

Exhibit 9

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August 6, 2014

VIA EMAIL

Ms. Amanda Bonn
Susman Godfrey LLP
1901 Avenue of the Stars
Suite 950
Los Angeles, CA 90067

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

Dear Amanda:

I write to summarize and follow up on our August 1 telephonic meet and confer regarding interrogatories and Rockstar's document requests.

Rockstar's Responses to Google's Interrogatories

You stated that Mr. Lahad will respond to Google's request that Rockstar supplement its responses to Interrogatory Nos. 10 and 11. We provided case law supporting Google's position in my July 16 letter and still do not have an answer as to whether Rockstar will supplement.

List of Accused Functionalities

On July 10 and 11, Mr. Lahad provided us with a list of accused functionalities. My July 16 letter included questions regarding some of the functionalities listed. You indicated that Mr. Lahad will respond to those questions.

quinn emanuel urquhart & sullivan, llp

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Google's Responses to Rockstar's Document Requests

We only addressed those requests that either party had questions about. Although we did not address them in numerical order—having first addressed Rockstar's questions and then Google's—for ease of reference, we've addressed them therein in numeric order.

Request No. 18: My July 16 and July 29 letters explained that this request appears to be duplicative of Request No. 14. During our meet and confer, you confirmed that Request No. 18 is duplicative of Request No. 14 in that it seeks a subset of the documents that Request No. 14 seeks. Both seek documents relating to the operation of non-accused products. As we've previously stated with respect to Request No. 14, we do not believe such documents are relevant to the claims or defenses here.

Request No. 25: In my July 16 and 29 letters, I explained that, in this request, Rockstar is seeking high level documents explaining how ads are priced and what goes on in the back-end for payment to Google in connection with ads. I stated that we were still unsure about what Rockstar means by how ads are "priced." To the extent we understand your phrasing, Ads are "priced" in the auction by determination of actual CPC. Google has produced documents relating to the auction already. During our meet and confer, you explained that as long as Google is searching for such documents in custodial data as well, then this issue is resolved. To the extent that we locate such documents in the extensive searches we are conducting to identify relevant documents, including custodial searches, we will produce what we locate.

Request No. 34: This is one of the requests in which Rockstar asked Google to produce all documents related to a statement on a Google webpage regarding the operation of one of Google's products or services. In this case, as explained in my July 16 and 29 letters, the webpage identified in this request does not contain the language attributed to it, and asked Rockstar if the quoted language is from an earlier version of that page. In my July 29 letter, we asked if Rockstar has a copy of the webpage Rockstar relied upon? During our meet and confer, you stated that the existence of that webpage can be verified using the Wayback Machine.

In any event, our July 29 letter made clear that we've agreed to produce documents, to the extent we have not already done so, regarding the technical operation of the Accused Instrumentalities, which we believe are responsive to this request. We asked Rockstar to explain what types of documents Rockstar is seeking beyond technical documents discussing the operation of Search Ads. Your July 25 email demanded documents regarding the purported removal of the quoted language from Google's webpage, but did not explain what types of documents other than technical operation documents it believes are called for by this request. On our meet and confer, you explained that Rockstar is seeking documents relating to the decision by Google to put the statement in question on its webpage, how it decided to describe its product in that way, and why it decided to remove the language from its webpage. While we appreciate that Rockstar finally provided an explanation, we do not agree that such documents are relevant. If Rockstar has documents relating to how the Accused Instrumentalities operate—which Google agreed to produce—it does not need additional documents relating to the drafting of Google webpages. Thus, Google will produce, to the extent it has not done so already, technical documents responsive to this request.

Request No. 35: This request is similar to No. 34 in that Rockstar seeks documents relating to three statements on Google webpages. Google refers Rockstar to its response to Request No. 34. With respect to the statements “Use matching options with your keywords to help control which searches can trigger your ad” and ““When choosing the appropriate match type for a keyword, we typically recommend starting with broad match to maximize your potential to show your ads on relevant searches,” Google believes that such documents, to the extent they exist, are covered by prior requests and Google has agreed to produce such documents.

With respect to the phrase “Use the search terms report to monitor which keyword variations triggered your ads,” we refer you to our response to Request No. 36.

Request No. 36: This request asks for Google to produce documents relating to “search terms reports” and how they are used. As explained in my July 16 and 29 letters, Rockstar explained that this is relevant because search terms are an element of the asserted claims. Rockstar is trying to determine what the “search terms report” is and how it operates. As further explained in my letters, however, Rockstar’s patents, do not cover search terms. During our meet and confer, you explained that it is Rockstar’s position that its claims read on returning ads based on a search argument, and also read on search refinement. We continue to disagree that such documents are relevant to Rockstar’s claims.

