts or admits the existence of any "fact" set forth or assumed by the same. The fact that Bright Response has responded to part or all of any discovery request is not intended to be, and shall not be construed to be, a waiver by Bright Response of any part of any objection to the discovery request. The fact that Bright Response states a willingness to produce any documents in his possession, custody or control should not be taken as an indication that any such documents exist.

2. These responses are made solely for the purpose of this action. Each response is subject to all objections as to competence, relevance, materiality, propriety, and admissibility, and to any other objections on any grounds that would require the exclusion of any information produced at time of trial. By responding to the discovery requests, Bright Response does not waive any objection that may be applicable to: (1) the use, for any purpose, of documents or information given in response to the discovery requests; (2) the admissibility, privilege, relevancy,

authenticity, or materiality of any documents or information given in response to these discovery requests; or (3) other discovery involving or relating to the subject matter of these requests or responses. Bright Response expressly reserves the right to object to the use of information provided herewith during any subsequent proceeding, including the trial of this or any other action.

3. These objections are made based on present information and belief predicated upon information presently available and Bright Response's present understanding, if any, of the discovery requests. These objections are subject to supplementation and amendment should additional information become known to Bright Response.

GENERAL OBJECTIONS

1. Bright Response objects to the definitions, instructions and requests to the extent they require responsive discovery beyond the scope of discovery permitted by the Federal Rules of Civil Procedure and/or Local Rules, or purport to impose any requirement or burden that is beyond or inconsistent with that imposed by the Federal Rules of Civil Procedure and/or local rules. Without limitation, relative to the foregoing the following objections are made:

A. Bright Response objects to the terms "Plaintiff," "Polaris," "Bright Response" and/or "You" to the extent they are overbroad and unduly burdensome, and to the extent they seek to impose any burdens beyond the scope of the Federal Rules of Civil Procedure or local rules. In responding to these discovery requests, Bright Response will interpret "Plaintiff," "Polaris," "Bright Response" and/or "You" to be Bright Response, LLC (f/k/a Polaris IP, LLC) and anyone acting in the capacity as an officer, member, employee or agent of Bright Response, LLC.

B. Bright Response objects to the term “Document(s)” to the extent it seeks to impose any burdens beyond the scope of the Federal Rules of Civil Procedure and/or local rules.

C. Bright Response objects to the term “Identify” because it is overbroad and unduly burdensome and to the extent it seeks to impose any burdens beyond the scope of the Federal Rules of Civil Procedure or local rules. In responding to these discovery requests, Bright Response shall reasonably identify and/or describe any responsive documents, communications, etc.

2. Bright Response objects to instructions 1 - 3 to the extent they are unduly burdensome and/or seek to impose any burdens beyond the scope of the Federal Rules of Civil Procedure or local rules. In responding to Google's discovery requests, Bright Response will use comply only with the requisites of the Federal Rules of Civil Procedure or local rules. In addition, Bright Response will comply with the Court's requirements for privilege logs and not any additional requirements sought to be imposed by Defendants.

3. Bright Response objects to the discovery requests to the extent that they call for documents or information that are protected by the attorney-client privilege, prepared in anticipation of litigation or for trial, or that are otherwise protected from discovery by the attorney work product doctrine or any other applicable privilege, law, rule, or immunity, including without limitation the common interest and/or settlement privilege, in that such material is not properly discoverable. Such privileged documents will not be produced. Without limitation, any of Bright Response’s communications with its counsel are protected from disclosure by at least the attorney-client privilege. Also, any acts or communications done in anticipation of litigation are protected from disclosure by at least the work product or common

interest privileges. Also, settlement matters including settlement communications are protected from disclosure by at least the settlement privilege.

4. Bright Response objects to the discovery requests to the extent that they are vague, overly broad, unduly burdensome, or seek the disclosure of documents or information that are not relevant to any claim or defense in this action, nor reasonably likely to lead to the discovery of admissible evidence that is relevant to any claim or defense.

5. Bright Response objects to the discovery requests to the extent they seek information documents not reasonably available to Bright Response or otherwise within Bright Response's possession, custody or control.

6. Bright Response objects to the discovery requests to the extent that they seek all information or documents concerning, relating to or referring to a particular document or subject on the grounds of overbreadth and undue burden.

