

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

IP INNOVATION L.L.C. AND
TECHNOLOGY LICENSING CORPORATION,

Plaintiffs,

v.

GOOGLE INC.,

Defendant.

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CASE NO. 2:07CV-503-LED

JURY TRIAL REQUESTED

**DEFENDANT AND COUNTERCLAIM-PLAINTIFF GOOGLE INC.'S
UNOPPOSED MOTION FOR LEAVE TO SUPPLEMENT INVALIDITY CONTENTIONS**

Defendant and Counterclaim-Plaintiff Google Inc. (“Google”) respectfully moves to supplement its invalidity contentions pursuant to Local Patent Rule 3-6(b), and in support thereof states as follows:

1. On August 25, 2008, Google complied with P.R. 3-3 and served its invalidity contentions, including all relevant art of which Google’s counsel was aware.
2. On November 9, 2009, a video – the Eames, Charles and Eames, Ray, “Powers of Ten,” The Office of Charles and Ray Eames, 1977 (the “Powers of Ten Video”) – came to the attention of Google’s counsel for the first time.
3. On November 11, 2009, Google produced two versions of the Powers of Ten Video to Plaintiffs.
4. On November 24, 2009, Google requested that Plaintiffs assent to the supplementation of Google’s invalidity contentions to include the Powers of Ten Video.

5. On December 9, 2009, the parties' served their respective opening expert reports. One of the reports served by Google on that date is the Expert Report of Norman Badler, Ph.D. Regarding Invalidity of the Asserted Claims of U.S. Patent No. 5,276,785. Dr. Badler's report includes the bases on which Google seeks to use the Powers of Ten Video to support its invalidity contentions. Rebuttal reports are due on January 6, 2010.

6. On December 16, 2009, Plaintiffs informed Google they do not oppose this motion. The parties do not seek to change any due dates under the Court's Docket Control Order.

7. Despite Google's best efforts to identify relevant prior art before serving its invalidity contentions on August 25, 2008, Google learned of the Powers of Ten Video only recently, and promptly produced it to Plaintiffs and sought their assent to permit Google to supplement its invalidity contentions. Google has not intentionally delayed in learning of this important prior art reference, or disclosing it to Plaintiffs.

8. Google will serve its supplemental invalidity contentions by December 21, 2009, or as soon thereafter as the Court's ruling on Google's unopposed motion for leave to supplement its invalidity contentions permits.

Google respectfully requests this Court grant its unopposed motion seeking leave to supplement its invalidity contentions to add the Powers of Ten Video pursuant to Local Patent Rule 3-6.

Dated: December 18, 2009

Respectfully submitted,

By: /s/ David J. Beck

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Attorneys for Defendant and
Counter-Claim Plaintiff Google Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this motion was served on all counsel who have consented to electronic service. Local Rule CV-5(a)(3)(A).

/s/ Michael E. Richardson

Michael E. Richardson

CERTIFICATE OF CONFERENCE

Counsel for Google Inc., Mark Matuschak, Elizabeth Rogers Brannen, and Brad Coffey, have conferred with Counsel for Plaintiffs IP Innovation L.L.C. and Technology Licensing Corporation, Doug Hall, Paul Gibbons, and Johnny Ward, regarding the foregoing motion and Plaintiffs are unopposed to same.

/s/ Michael E. Richardson

Michael E. Richardson