Request No. 44: This request seeks all documents related to the Accused Instrumentalities’ abilities to collect and use prior purchasing information, including through Google Wallet or otherwise, including but not limited to documents related to the use, design, development, testing, and/or modification of this functionality. Rockstar clarified that it is seeking information regarding the design, development, importance, and marketing of such functionality, and how it is used in search and search plus ads. We explained in my July 16 letter that Google does not use user-specific prior purchasing information in Search or Search Ads. Your July 25 email asked that Google provide “a high-level overview of how Google uses any prior purchasing information through Google Wallet or otherwise . . . and provide documents sufficient to allow [Rockstar] to verify that.” In my July 29 letter, we asked that Rockstar explain how any use of prior purchasing information could be relevant to the claims. We further noted that in my June 18 letter, we explained that to the extent that Rockstar is seeking documents relating to the operation of functionalities accused of infringement, such documents (if they exist) have already been produced.

In response to Google’s questions, you stated that Rockstar’s position that Google’s use of any prior purchasing information is relevant because Google is refusing to produce documents based on its proposed claim construction. In the first instance, that really is not an explanation for why Rockstar believes such documents are relevant to the claims or defenses in this case. Moreover, the explanation does not make sense. Rockstar did not offer any construction relevant to the claim at issue here, so the accusation that Google’s construction narrows the claim language is not well taken. In fact, Rockstar has not identified any problems with Google’s proposed construction. Additionally, if Rockstar is seeking all information about every use Google may make of prior purchasing information, that is very burdensome and has minimal connection to the claims of the ‘883 patent, which are specific to use of “prior purchasing information” in

“creating user profile data for the user.” That is the language of the claims, not Google’s construction of them.

Request No. 45: When trying to evaluate Rockstar’s request regarding “language targeting,” we asked if Rockstar is referring to what is described here:

<https://support.google.com/adwords/answer/1722078?hl=en?>. On our meet and confer, you confirmed that this is correct. Google will produce documents relating to AdWords’ “language targeting” feature located in a reasonably, diligent search.

Request No. 51: This request seeks all documents related to Google’s “Search Lab,” including but not limited to guidelines, evaluations, analyses, methodologies, summaries, presentations, and reports. As I explained in my July 29 letter, when we previously discussed this request, Rockstar explained that it is looking for testing information along the lines of what the parties discussed during the July 8 meet and confer regarding dashboard information. If Rockstar is seeking something different than that, I asked that Rockstar explain what it is so that we can consider the request. You stated that you would get back to us.

Request No. 53: This request seeks all documents related to the “Knowledge Graph” functionality, including but not limited to documents related to the use, design, development, testing, and/or modification of “Knowledge Graph.” Rockstar explained that it is looking at the “Knowledge Graph” from the perspective of user profile data. In your July 10 email, Rockstar claimed this also relates to search refinement. As explained in my July 29 letter, with respect to the former, to the extent that “Knowledge Graph” uses user profiles, such documents would have already been produced or will be produced in response to Rockstar’s requests relating to personalized search results. With respect to “search refinement,” I stated in my July 29 letter that we need you to explain how you believe “Knowledge Graph” is used for “search refinement” because we do not understand the connection. You said that Mr. Lahad will respond to this question.

Request No. 54: This request seeks the same types of documents relating to “Social Search.” In my July 29 letter, we asked Rockstar to point us to whatever public information it is relying on to identify “Social Search” so we can confirm we understand what you are interested in. You said Mr. Lahad will respond to this question.

Request No. 60: In my July 16 letter, we asked Rockstar if it is looking for documents relating to “historical clickthrough rates.” In your July 25 email, you stated yes. With this clarification, we are looking into Rockstar’s request. As stated in my July 29 letter, we were not certain, however, what is meant by design, development, testing, or modification with respect to historical CTR. A historical CTR is just that. During our meet and confer, you explained that Rockstar is not seeking information about actual CTR, but documents regarding the functionalities used to determine CTR, whether current or historical. With that clarification, as stated in my June 18 letter, we believe such documents have already been produced, and to the extent that we locate such documents in the extensive searches we are conducting to identify relevant documents, including custodial searches, we will produce what we locate.

Request No. 68: As explained in my July 29 letter, when we discussed this request on July 8 or 9, Rockstar acknowledged that this is covered by prior requests regarding testing and the dashboard. If this request seeks unique information, we asked that Rockstar please explain what it is looking for. You said you would get back to us.

Request Nos. 82 and 83: With respect to these requests regarding documents relating to Google's acquisitions of certain companies, you stated that Rockstar is okay with Google's response for now and will not move to compel. But, Rockstar reserves its right to come back and ask for more documents.

