EXHIBIT B

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January 6, 2009

Christin Cho
Dovel & Luner, LLP
201 Santa Monica Blvd., Suite 600
Santa Monica, CA 90401

Dear Christin:

I write regarding Plaintiff's Rule 30(b)(6) deposition notice served on December 30, 2008. Plaintiff's notice is problematic on several grounds.

At the outset, Plaintiff's notice that simply identifies a date and location of its own choosing, without prior consultation, is contrary to Eastern District of Texas local practice. Google is not able to produce to a witness on the date selected. Nor is the 15-day window adequate notice to prepare for the deposition, especially given that Plaintiff chose to serve the notice during the holidays when many people were out of the office.

Further, Plaintiff's notice, which essentially seeks Google's non-infringement contentions, is also objectionable for its content.

First, it is overbroad, unduly burdensome, and oppressive, in particular to the extent it seeks a "detailed identification of all facts and documents" regarding Google's non-infringement position. Plaintiff's notice purports to demand that the designated witness set forth in full detail every item of evidence and every fact or document had any tendency to help support any position Google may take in rebutting Plaintiff's claim of infringement. However, Plaintiff has asserted its patent broadly and has given very little information as to what aspects of the accused products supposedly infringe. Thus, it is impossible to identify an individual with knowledge of all facts or documents regarding all aspects of the accused products, let alone knowledge of the law. Indeed, Plaintiff's notice seeks judgments and knowledge about the relationship between at least three kinds of things: (1) evidence/facts/events in the real world (outside litigation); (2) "claims" as set forth in the patent in issue; and (3) principles of patent law set forth in statutes and in judicial opinions. A deponent might have great knowledge about the products in issue, but be quite ill-equipped to reason reliably about the legal implications of the relationship between those products, or their components, and the identified elements of the patent in suit.

The notice also asks Google to prove a negative — i.e. that it does not infringe. But given the breadth of the definition of "Accused Systems," any number of facts and documents could show that the "Accused Systems" do not meet the listed elements that have no cognizable relevance to this case.

Google further objects to the notice as premature. The parties are currently engaging in claim construction procedures set by the local patent rules and the Court's Docket Control Order, and the Court has issued no construction of the claims. For example, the Joint Claim Construction and Pre-Hearing Statement is not due until January 30, 2009. Defendants' Responsive Claim Construction brief is not due until May 15, 2009. And the Markman hearing is not until June 18, 2009. Patent Local Rule 2-5(a) states that a party may object to discovery that seeks to "elicit a party's claim construction position" on the ground that they are premature in light of the timetable provided in the Patent Rules. Here, the requested "facts" that would support Google's non-infringement position would necessarily overlap with Google's claim construction positions and thus, Plaintiff's Notice is contrary to the case schedule set forth above and timetable of local patent rules.

It is also wasteful given that Google's non-infringement positions may be affected by the Court's ultimate claim construction. It thus makes no sense to take Plaintiff's requested deposition at this time. Instead, these issues are more appropriately addressed later, following the Court's construction of the claims at issue and/or in connection with expert discovery. Indeed, it calls for testimony that will likely be the subject of expert testimony and the parties have not yet identified their experts.

Google further objects to this topic to the extent that it calls for information that is protected by the attorney-client privilege, the work-product doctrine, or any other applicable privilege or protection. Google further objects to this topic to the extent that it calls for a legal conclusion.

Please confirm promptly that Plaintiff will withdraw its improper notice. Otherwise, we will need to set up a meet and confer as Google intends to move for a protective order if Plaintiff insists on proceeding with this improper deposition as noticed.

Sincerely,

/s/

David A. Perlson