

EXHIBIT E

From: Sherwin, Scott [SherwinS@howrey.com]
Sent: Friday, July 30, 2010 7:56 AM
To: Andrea P Roberts; Andrew Spangler; Amy Candido
Cc: Jennifer P. Ainsworth; Bright Response; David Pridham; Polaris Google Team; Rooklidge, William; White, Jason; Yovits, Steven; Shah, Mansi; jthane@haltomdoan.com; _Doan, Jennifer; Liz Wiley
Subject: RE: Agreement re: Demonstratives Etc.
Attachments: ATT00001.txt

Counsel,

Yahoo!'s witness list:

Live: Branting, James Allan, Woodford, Nilsson, Kolm, Yan, Bradley Allen, and Williams.

Depo witnesses: Rice, Angotti, Piccolo, Cohen, Klahr, Croxall, Pridham, Representative of Clear With Computers (Hepburn), Representative of Acclaim Financial Group (Wiley), Representative of IP Navigation Group (Weiss), and Representative of Bright Response (Sheafe).

Live witnesses Yahoo! may present at trial if the need arises: Yeh and Kannan.

Regards,
Scott

Scott D. Sherwin
Associate

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From: Andrea P Roberts [mailto:andreaproberts@quinnemanuel.com]
Sent: Friday, July 30, 2010 9:52 AM
To: 'Andrew Spangler'; Amy Candido
Cc: 'Jennifer P. Ainsworth'; 'Bright Response'; 'David Pridham'; Polaris Google Team; Rooklidge, William; White, Jason; Yovits, Steven; Sherwin, Scott; Shah, Mansi; _jthane@haltomdoan.com; _Doan, Jennifer; 'Liz Wiley'
Subject: RE: Agreement re: Demonstratives Etc.

Counsel,

Google's witnesses:

Live: Branting, Fox, Bakewell, Antos, Huber, Furrow, Bradley Allen, Williams, Ancone

Depo witnesses: Rice, Angotti, Piccolo, Cohen, Klahr, Croxall, Pridham, Representative of Clear With Computers (Hepburn), Representative of Acclaim Financial Group (Wiley), Representative of IP Navigation Group (Weiss), Representative of Bright Response (Sheafe)

Live witnesses Google may present at trial if the need arises: Menzel, Wright, Rudys, Wagner, Lee

Andrea Pallios Roberts

Quinn Emanuel Urquhart & Sullivan, LLP

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From: Andrew Spangler [mailto:Andrew@spanglerlawpc.com]

Sent: Friday, July 30, 2010 9:19 AM

To: Amy Candido

Cc: Jennifer P. Ainsworth; Bright Response; David Pridham; Polaris Google Team; William Rooklidge; Jason White; Steven Yovits; Sherwin, Scott; Shah, Mansi; Josh Thane; Jennifer Haltom Doan; Liz Wiley; Andrea P Roberts

Subject: RE: Agreement re: Demonstratives Etc.

Amy,

For some reason I am not surprised at any of this. We hope to see your list before trial.

From: Amy Candido [mailto:amycandido@quinnemanuel.com]

Sent: Friday, July 30, 2010 9:16 AM

To: Andrew Spangler

Cc: Jennifer P. Ainsworth; Andrew Spangler; Bright Response; David Pridham; Polaris Google Team; William Rooklidge; Jason White; Steven Yovits; Sherwin, Scott; Shah, Mansi; Josh Thane; Jennifer Haltom Doan; Liz Wiley; Andrea P Roberts

Subject: Re: Agreement re: Demonstratives Etc.

Andrew,

Speaking only for Google, we understood we would agree on the time to exchange. Unilaterally sending your list over before 9 am and demanding a response in 14 minutes does not work when we have people who need to sign off in transit. Nevertheless, we are trying to get sign off and the list over to you asap (within the hour).

Amy

On Jul 30, 2010, at 8:59 AM, "Andrew Spangler" <Andrew@spanglerlawpc.com> wrote:

Our witness list:

Live witnesses - Sheafe, Rhyne,, Rice, Becker

Witness by video - Ancone, Yeh, Lee, Wright, Kannan, Yan, Rudys, Croxall, Spangenberg, Menzel, and Klar

Please provide your list by 9:14 a.m.

From: Jennifer P. Ainsworth [mailto:JAinsworth@wilsonlawfirm.com]
Sent: Thursday, July 29, 2010 11:36 PM
To: Andrew Spangler; Amy Candido
Cc: Bright Response; David Pridham; Polaris Google Team; William Rooklidge; Jason White; Steven Yovits; Sherwin, Scott; Shah, Mansi; Josh Thane; Jennifer Haltom Doan; Liz Wiley; Andrea P Roberts
Subject: Re: Agreement re: Demonstratives Etc.

All,

Given the hour, our response may be first thing in the morning. One thing to convey is that we will want to do the meet and confer on depositions and exhibits at 3:00 or 4:00 pm rather than 1:00 pm tomorrow.

From: "Andrew Spangler" <Andrew@spanglerlawpc.com>

Date: Thu, 29 Jul 2010 22:43:05 -0500

To: Amy Candido<amycandido@quinnemanuel.com>; Jennifer Ainsworth<jainsworth@wilsonlawfirm.com>; Andrew Spangler<Andrew@spanglerlawpc.com>

Cc: Bright Response<brightresponse@raklaw.com>; David Pridham<David@PridhamIPLaw.com>; Polaris Google Team<PolarisGoogleTeam@quinnemanuel.com>; Jennifer Ainsworth<jainsworth@wilsonlawfirm.com>; William C. Rooklidge<rooklidge@howrey.com>; Jason White<whitej@howrey.com>; Steven Yovits<YovitsS@howrey.com>; Sherwin, Scott<SherwinS@howrey.com>; Shah, Mansi<ShahM@howrey.com>; Josh Thane<jthane@haltomdoan.com>; Jennifer Haltom Doan<jdoan@haltomdoan.com>; Liz Wiley<lizwiley@wileyfirm.com>; Andrea P Roberts<andreaproberts@quinnemanuel.com>; Bright Response Team<brightresponse@raklaw.com>; David Pridham<David@PridhamIPLaw.com>

Subject: RE: Agreement re: Demonstratives Etc.

