

# EXHIBIT J

## Emily O'Brien

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**From:** Christin Cho [christin@dovellaw.com]  
**Sent:** Tuesday, March 03, 2009 10:19 AM  
**To:** Emily O'Brien  
**Cc:** greg@dovellaw.com; Google-Performance Pricing; 'Michael Richardson'; dbeck@brsfirm.com  
**Subject:** RE: Performance Pricing v. Google Inc. et al.

Emily,

Jacobs Chuck is inapplicable because, among other things, Defendants have already disclosed their claim construction positions. The matter is not closed. Google is knowingly withholding relevant discovery. Plaintiff will give Google until Thursday, March 5, 2009, to provide full and complete responses to the interrogatories, and a date with 10 days for the 30(b)(6) deposition.

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**From:** Emily O'Brien [mailto:emilyobrien@quinnemanuel.com]  
**Sent:** Monday, March 02, 2009 5:45 PM  
**To:** 'christin@dovellaw.com'  
**Cc:** 'greg@dovellaw.com'; Google-Performance Pricing; 'Michael Richardson'; 'dbeck@brsfirm.com'  
**Subject:** Performance Pricing v. Google Inc. et al.

Please see attached correspondence regarding contention discovery, in response to your e-mail of February 24, 2009.

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**From:** Christin Cho [mailto:christin@dovellaw.com]  
**Sent:** Wednesday, February 25, 2009 8:12 PM  
**To:** Emily O'Brien; David Perlson; Google-Performance Pricing  
**Cc:** greg@dovellaw.com; christin@dovellaw.com  
**Subject:** Cho to O'Brien 2/24/09 re discovery in Performance Pricing

Dear Emily,

I write regarding Plaintiff's Notice of Rule 30(b)(6) deposition of Google and Plaintiff's request that Google supplement its response to Performance Pricing's Interrogatory No. 1. We are disappointed to see that Google has reneged on its agreement to supplement its response to Plaintiff's Interrogatory

3/27/2009

No. 1, and are concerned that this is a delay tactic.

The following summarizes our interactions:

- On August 21, 2008, Plaintiff served its first set of interrogatories.
- Interrogatory No. 1 asked Google to “set forth in specific detail each fact, opinion, argument, inference, and Document that supports your contention that you have not infringed any claim of the ‘235 Patent (including the name, address, and telephone number of each person who has firsthand knowledge or possession of each such fact, opinion, and Document).”
- On September 19, 2008, Google responded to the interrogatory. Its response to Interrogatory No. 1 included the following statement: “Google contends that to the extent the claims can be understood at this time, at least the following elements [a through s] of the independent and dependent claims of the ‘253 Patent are not present in aspects of Google AdWords that may be accused in this case.” Google’s Response to Performance Pricing’s First Set of Interrogatories, September 19, 2008. Google’s response did not include a description of any facts, opinions, arguments, or inferences supporting that contention. *See id.*
- On December 30, 2008, Plaintiff served its Notice of Rule 30(b)(6) deposition of Google. The topic of the deposition was a “detailed identification of all facts and documents that address whether Google’s Accused Systems include each part of each of the following steps [a through g] from the ‘253 patent.” *See Plaintiff’s Notice of Rule 30(b)(6) Deposition.*
- On January 6, 2009, David Perlson wrote me a letter stating that Google objected to the deposition notice.
- On January 8, 2009, the parties met and conferred. During the call, David Perlson asked Plaintiff why it did not pursue its requested discovery by first asking Google about its response to Interrogatory No. 1.
- On January 12, 2009, I requested over email that Google supplement its response to Interrogatory No. 1.
- On January 15, 2009, Google suggested a compromise position under which it would supplement its response to Plaintiff’s Interrogatory No. 1.
- On January 27, 2009, the parties again met and conferred. During the call, Plaintiff agreed that if the information received from the supplemental interrogatory response was sufficiently detailed, it would not be necessary to go forward with the Rule 30(b)(6) deposition noticed to Google. During the call, Google agreed to “provide a non-final and non-binding draft of [Interrogatory No. 1] to Plaintiff that provides further explanation of why Google contends that Plaintiff’s Infringement Contentions do not demonstrate that the identified elements of the ‘253 Patent are present in the accused products. Plaintiff would then review to determine whether the response provides the type of information Plaintiff seeks.” Google agreed to provide the supplementation by February 13, 2009. Letter from O’Brien to Cho Regarding Discovery in Performance Pricing, January 30, 2009.
- On February 11, 2009, David Perlson informed me at the deposition of Neal Cohen that Google would not be able to meet the February 13 deadline, and that Google’s supplementation would be a couple of days late.

- On February 17, 2009, Emily O'Brien sent me an email confirming that it would still provide a supplementation to Plaintiff's Interrogatory No. 1. The letter stated "As we mentioned to you at the deposition of Neal Cohen on Wednesday, we are still working on this draft, and anticipate having it to you this week." Letter from O'Brien to Cho Regarding Contention Discovery, February 17, 2009.
- On February 19, 2009, I received another email from Emily O'Brien. It stated that Google did not plan on supplementing the interrogatory response, as previously agreed by the parties, until it received Plaintiff's position on the *Jacobs Chuck* case. Letter from O'Brien to Cho Regarding Contention Discovery, February 19, 2009.

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