

EXHIBIT W

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

BRIGHT RESPONSE, LLC,)
)
Plaintiff,)
)
vs.) Civil Action No.
) 2:07-CV-371-CE
GOOGLE, INC., et al.,)
)
Defendants.)

DEPOSITION OF BRADLEY ALLEN, taken on
behalf of plaintiff, at 12424 Wilshire
Boulevard, 12th Floor, Los Angeles,
California, Wednesday, July 21, 2010,
commencing at 12:06 p.m., before
Susan Edwards, Certified Shorthand
Reporter No. 13051.

12:09 1 BY MR. FENSTER:

12:09 2 Q When?

12:09 3 A Having trouble recalling the exact date, but I
12:09 4 believe it was in March.

12:10 5 Q And that's March of 2010, this year?

12:10 6 A Yes.

12:10 7 Q And what did Mr. Yovits say to you when he
12:10 8 contacted you?

12:10 9 MR. ROOKLIDGE: Object to the form.

12:10 10 MR. FENSTER: You may answer.

12:10 11 THE WITNESS: That there was a case pending
12:10 12 that the patent I was inventor on was relevant to and
12:10 13 that they were looking for information to clarify some
12:10 14 of the, you know, things involved in and around the
12:10 15 patent.

12:10 16 BY MR. FENSTER:

12:10 17 Q What did -- can you tell me, to the best that
12:10 18 you recall, the entire conversation that you had with
12:10 19 Mr. Yovits?

12:10 20 A It really basically was that there was this
12:11 21 ongoing case that the particular patent that I had --
12:11 22 that I was a co-inventor on was involved. They were
12:11 23 specifically looking for additional documents to -- that
12:11 24 were referenced in that patent, and they were looking
12:11 25 for records or copies of those documents.

12:11 1 Q What documents specifically were they looking
12:11 2 for?

12:11 3 A The CBR Express Reference Manual, CBR Express
12:11 4 User's Guide and the ART-IM Reference Manual.

12:11 5 Q You said that these were all documents that
12:11 6 were referenced in your patent; is that correct?

12:11 7 A Yes.

12:11 8 (Plaintiff's [Exhibit 2](#) was marked for
12:11 9 identification and is attached hereto.)

12:11 10 BY MR. FENSTER:

12:12 11 Q Let me hand you what's been marked as Allen
12:12 12 [Exhibit 2](#), US Patent No. 5,581,664. And this is the
12:13 13 patent number on which you're the co-inventor that
12:13 14 you're referring to; correct?

12:13 15 A Yes.

12:13 16 Q And if you turn to column 10 of [Exhibit 2](#) at
12:13 17 line 42, there's a reference to a CBR Express User's
12:13 18 Guide. Do you see that?

12:13 19 A Yes.

12:13 20 Q Is that the CBR Express User's Guide that
12:13 21 Mr. Yovits was asking you to find?

12:13 22 A Yes.

12:13 23 Q And were you able to find that document?

12:13 24 A No.

12:13 25 Q And where is the -- and there's also a

12:13 1 reference in this patent to the reference manual, the
12:13 2 CBR Express Reference Manual; is that right? Or is
12:14 3 there?

12:14 4 A Looking for the specific.

12:14 5 Q Strike that.

12:14 6 You said that Mr. Yovits asked you to find a
12:14 7 CBR Express Reference Manual; is that right?

12:14 8 A Yes.

12:14 9 Q Okay. Is that reference manual -- was that
12:14 10 expressly referenced in your patent?

12:14 11 A I don't know.

12:14 12 Q Okay. Were you able to find the CBR Express
12:14 13 Reference Manual that Mr. Yovits asked you to find?

12:14 14 A No. I did identify somebody who might have a
12:14 15 copy at the time.

12:14 16 Q Okay.

12:14 17 A But I do -- I did not have one and do not have
12:15 18 one at hand.

12:15 19 Q Okay. Who did you identify who might have a
12:15 20 copy of CBR Express Reference Manual?

12:15 21 A Bruce Clayton.

12:15 22 Q Did you contact Mr. Clayton?

12:15 23 A Yes.

12:15 24 Q Did he have a copy of the CBR Express Reference
12:15 25 Manual?

12:15 1 A Yes.

12:15 2 Q Did he have a copy of the CBR Express User's
12:15 3 Guide that's referenced at column 10 of [Exhibit 2](#)?

12:15 4 A Yes.

12:15 5 Q And at column 3 of [Exhibit 2](#) there's a
12:16 6 reference to an ART-IM Reference Manual.

12:16 7 Do you see that, column 3, line 18?

12:16 8 A Yes.

12:16 9 Q Is that the ART-IM Reference Manual that
12:16 10 Mr. Yovits asked you to find?

12:16 11 A Yes.

12:16 12 Q And did you have a copy of that?

12:16 13 A No.

12:16 14 Q Did you -- were you able to find it somehow?

12:16 15 A No. I mean, the conversation I had with Bruce
12:16 16 Clayton indicated that he had a copy, but I did not find
12:16 17 one myself.

12:16 18 Q Okay. And did Mr. Clayton have a copy?

