

EXHIBIT E

Emily O'Brien

From: Christin Cho [christin@dovellaw.com]
Sent: Thursday, January 22, 2009 5:08 PM
To: Emily O'Brien; David Perlson
Cc: greg@dovellaw.com; Google-Performance Pricing
Subject: RE: Google's interrogatory Response
Attachments: Mymail v. AOL - early contention discovery (Davis).pdf

Emily,

I write in response to your letter of January 15, 2009 regarding Google's response to Plaintiff's 30(b)(6) notice to Google. As previously indicated, Plaintiff views its 30(b)(6) notice as separate from its request that Google supplement its interrogatory response. Thus, we address these issues separately.

The information sought by Plaintiff in its original 30(b)(6) notice is relevant to the litigation, and relevant information "is discoverable as soon as it become relevant; parties do not have authority to determine when information will be disclosed." *MyMail v. AOL* (order attached). Thus, Plaintiff believes that it has a right to proceed on the noticed 30(b)(6). In the letter, you suggested that as a compromise, Google would agree to provide a Rule 30(b)(6) witness to testify in response to a deposition notice regarding how the operation of relevant aspects of Google's accused products identified in Plaintiff's infringement contentions work. This proposal is ambiguous. If by "relevant" aspects, Google means that it will provide witnesses who can identify the facts and documents that explain whether AdWords performs the elements identified in the deposition notice, then this is acceptable. If Google has something else in mind, then this is unacceptable. Unless you respond otherwise, I will assume that the latter is the case and, in that light, this proposal will not work. Thus, the parties remain at an impasse.

Thanks,

Christin

From: Emily O'Brien [mailto:emilyobrien@quinnemanuel.com]
Sent: Thursday, January 15, 2009 2:49 PM
To: 'christin@dovellaw.com'
Cc: 'greg@dovellaw.com'; Google-Performance Pricing; 'Michael Richardson'; 'dbeck@brsfirm.com'; 'chenry@capshawlaw.com'; 'Calvin Capshaw'; 'Elizabeth DeRieux'; 'charley@pbatyler.com'; 'rcbunt@pbatyler.com'
Subject: RE: Google's interrogatory Response

Please see attached correspondence.

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3/27/2009

From: Christin Cho [mailto:christin@dovellaw.com]
Sent: Monday, January 12, 2009 6:20 PM
To: David Perlson; Emily O'Brien; Google-Performance Pricing
Cc: greg@dovellaw.com
Subject: Google's interrogatory Response

David,

As you suggested in our call last Thursday, Plaintiff requests that Google supplement its responses to Performance Pricing's first set of interrogatories.

Interrogatory 1 requested that Google "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)."

In its response, 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." However, Google fails to set forth each fact, opinion, argument, or inference supporting that contention. Nor does it identify any persons with firsthand knowledge or possession of each such fact or opinion. Please confirm that Google will supplement its interrogatory response to set forth each of those facts, opinions, arguments, and inferences, as well as identify the persons with knowledge. Because, as discussed in the call, time is of the essence, Plaintiff believes that two weeks will be sufficient for Google's supplemental response. Please let me know if that time-frame is agreeable.

Thanks,

Christin Cho
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