

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

NORTHEASTERN UNIVERSITY and
JARG CORPORATION

Plaintiffs,

v.

GOOGLE, INC.

Defendant.

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Case No. 2:07-CV-486-CE

**NORTHEASTERN UNIVERSITY’S OBJECTIONS TO DEFENDANT GOOGLE INC.’S
NOTICE OF DEPOSITION PURSUANT TO RULE 30(b)(6)**

Plaintiff Northeastern University (“Northeastern”) objects to the Rule 30(b)(6) deposition notice (“Notice”) served by Defendant Google Inc. (“Google”) as follows:

GENERAL OBJECTIONS

Northeastern objects that Google has styled the Notice as its “First Notice of Deposition to Plaintiff Northeastern University.” According to Rule 30(a)(2)(A)(ii) of the Federal Rules of Civil Procedure, Google may only take a single deposition of a party. As such, absent leave from the Court, Google will not be permitted to take another Rule 30(b)(6) deposition of Northeastern.

Northeastern also objects to the timing of the deposition specified in the Notice as being inconvenient, and indeed impossible,¹ for Northeastern and its counsel. Northeastern’s counsel has conferred with Google’s counsel and offered alternate dates for these depositions.

Northeastern objects to each of the Deposition Topics in the Notice to the extent they may call for information protected by the attorney-client privilege or work product doctrine.

Northeastern further objects to each of the Deposition Topics in the Notice as unduly burdensome to the extent those topics are duplicative of Plaintiffs' Disclosure of Asserted Claims and Infringement Contentions and documents already produced to Google. Northeastern further objects to the extent that obtaining the corresponding information from other discovery sources is less burdensome, more convenient, or less expensive.

By making these General Objections and by making the additional objections below, Northeastern does not waive its right to object on the record during any deposition pursuant to the Notice or to otherwise raise objections at any other time. This paragraph shall be read as if repeated in full in and incorporated into each of the paragraphs reciting additional objections below.

DEPOSITION TOPICS

TOPIC NO. 1:

1. The basis and foundation for Northeastern's contention in paragraphs 26 and 29 of the Complaint (Dkt. # 1-1) that Google infringes any claim of the '593 patent, whether directly or indirectly, literally or under the doctrine of equivalents.

OBJECTIONS TO TOPIC NO. 1:

Northeastern objects to this request as unduly burdensome because it is duplicative of information already provided to Google in this litigation. As required under P.R. 3-1, Northeastern provided Google with its Disclosure of Asserted Claims and Infringement Contentions on September 9, 2008. That disclosure provided the basis and foundation for Northeastern's infringement contentions based on information reasonably available to Northeastern as of that date. Likewise this deposition is burdensome and unnecessary in light of the fact that information regarding Plaintiffs' infringement contentions may be obtained through

¹ Google noticed these depositions for dates that occurred in September "2004," prior to the start of this litigation.

written and expert discovery.

Northeastern further objects to this request as it is premature in light of the fact that Northeastern has not yet received any discovery whatsoever from Google. Northeastern's fact analysis and investigation is ongoing and any information provided through this deposition will not be exhaustive, nor will it necessarily reflect Northeastern's final contentions in this case, which may change, *inter alia*, based on discovery obtained in this case.

Northeastern further objects to this request to the extent it calls for information protected by attorney-client privilege and/or the attorney work product doctrine. Northeastern also objects to the extent this request calls for legal conclusions and expert testimony.

Subject to these objections and to the general objections above, Northeastern will offer a witness or witnesses to testify at a depth commensurate with the generality of this Topic.

TOPIC NO. 2:

2. Northeastern's P.R. 3-1 Infringement Contentions, the basis and foundation therefore, and any documents or things related thereto that form the basis for your allegations that each and every element of the asserted claims are infringed by Google.

OBJECTIONS TO TOPIC NO. 2:

Northeastern objects to this request as unduly burdensome because it is duplicative of information already provided to Google in this litigation. As required under P.R. 3-1, Northeastern provided Google with its Disclosure of Asserted Claims and Infringement Contentions on September 9, 2008. That disclosure provided the basis and foundation for Northeastern's P.R. 3-1 Infringement Contentions based on information reasonably available to Northeastern as of that date. Likewise this deposition is burdensome and unnecessary in light of the fact that information regarding Plaintiffs' infringement contentions may be obtained through

written and expert discovery.

Northeastern further objects to this request as it is premature in light of the fact that Northeastern has not yet received any discovery whatsoever from Google. Northeastern's fact analysis and investigation is ongoing and any information provided through this deposition will not be exhaustive, nor will it necessarily reflect Northeastern's final contentions in this case, which may change, *inter alia*, based on discovery obtained in this case.

Northeastern further objects to this request to the extent it calls for information protected by attorney-client privilege and/or the attorney work product doctrine. Northeastern also objects to the extent this request calls for legal conclusions and expert testimony.

Subject to these objections and to the general objections above, Northeastern will offer a witness or witnesses to testify at a depth commensurate with the generality of this Topic.

TOPIC NO. 3:

Any Google technology, product(s), or service(s) tested by Jarg or Northeastern for purposes of the Present Litigation, the circumstances and results of any such tests, and any documents or things related thereto.

OBJECTIONS TO TOPIC NO. 3:

Northeastern objects to this request as unduly burdensome because it is duplicative of information already provided to Google in this litigation. As required under P.R. 3-1, Northeastern provided Google with its Disclosure of Asserted Claims and Infringement Contentions on September 9, 2008. That disclosure provided the basis and foundation for Plaintiffs' infringement contentions based on information reasonably available to Northeastern as of that date. Likewise this deposition is burdensome and unnecessary in light of the fact that information regarding Plaintiffs' infringement contentions may be obtained through written and

expert discovery.

Northeastern further objects to this request as it is premature in light of the fact that Northeastern has not yet received any discovery whatsoever from Google. Northeastern's fact analysis and investigation is ongoing and any information provided in this deposition will not be exhaustive, nor will it necessarily reflect Northeastern's final contentions in this case, which may change, *inter alia*, based on discovery obtained in this case.

Northeastern further objects to this request to the extent it calls for information protected by attorney-client privilege and/or the attorney work product doctrine. Northeastern also objects to the extent this request calls for legal conclusions and expert testimony.

Subject to these objections and to the general objections above, Northeastern will offer a witness or witnesses to testify at a depth commensurate with the generality of this Topic.

Dated: September 16, 2008

Respectfully submitted,

/s/ Michael Valek

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing this document was served on all counsel of record on September 16, 2008 in the manner indicated below.

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