Amy,

We have carefully considered your proposal and offer the following in an attempt to prepare this case for trial and make efficient use of all the parties' time.

At the outset, we believe that it makes sense for both sides to come clean on who each party honestly believes it will be calling at trial. We are prepared to disclose both our live witness list and our deposition designation list to you. When you are ready to do the same we can exchange. We would ask that all parties take this seriously. This does not mean that under special circumstances a witness not on the list might need to be called but would hope that no sandbagging would take place here. Whenever we exchange, we think meeting at the Baxter building (in the large conference room this time) should take place a few hours later as this needs to be addressed quickly. Even with drastic reductions (which we assume will take place) there will still be a lot of objections to work through. Thus, the earliest Defendants can be ready the better. Bright Response can be ready by 9 a.m. tomorrow. When we meet at the Baxter building we should also be prepared to discuss exhibits. As I understand it Defendants have over 1,000 exhibits with Bright Response objecting to over 700 of them and Bright Response has over 900 exhibits with over 800 still objected to. I am sure you can agree this needs to get addressed immediately. Let me know your thoughts on how to address this.

- 1) The parties exchange demonstratives to be used with openings by 8 pm the night before openings and by 8 pm the night before closings. This is acceptable.
- 2) The parties provide a list of witnesses to take the stand and a list of any deposition designations (by page and line number) to be played by 7 pm two days before the witness is to take the stand or the designations are to be played (i.e., the list Monday night specifies Wednesday's witnesses and designations). The live witnesses will be called in the order listed. We are generally fine with this except for a few caveats. First, this needs to be done in the context of agreeing above to drastically reduce list to those witnesses we truly intend to call. We also need to work out a procedure now on how to handle the combination of the videos with both sides cuts to be played at trial.
- 3) The parties provide any demonstratives to be used on direct exam of its witnesses by 8 pm the night before the witness is to take the stand. The parties agree to meet and confer before raising any objections with the Court. This is acceptable.

- 4) There is no exchange of any NON-DEMONSTRATIVE exhibits to be used with any witness on direct or cross, and there is no exchange of demonstratives to be used for cross witnesses. If a party provides a binder of exhibits to a witness, the party will provide 2 copies to the opposing side at the same time as it provides the binder to the witness. All of this is acceptable except that we do not agree that 2 copies should be provided to the other side if a binder is being used on cross. We do agree to this approach on direct.

Let me know your thoughts as soon as possible.

From: Amy Candido [mailto:amycandido@quinnemanuel.com]
Sent: Thursday, July 29, 2010 3:16 PM
To: Amy Candido; Andrew Spangler; 'Jennifer Ainsworth'
Cc: 'Bright Response'; 'David Pridham'; Polaris Google Team; 'Jennifer Ainsworth'; 'William C. Rooklidge'; 'Jason White'; 'Steven Yovits'; 'Sherwin, Scott'; 'Shah, Mansi'; 'Josh Thane'; 'Jennifer Haltom Doan'; 'Liz Wiley'; Andrea P Roberts; 'Bright Response Team'; 'David Pridham'
Subject: Agreement re: Demonstratives Etc.

Bright Response Team,

Please let us know if this revised proposal is acceptable to you as soon as possible, as Monday is fast approaching.

Regards,

Amy

From: Amy Candido
Sent: Wednesday, July 28, 2010 8:54 PM
To: 'Andrew Spangler'; 'Jennifer Ainsworth'
Cc: 'Bright Response'; 'David Pridham'; Polaris Google Team; 'Jennifer Ainsworth'; 'William C. Rooklidge'; 'Jason White'; 'Steven Yovits'; 'Sherwin, Scott'; 'Shah, Mansi'; 'Josh Thane'; 'Jennifer Haltom Doan'; 'Liz Wiley'; Andrea P Roberts; 'Bright Response Team'; 'David Pridham'
Subject: RE: Bright Response - Issues To Discuss Promptly

Andrew,

I am writing to follow-up on prior discussions regarding the disclosure of witnesses, demonstratives etc. issues for trial. Here is our response to your proposal:

- 1) The parties exchange demonstratives to be used with openings by 8 pm the night before openings and by 8 pm the night before closings.
- 2) The parties provide a list of witnesses to take the stand and a list of any deposition designations (by page and line number) to be played by 7 pm two days before the witness is to take the stand or the designations are to be played (i.e., the list Monday night specifies Wednesday's witnesses and designations). The live witnesses will be called in the order listed.
- 3) The parties provide any demonstratives to be used on direct exam of its witnesses by 8 pm the night before the witness is to take the stand. The parties agree to meet and confer before raising any objections with the Court.
- 4) There is no exchange of any NON-DEMONSTRATIVE exhibits to be used with any witness on direct or cross, and there is no exchange of demonstratives to be used for cross witnesses. If a party provides a binder of exhibits to a witness, the party will provide 2 copies to the opposing side at the same time as it provides the binder to the witness.

Please let me know if Plaintiff will agree to this compromise.

Thanks,

Amy