7. Bright Response objects to the discovery requests to the extent they are not confined to a relevant time period because this is overbroad and unduly burdensome, and seeks information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

8. Bright Response objects to the discovery requests to the extent (i) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; (ii) the requesting party has had ample opportunity by discovery to obtain the information sought; or (iii) the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues.

9. Bright Response objects to the discovery requests to the extent they would require Bright Response to disclose information, produce documents or take other actions in violation of a protective order.

10. These general objections are incorporated into Bright Response's objections to each and every discovery request, and are set forth here to avoid the duplication and repetition of restating them for each request. Any documents or information provided by Bright Response responsive to the discovery requests will be made subject to and without waiver of the general and specific objections. The failure to include any generally objection in response to any request shall not constitute a waiver of any general objection to that request. From time to time, a specific objection may restate a general objection for emphasis or some other reason. By making a specific objection to a particular request, Bright Response does not imply that the specific objection is not applicable to any other request, or that the general objections are not applicable to that request.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 4:

Identify, with respect to each ASSERTED PATENT CLAIM of the '947 PATENT, every one of GOOGLE'S products that YOU allege infringes each such claim, by explaining fully and completely how each such product allegedly infringes each such claim, including, without limitation, an explanation of whether such alleged infringement is literal or by equivalents; an explanation of how 35 U.S.C. § 112 is satisfied if applicable (including without limitation identification of corresponding structures in the patent specification and the ACCUSED PRODUCTS and an explanation of how they are the same or equivalent); an explanation of whether such alleged infringement is direct (i.e., under 35 U.S.C. § 271(a)) or indirect (i.e., under

35 U.S.C. § 271(b) and (c)); and if indirect, an identification of each third party whose alleged infringement is direct. Provide claim charts as part of YOUR answer.

RESPONSE:

Subject to and without waiving the general objections, which are incorporated herein, Bright Response objects to this interrogatory to the extent it seeks information protected from discovery by the attorney client and/or work product privileges. In addition, Bright Response objects to the use of multiple subparts, at least according to Google's assertions of subparts, and each subpart will be counted as such in determining the number of interrogatories served upon Bright Response. In addition, Bright Response objects to this interrogatory because it is unduly burdensome and premature, including in advance of expert disclosures relative to infringement, and in advance of the Court's claim construction. Bright Response specifically reserves the right to amend its responses to this interrogatory. In addition, Bright Response objects to this interrogatory because it is vague and ambiguous, including because it is unclear what information Google is seeking by requesting "an explanation of how 35 U.S.C. § 112 is satisfied if applicable." Google does not identify which of the six specific sub-parts or paragraphs of 35 U.S.C. § 112 it is asking about, despite its instruction that such request includes "without limitation identification of corresponding structures." In addition, Bright Response objects to this interrogatory as unduly burdensome, irrelevant, duplicative and unnecessary in view of Local Rules, including P.R. 3-1.

Subject to and without waiving the foregoing general and specific objections, Bright Response states as follows:

Google infringes at least claims 26, 28, 30, 31, 33, 38, 39 and 40 of the '947 Patent by methods practiced in various Accused Instrumentalities, including Google AdWords, Google

AdSense, GMail, and Google Search. An explanation of how each product infringes the foregoing claims can be found in Claim Chart Attachments 1-4 attached hereto and incorporated herein by reference.

Based on Bright Response's present understanding of the claim language and scope, Google literally infringes each of the foregoing claims, as more fully explained and described in Claim Chart Attachments 1-4, because each product literally performs each step of the claimed methods. Additionally and/or alternatively, Google infringes the foregoing claims under the doctrine of equivalents for the same reasons that Google literally infringes each of the foregoing claims. Bright Response reserves the right to amend its responses following entry of the Court's Claim Construction Order, in accordance with the Local Rules, including P.R. 3-6. In addition, Bright Response asserts that, for any claim limitation Google argues is not literally met by the Accused Instrumentalities, such claim limitation is at least met under the doctrine of equivalents because, for example, a person of ordinary skill in the art would find that the differences between that claim language and the operation of the Accused Instrumentalities, as explained by Defendants, to be insubstantial. One way of determining if a difference is insubstantial is to consider whether or not an accused device or method performs substantially the same function in substantially the same way to obtain the same result.

