

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

BRIGHT RESPONSE, LLC,	§	Civil Action No. 2:07-cv-371-CE
	§	
Plaintiff,	§	
	§	JURY TRIAL DEMANDED
v.	§	
	§	
GOOGLE INC., et al.,	§	
	§	
Defendants.	§	

**BRIGHT RESPONSE, LLC'S RESPONSE TO DEFENDANTS' JOINT MOTION *IN LIMINE* NO. 3: MOTION TO PRECLUDE LEGALLY INCORRECT EVIDENCE AND ARGUMENT REGARDING THE INVENTORS AND DEPLOYMENT OF THE EZ READER SYSTEM**

Plaintiff Bright Response, LLC ("Bright Response") respectfully files this response to Defendants' Joint Motion *In Limine* No. 3 seeking to preclude Bright Response from arguing or implying that, if the EZ Reader project was publicly available shortly prior to the critical date, EZ Reader should not invalidate the asserted claims because (1) the inventors were involved in the development of the EZ Reader project; or (2) it was only available shortly before the critical date.

The public availability of the EZ Reader project is one of the primary fact issues to be decided by the jury. To the extent that this Motion assumes that the EZ Reader project was in fact publicly available prior to the critical date, Bright Response opposes this Motion as provided in response to Defendants' motion for summary judgment of invalidity based on 35 U.S.C. §§ 102 and 103.

Bright Response agrees, however, that it will not make arguments contrary to the law, including well established law related to invalidity prior art. Defendants assert that they have "reason to believe that Plaintiff may offer arguments that contradict established patent law

concerning prior art." Such an assertion is false and this Motion is nothing but a waste of court resources.

For the foregoing reasons, Defendants' Motion *In Limine* No. 3 should be denied as moot.

Dated: July 26, 2010

Respectfully submitted,

By: /s/ Andrew D. Weiss

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**CERTIFICATE OF SERVICE**

I certify that on this date, July 26, 2010, I am serving counsel for Defendants, with a copy of this document and the attached exhibits pursuant to Fed. R. Civ. P. 5 by electronic mail.

\s\ Andrew D. Weiss