

“Google’s current trademark policy” and their vague reliance on Defendants’ Barker Declaration further illustrates the defects in the Fenster Declaration. Therefore, Defendants ask the Court to strike Paragraph No. 2 and Exhibit A of the Fenster Declaration.

B. THE FENSTER DECLARATION-PARAGRAPH NOS. 5 & 6.

Defendants’ objections to Paragraph Nos. 5 and 6 and Exhibits C and D of the Fenster Declaration remain unrebutted. The statements constitute inadmissible hearsay and are vague, ambiguous, speculative, and conclusory. Fed. R. Evid. 810(c); Burger King, 410 F. Supp.2d at 1255. The fact that the Meyer Declaration is now offered as the person “who actually performed the searches at issue” further demonstrates the defective nature of the Fenster Declaration. Consequently, Defendants ask the Court to strike Paragraph Nos. 5 and 6 and Exhibits C and D of the Fenster Declaration.

II. PRAYER

Defendants respectfully request that their Motion to Strike be granted, and for such further relief to which they are entitled.

Respectfully submitted,

/s/ Charles L. Babcock

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2010, I electronically submitted the foregoing document with the clerk of the court for the U.S. District Court, Eastern District of Texas, using the electronic case files system of the court. The electronic case files system sent a “Notice of Electronic Filing” to individuals who have consented in writing to accept this Notice as service of this document by electronic means. All other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by first class mail today, November 15, 2010.

/s/ Charles L. Babcock

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