If Google claims that part or all of the various practices, structures or steps in the Accused Instrumentalities are not performed by Google, then Bright Response reserves the right to amend its responses, and to assert that Google indirectly infringes the foregoing claims by actively and knowingly inducing, aiding and abetting others -- including without limitation any contractors who host all or a portion of the Accused Instrumentalities on behalf of Defendants, and the end users of the Accused Instrumentalities -- to directly infringe the foregoing claims.

Additionally, or in the alternative, if Google claims that part or all of the various practices, structures or steps in the Accused Instrumentalities are not performed by Google, Bright Response reserves the right to amend its responses, and to assert that Google indirectly infringes the asserted claims by contributing to the infringement by others, including without limitation by end users of the Accused Instrumentalities because the combination for which their components were especially made was both patented and infringing and such components have no substantial non-infringing uses. Additionally, or in the alternative, if Google claims that part or all of the various practices, structures or steps in the Accused Instrumentalities are not performed by Google, Bright Response reserves the right to amend its responses, and to assert that Google infringes such claims, including without limitation with contractors who host all or a portion of the Accused Instrumentalities on behalf of Defendants and/or the end users of the Accused Instrumentalities, under Defendants' direction and/or control.

Bright Response states that 35 U.S.C. § 112 is satisfied where applicable and further states as follows:

The '947 Patent contains "a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention." The '947 Patent "conclude[s] with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention." The '947 Patent contains claims in both independent and dependent form, but not in multiple dependent form. Consequently, portions of 35 U.S.C. § 112 addressing multiple dependent claims are not applicable. The '947 Patent does not contain, and Google has not alleged that the

'947 Patent contains, “[a]n element in a claim for a combination ... expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof.” Consequently, portions of 35 U.S.C. § 112 addressing so-called “means-plus-function” or “step-plus-function” are not applicable.

Bright Response notes that discovery is on-going in this case and reserves its rights to supplement this interrogatory response (in the form of a formal supplementation or of another writing) as additional information becomes available.

INTERROGATORY NO. 5:

For each of GOOGLE'S products or processes identified in response to Interrogatory No. 4, identify in claim chart form, with particularity, the structure or steps in the ACCUSED PRODUCT that purportedly correspond to each ASSERTED PATENT CLAIM (including without limitation identifying in each of GOOGLE'S products or processes identified in response to Interrogatory No. 4 the non-interactive electronic message, the rule-based knowledge engine, the case-based knowledge engine, and the case model) and whether such correspondence is literal or under the doctrine of equivalents, and identify any DOCUMENTS or other resources used to determine the response to this interrogatory.

RESPONSE:

Subject to and without waiving the general objections, which are incorporated herein, Bright Response objects to this interrogatory to the extent it seeks information protected from discovery by the attorney client and/or work product privileges. In addition, Bright Response objects to the use of multiple subparts, at least according to Google's assertions of subparts, and each subpart will be counted as such in determining the number of interrogatories served upon Bright Response. In addition, Bright Response objects to this interrogatory because it is unduly

burdensome and premature, including in advance of expert disclosures relative to infringement, and in advance of the Court's claim construction. Bright Response specifically reserves the right to amend its responses to this interrogatory.

Subject to and without waiving the foregoing general and specific objections, Bright Response incorporates by reference its response to Interrogatory No. 4, and to Claim Chart Attachments 1-4. Specifically, Bright Response states as follows:

Identification in claim chart form the "structure or steps" that correspond to the asserted patent claims can be found in the Claim Chart Attachments 1-4.

Identification of whether such correspondence is literal or under the doctrine of equivalents can be found in the Claim Chart Attachments 1-4 and the response to Interrogatory No. 4.

Identification of documents or other resources used to determine the response to this interrogatory can be found in the Claim Chart Attachments 1-4 and the response to Interrogatory No. 4.

Bright Response notes that discovery is on-going in this case and reserves it rights to supplement this interrogatory response (in the form of a formal supplementation or of another writing) as additional information becomes available.

April 29, 2010

Respectfully submitted,

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COUNSEL FOR PLAINTIFF
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CERTIFICATE OF SERVICE

I hereby certify that all known counsel of record are being served on this date via e-mail using the Defendants' e-mail distribution list.

April 29, 2010

/s/ Patrick R. Anderson
Patrick R. Anderson