Request No. 93: My July 29 letter laid out the documents from prior litigations that Google agrees to produce to Rockstar. During our meet and confer, you asked for an explanation as to how Google decided which prior litigations to produce documents from. I responded that *Personalized User Model v. Google* and *PA Advisors v. Google* overlap the most in terms of accused functionalities with what is at issue in this case. Both cases accused Google of infringing patents covering personalization services, and both accused Google Search and Search Ads of infringing those patents. I explained that the reason why Google agreed to re-produce its production from *Personalized User Model*, but not *PA Advisors*, is because damages were bifurcated in the former, so there are less third party confidential documents for Google to worry about inadvertently reproducing here. As we explained in my July 29 letter, we are removing third party confidential information from the production, but also need Rockstar's confirmation that Google may clawback any such third party confidential information that is inadvertently produced.

As for the other cases identified in Rockstar's document request letter, I explained that *Function Media* and *Xerox* related only to AdSense for Content, which is not accused in this case. *GeoTag* and *British Telecommunications* both had an extensive number of accused products, such that it is very burdensome to parse through the documents in those cases to identify those that address functionalities accused of infringing here. Rockstar also requested documents from *IP Engine* and *Bid for Position*. Although those cases accused Search Ads, the accused functionalities were different than those here, so the documents are not relevant to Rockstar's claims. Finally, Rockstar requested documents from any lawsuit between Google and Overture Services and/or Yahoo!. Given how long ago that lawsuit was, it is unduly burdensome for Google to search for such documents. You indicated that you will discuss with your team our position with respect to these cases.

In addition to the documents Google agreed to produce from *Personalized User Model* and *PA Advisors*, you requested that Google produce the following

- The infringement reports in *Personalized User Model* and *PA Advisors*. Google does not agree to produce the reports of the opposing party's experts. They are not Google admissions and thus there is no reason why Rockstar should need them.
- The damages reports (both Google's and the opposing party's) in *Personalized User Model* and *PA Advisors*. I explained that the reason why Google had not offered to produce damages reports is because they include third party confidential information and

so Google would have to go through the burden of redacting them before production. You responded that Rockstar might agree that Google can redact those reports for how, pending providing notice to the other party. Google will agree to produce its damages expert's report from *PA Advisors*, but not the opposing party's for the reasons discussed above with respect to infringement reports. There was no such report in *Personalized User Model v. Google*.

- Marked Google-produced trial exhibits in *Personalized User Model v. Google*, even if not admitted at trial. Google will produce such documents, with the exception of any containing third party confidential information.
- With respect to depositions relating to the Accused Instrumentalities from *Personalized User Model v. Google* and *PA Advisors v. Google*, you stated that Rockstar expects Google to produce both 30(b)(6) and individual depositions that discuss the Accused Instrumentalities, including marketing depositions. Google will produce both 30(b)(6) and individual technical depositions discussing the operation of the Accused Instrumentalities, as well as marketing depositions to the extent they exist.
- You requested that Google produce 30(b)(6) depositions regarding document preservation policies or practices. We are checking to confirm whether any such depositions were taken in *Personalized User Model* and *PA Advisors*. If they were, Google will produce them.

Finally, you asked if Google will produce the settlement agreements for all of the cases identified in your document request letter. We are still in the process of identifying comparable license agreements and giving third parties notice pursuant to the terms of those agreements. To the extent that we determine such agreements (if they exist) are comparable, and we have permission to produce them from the other parties to those agreements, we will do so.

Request No. 113: In my July 16 and 29 letters, we noted that Rockstar explained that it is looking for documents regarding the marketing and technical capabilities of the Accused Instrumentalities, and thus this request is likely covered by prior requests. As noted in my July 29 letter, we've already agreed to search for such documents. You confirmed on our meet and confer that this satisfies this request and there are not further categories of documents being sought.

Request No. 116: Rockstar has indicated that it requests that Google produce "high level" financial data. In my July 16 and 29 letters, we asked Rockstar to explain what it means by "high level" financial data. During our meet and confer, you stated that high level means "top level" detail regarding gross and net revenues, costs, and profits, for the accused products. In response, I noted that Rockstar had initially asked for this information on a quarterly basis, which is what Google is endeavoring to provide. I asked if "high level" is at a level higher than that, and you responded not. Thus, it is our understanding that Rockstar's request for "high level" financial data is the same as what Google has already agreed to provide.

Request No. 142: In my July 16 letter, we stated that Google will produce responsive documents regarding prior art systems asserted by Google as prior art to the patents-in-suit that are located

in a reasonably, diligent search. Your July 25 email asks us to confirm that the response is not limited to “prior art systems.” As explained in my July 29 letter and again on our meet and confer, we had difficulty understanding what documents Rockstar is seeking if not limited to “prior art systems.” I asked, for example, were Google to search for all documents relating to a prior art patent, what would those documents be? You responded that, for example, if there is a prior art patent and someone at Google has done an analysis of it, or determined that it reads on Google’s products, such documents would be responsive. However, we do not know of an effective way of searching for such documents for prior art patents or publications. Thus, this request, as it relates to patents and publications is unduly burdensome.