12:16 19 A I believe so.

12:16 20 Q Okay. Who is Mr. Clayton?

12:16 21 A He is a person who was an employee at Inference
12:16 22 at the time that work was going on with CBR Express and
12:16 23 with ART-IM and before.

12:16 24 Q Where is Mr. Clayton?

12:16 25 A In Mariposa, California.

12:17 1 Q And did you disclose Mr. Clayton to Mr. Yovits?

12:17 2 A I did.

12:17 3 Q Did you personally talk with Mr. Clayton about
12:17 4 this case?

12:17 5 A I did. Well, let me amend that, if I might. I
12:17 6 mentioned that we were looking for copies of the
12:17 7 manuals. I did not discuss this case specifically.

12:17 8 Q Okay. Did you discuss anything -- anything
12:17 9 about this case other than the -- these manuals with
12:17 10 Mr. Clayton?

12:17 11 A No.

12:17 12 Q When did you contact Mr. Clayton?

12:17 13 A That would have been around the time of the
12:17 14 first contact with Mr. Yovits, March.

12:17 15 Q In March of 2010?

12:17 16 A Yes.

12:17 17 Q When did -- and what was -- what contact -- can
12:18 18 you describe the interaction you had with Mr. Clayton?

12:18 19 A Just looking -- "Is it possible for you to
12:18 20 place your hands on copies of the manuals?"

12:18 21 Q Okay. Did you ask about -- did you ask him to
12:18 22 provide all copies of any versions that he had?

12:18 23 A No.

12:18 24 Q You just asked him for a copy of -- of those
12:18 25 manuals?

12:18 1 A I asked him if he had copies of the manuals
12:18 2 available.

12:18 3 Q Okay. Did you have any discussion with him
12:18 4 about which versions he would be giving you?

12:18 5 A No.

12:18 6 Q Did you have any discussions with Mr. Clayton
12:18 7 about when the manuals that he had were produced?

12:18 8 A No.

12:18 9 Q What I mean by that is when they were written,
12:19 10 what the copyright date was.

12:19 11 A No.

12:19 12 Q Did you have any discussions with Mr. Clayton
12:19 13 about whether the manuals that he gave you were the ones
12:19 14 specifically referenced in your patent?

12:19 15 A He didn't give me any manuals. So we didn't
12:19 16 discuss that, and we did not have a discussion about the
12:19 17 reference in the patent.

12:19 18 Q Okay. Did you ultimately get any manuals from
12:19 19 Mr. Clayton?

12:19 20 A No.

12:19 21 Q Did he tell you where to find them?

12:19 22 A He said that he had copies of the CBR Express
12:19 23 manuals and maybe the ART-IM manual.

12:19 24 Q Okay. And did -- and then what did you do?

12:19 25 A After that, I really didn't follow up.

12:19 1 Q Okay. So you didn't ask him for a copy of
12:19 2 those manuals?

12:19 3 A Correct.

12:19 4 Q Do you know whether those manuals were ever
12:19 5 provided to anyone?

12:19 6 A No.

12:19 7 Q And did you provide Mr. Clayton's contact
12:20 8 information to Mr. Yovits?

12:20 9 A No.

12:20 10 Q So you told Mr. Yovits about Mr. Clayton, but
12:20 11 you didn't disclose -- you didn't tell him his contact
12:20 12 information?

12:20 13 A Correct.

12:20 14 Q Okay. What did you tell Mr. Yovits about
12:20 15 Mr. Clayton?

12:20 16 A That he was the person who was responsible for
12:20 17 documentation at the time, that he may have copies of
12:20 18 the manuals available.

12:20 19 Q Okay. So you haven't seen -- since you were --
12:20 20 since you were first contacted by Mr. Yovits in this
12:20 21 case, have you seen the CBR Express User's Guide?

12:20 22 A Yes.

12:20 23 Q Okay. And have you seen the reference manual?

12:20 24 A I've seen pieces of the reference manual. They
12:20 25 were provided to me.

12:20 1 Q And who did -- who provided those to you?

12:20 2 A Mr. Yovits.

12:20 3 Q When did Mr. Yovits provide the user's guide to
12:21 4 you?

12:21 5 A That would have been, I guess, June 20th [sic],
12:21 6 which is the date of the declaration, if I'm not
12:21 7 mistaken.

12:21 8 Q Did he also provide the reference manual or the
12:21 9 pieces of the reference manual at that time?

12:21 10 A Yes.

12:21 11 Q And do you know how Mr. Yovits got the
12:21 12 documents that he provided to you?

12:21 13 A No.

12:21 14 Q Have you seen a copy of the ART-IM Reference
12:21 15 Manual?

12:21 16 A No.

12:21 17 Q Did Mr. Clayton say he had a copy of that?

12:21 18 A I believe he said he was going to look for one.

12:21 19 Q After your initial contact with Mr. Clayton
12:22 20 where he said -- that you described, did you have any
12:22 21 further follow up with Mr. Clayton?

12:22 22 A No.

12:22 23 Q Have you spoken with Mr. Clayton since that
12:22 24 call?

12:22 25 A No.