

EXHIBIT E

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June 30, 2014

VIA E-MAIL

Mr. John Lahad
Susman Godfrey LLP
1000 Louisiana
Suite 5100
Houston, TX 77002-5096

Re: Rockstar Consortium, et al. v. Google Inc., Case No. 2:13-cv-893 (E.D. Tex.)

Dear John:

I write in response to your letter of June 25, 2014 to Andrea Roberts.

Rockstar's Proposal Regarding References and Combinations

Google cannot accept Rockstar's proposal requiring that "Google identify 50 references by September 16, 2014, wherein each obviousness combination counts as a separate prior art reference, and describe with additional clarity the relevant motivations to combine."

First, September 16, 2014 is the date of Google's Preliminary Election, whereby Google must narrow its references to "not more than a total of 40 references" with no requirement to narrow obviousness combination. The Model Order is designed this way by the Eastern District Of Texas Local Rules Advisory Committee for a reason: "Not imposing this requirement for purposes of the preliminary election gives defendants increased flexibility to develop the appropriate combinations as discovery proceeds." *Id.* at 4. This case is no different. Your proposal effectively reduces Google's defenses to a mere 10 combinations over the 40 references permitted by the Model Order at the Preliminary Election stage. Any such limitation on obviousness combinations severely impacts Google's ability to mount its defense, particularly in light of Rockstar's continued refusal to supplement its infringement contentions to provide sufficient notice of its infringement positions. Additionally, the number of combinations in

Google's invalidity contentions is a direct result of the number of asserted claims Rockstar has chosen to keep in play. Once Rockstar makes its preliminary election of asserted claims, there may significant reductions in the number of combinations.

Your letter fails to cite any case that limits a defendant's well-articulated (though potentially voluminous) invalidity defenses this early stage of litigation. *Realtime Data, LLC v. Packeteer, Inc.* dealt with invalidity arguments raised after the close of expert discovery. Further, in *Realtime*, as you stated in your letter, "the court precluded reliance on two prior art references because they were not charted on a claim-by-claim and element-by-element basis." The references in *Realtime* were listed in an appendix "without any explanation of how the references anticipate or render obvious the asserted claims." *Realtime Data's Reply in Support of Its Motion to Strike at 2* (Oct. 19, 2009). As Google has now explained several times, its invalidity contentions chart each obviousness reference on a claim-by-claim and element-by-element basis.

Second, Rockstar's proposal that Google also "describe with additional clarity the relevant motivations to combine" on September 16 is simply not justified or required. You state that "Google's introduction to each table in Exhibit B simply states that a person of ordinary skill would have been motivated to combine the reference in Exhibit A with any one or more of the Exhibit B references." As discussed during the June 19, 2014 meet and confer, we refer you to pages 11-44 of Google's Invalidity Contentions, which lay out in detail the relevant motivations to combine.

Netgravity and DoubleClick Charts

You demand that Google provide dates for when it will complete its production of Netgravity and DoubleClick documents that it intends to rely on. As Google expressed during the June 19 meet and confer, Google intends to comply with its discovery obligations, as laid out by the Court's procedural schedule in this case, and will produce all relevant documents according to the relevant deadlines. There is no basis for an expedited discovery schedule specific to these two references. Unlike the defendant in *IXYS Corp. v. Advanced Power Technology, Inc.* – who moved to amend its final invalidity contentions past the summary judgment stage based on documents produced well after claim construction and expert reports were completed – Google intends to substantially complete document production according to the Court's deadline of September 16, 2014. As required by the Court's Docket Control Order, we will "make good faith efforts to produce all required documents as soon as they are available and not wait until the substantial completion deadline." May 13, 2014 Docket Control Order at 3.

In an effort to resolve this issue, Google will provide supplemental invalidity charts for DoubleClick and Netgravity on July 2, 2014. We note that the products at issue date back to the late 1990s and were originally developed by non-Google employees, the vast majority of whom are not at Google now. Google is diligently conducting its investigation as to these prior art references. Google will continue to produce documents as they are discovered throughout discovery and Google reserves our right to rely on these documents for invalidity. Again, if you have any specific examples of things you do not understand based on the purported lack of specificity in Google's charts, please let us know.

Infringement Charts

Please confirm whether Rockstar would be similarly willing to provide supplemental infringement contentions on July 14, 2014 to resolve the parties' ongoing dispute on this issue.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Lance Yang". The signature is stylized and cursive.

Lance Yang

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