Request No. 143: This request seeks all documents that refer or relate to whether any invention disclosed in any of the Patents-in-Suit, or any product that embodies or uses such an invention, has been commercially successful. We explained that this seems odd because Rockstar needs to identify the products that embody or use an invention. Rockstar stated that is looking for documents showing that the Accused Instrumentalities are commercially successful, and acknowledged that this is likely covered by prior requests. In my July 16 and 29 letters, we pointed Rockstar to Google’s 10Ks, which it already produced, and the summary financial data regarding the Accused Instrumentalities Google agreed to produce, which will reflect the commercial success of Google’s products. We asked what other types of documents Rockstar is looking for in connection with this request, and why is what Google already agreed to produce insufficient. You responded that Rockstar seeks documents relating to market share, which Google already agreed to search for in response to a different request. You further stated that Rockstar seeks analyses or presentations that talk about commercial success or why the Accused Instrumentalities have been successful. To the extent that we locate such documents in the extensive searches we are conducting to identify relevant documents, we will produce what we locate.

Request No. 145: This request seeks all documents that refer or relate to whether anyone has praised, criticized, or discussed the significance of any invention disclosed in any of the Patents-in-Suit, or any product or instrumentality that embodies or uses any such invention. As explained in my July 29 letter, we are uncertain what documents Google could produce responsive to this request. We asked if Rockstar is asking Google to search for documents that praise, criticize, or discuss Google Search or Search Ads? You responded that Rockstar is looking for documents that Google has that discuss the advantages of Google Search or Search Ads, or how Google’s methods with respect to both are better than others. To the extent that we locate such documents in the extensive searches we are conducting to identify relevant documents, we will produce what we locate.

Request No. 150: As explained in my July 29 letter, we do not understand what it means for a document to be “related” to an interrogatory. We provided an example in my letter. During our meet and confer, you stated that you will go back and review the interrogatories Rockstar has propounded and let us know if there are any in particular that it is concerned about and let us know.

Rockstar also raised a couple of questions without identifying the specific requests at issue.

First, Rockstar asked about Google's position regarding the production of dashboard-related documents and whether Google is refusing to provide responses to Rockstar's questions regarding what is stored in the dashboard until Google's interrogatory response on that issue is due. I explained that in response to those document requests seeking testing and dashboard information, Google has already agreed to search for documents relating to test results for launched changes to the Accused Instrumentalities, and will produce what is located in a reasonably, diligent search. I further noted, as I did in my July 29 letter and my June 18 letter, that documents responsive to this request may be included in Google's prior production, and that additional documents may also be located in Google's searches of custodial data. Finally, I explained that Google is diligently investigating the data stored or accessed in the dashboard by the teams relevant to the accused functionalities so that Google can respond to Rockstar's interrogatory on this issue, but that Google does not yet have all of the information necessary to provide a response. I explained that, at this point, Google is not refusing to produce dashboard-related information, but is still investigating Rockstar's requests. You responded that based on these representations, Rockstar will not move to compel the production of such information at this time.

Second, with respect to those requests asking Google to search for documents in the possession of or provided to the Board, members of the executive management group, and other senior level employees, you asked if Google was refusing to produce those documents. I explained that we are searching the non-email ESI of the key custodians who we expect to have relevant documents, and that we expect that any documents that more senior level employees may have would be duplicative. It is burdensome and unnecessary for Google to search the files of senior level employees if there is no expectation that such searches will uncover unique documents. Further, Google is searching central repositories where we expect documents responsive to Rockstar's various document requests to be stored. In response, you asked us to identify which custodians' ESI we are searching, in addition to the 20 that Google identified as "most significant" custodians. We propose that the parties agree on a date on which they will exchange the lists of custodians whose non-email ESI they are searching.

Finally, you asked about Google's position regarding the production of documents that post-date the Complaint. As we've previously explained, Rockstar agreed in the ESI order that such documents need not be searched for or produced. That said, we've already made clear that Google will produce financial data through the present. In any event, Rockstar asked that Google produce communications with non-party witnesses, and agreed that this would apply to Rockstar as well. I explained that Google is concerned with opening a floodgate with respect to documents that Rockstar agreed need not be collected, particularly after Google started collecting and processing documents. In response, you stated that you would confirm with your team that there are no other categories of documents that Rockstar seeks that would deviate from its agreement on this issue.

As always, we remain willing to meet and confer in good faith to resolve discovery disputes.

Very truly yours,

A handwritten signature in blue ink that reads "Andrea Pallios Roberts". The signature is written in a cursive style with a prominent horizontal line above the first few letters.

Andrea Pallios Roberts