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

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

BRIGHT RESPONSE, LLC'S RESPONSE TO DEFENDANTS' JOINT MOTION IN LIMINE NO. 11 (INDIRECT INFRINGEMENT)

Plaintiff Bright Response, LLC ("Bright Response") files this response to Defendants' Joint Motion in Limine No. 11 (Dkt. No. 447) concerning the indirect infringement theories. This response disputes the relief requested only with regard to Defendant AOL. Defendant AOL cannot be surprised or prejudiced by any assertion of an indirect infringement theory, i.e., active inducement, because by its own responses to requests for admissions AOL has admitted the necessary interaction with its co-defendant Google: "AOL's search results returned in response to search queries at search.aol.com and AOL's Search Marketplace are implemented by Google, and AOL lacks sufficient information regarding Google's implementation of these search results or of AOL Search Marketplace to respond to this request." Wiley Decl. Ex. A. "Whoever actively induces infringement of a patent shall be liable as an infringer." 35 U.S.C. § 271(b). As inducement can be demonstrated with evidence that the alleged inducer knew of the patent, knowingly induced the infringing acts, and possessed a specific intent to encourage another's infringement of the patent, the theory is viable as to AOL based on the above-referenced admission. *See DSU Med. Corp. v. JMS Co.*, 471 F.3d 1293, 1304 (Fed. Cir. 2006).

Dated: July 26, 2010

Respectfully submitted,

By: /s/ Elizabeth A. Wiley
Elizabeth A. Wiley

Andrew W. Spangler
LEAD COUNSEL
SPANGLER LAW P.C.
208 N. Green Street, Suite 300
Longview, Texas 75601
(903) 753-9300
(903) 553-0403 (fax)
spangler@spanglerlawpc.com

David M. Pridham
LAW OFFICE OF DAVID PRIDHAM
25 Linden Road
Barrington, Rhode Island 02806
(401) 633-7247
(401) 633-7247 (fax)
david@pridhamiplaw.com

John C. Hueston
CA SBN 164921
IRELL & MANELLA, LLP
840 Newport Center Dr., Suite 400
Newport Beach, CA 92660
Tel: (949) 760-0991
Fax: (949) 760-5200
Email: jhueston@irell.com

Adam S. Goldberg
CA SBN 250172
IRELL & MANELLA, LLP
1800 Avenue of the Stars, Suite 900
Los Angeles, CA 90067
Tel: (310) 203-7535
Fax: (310) 203-7199
Email: agoldberg@irell.com

Elizabeth A. Wiley
Texas State Bar No. 00788666
THE WILEY FIRM PC
P.O. Box. 303280
Austin, Texas 78703-3280
Telephone: (512) 560.3480
Facsimile: (512) 551.0028
Email: lizwiley@wileyfirmpc.com

Marc A. Fenster
CA Bar No. 181067
mfenster@raklaw.com
Alexander C. Giza
CA Bar No. 212327
agiza@raklaw.com
Andrew Weiss
CA Bar No. 232974
aweiss@raklaw.com
Adam Hoffman
CA Bar No. 218740
ahoffman@raklaw.com
RUSS, AUGUST & KABAT
12424 Wilshire Blvd., 12th Floor
Los Angeles, CA 90025
(310) 826-7474
(310) 826-6991 (fax)

Patrick R. Anderson
PATRICK R. ANDERSON PLLC
4225 Miller Rd, Bldg. B-9, Suite 358
Flint, MI 48507
(810) 275-0751
(248) 928-9239 (fax)
patrick@prapllc.com

CERTIFICATE OF SERVICE

I certify that counsel of record who are deemed to have consented to electronic service are being served this 26th day of July, 2010, with a copy of this document via the Court's CM/ECF systems per Local Rule CV-5(a)(3). Any other counsel will be served electronic mail, facsimile, overnight delivery and/or First Class Mail on this date.

\s\ Elizabeth A. Wiley
Elizabeth A. Wiley