

# Exhibit 6

**quinn emanuel trial lawyers | silicon valley**

555 Twin Dolphin Drive, 5th Floor, Redwood Shores, California 94065-2139 | TEL: (650) 801-5000 FAX: (650) 801-5100

WRITER'S DIRECT DIAL NO.  
**(650) 801-5023**

WRITER'S INTERNET ADDRESS  
**andreaproberts@quinnemanuel.com**

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**VIA EMAIL**

Mr. Justin Nelson  
Susman Godfrey LLP  
1201 Third Avenue  
Suite 3800  
Seattle, WA 98101-3000

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

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 Counsel:

I write to summarize the parties' July 8, 9, and 10 meet and confers regarding interrogatory responses, the production of source code, and the parties' document requests.

**quinn emanuel urquhart & sullivan, llp**

LOS ANGELES | 865 South Figueroa Street, 10th Floor, Los Angeles, California 90017-2543 | TEL (213) 443-3000 FAX (213) 443-3100

NEW YORK | 51 Madison Avenue, 22nd Floor, New York, New York 10010-1601 | TEL (212) 849-7000 FAX (212) 849-7100

SAN FRANCISCO | 50 California Street, 22nd Floor, San Francisco, California 94111-4788 | TEL (415) 875-6600 FAX (415) 875-6700

CHICAGO | 500 W. Madison Street, Suite 2450, Chicago, Illinois 60661-2510 | TEL (312) 705-7400 FAX (312) 705-7401

LONDON | 16 Old Bailey, London EC4M 7EG, United Kingdom | TEL +44(0) 20 7653 2000 FAX +44(0) 20 7653 2100

TOKYO | Akasaka Twin Tower Main Bldg., 6th Floor, 17-22 Akasaka 2-Chome, Minato-ku, Tokyo 107-0052, Japan | TEL +81 3 5561-1711 FAX +81 3 5561-1712

MANNHEIM | Erzbergerstraße 5, 68165 Mannheim, Germany | TEL +49(0) 621 43298 6000 FAX +49(0) 621 43298 6100

## **Rockstar's Responses to Google's Interrogatories**

Google's explanation of the deficiencies in Rockstar's interrogatory responses is set forth in detail in my June 26 letter.

Interrogatory No. 1: Rockstar confirmed that it will supplement its response to this interrogatory to address the deficiencies identified in my June 26 letter. Rockstar further confirmed that it will supplement on an element by element basis to the extent that it can. Rockstar will provide its supplemental response by July 25.

Interrogatory No. 2: Rockstar stated that it will supplement at some later point in the case its response regarding whether it contends there are secondary considerations of non-obviousness for the asserted claims, and to identify any such secondary consideration during discovery, but Rockstar will not do so now. Rockstar further could not provide any indication as to when it will do so.

Interrogatory No. 3: Rockstar stated that it will not supplement its response to this interrogatory asking it to identify and describe on a claim by claim basis all manners or techniques by which each asserted claim improved upon the prior art. Rockstar stated that its reference to the claim elements in its current response sufficient responds to this interrogatory.

Interrogatory No. 4: On July 8, Rockstar stated that it will have a response on July 10 regarding whether it will supplement its response to state its contention regarding the level of skill of a person of ordinary skill in the art. On July 10, Rockstar again proposed that the parties contemporaneously exchange their contentions on this issue. Rockstar served a similar interrogatory on July 9. Google's response to Rockstar's interrogatory is not yet due. It is inappropriate for Rockstar to refuse to provide a response to this interrogatory simply because Google, rightfully, has not yet provided a response. Nevertheless, please confirm that Rockstar will supplement its response to this interrogatory no later than the deadline for Google to respond to Rockstar's Interrogatory No. 13.

Interrogatory No. 5: Rockstar stated that it will supplement its response to this interrogatory as discovery proceeds and confirmed that Rockstar's response is complete based on the information currently in its possession.

Interrogatory No. 6: Initially, Rockstar stated that its response to this interrogatory is complete. We pointed out, however, that the interrogatory asks for a claim chart that identifies for each limitation of an asserted claim, the portions of the specification Rockstar contends provide written description and support an enabling disclosure. Rockstar's current response does not include a claim chart. Rockstar confirmed that it will provide a supplemental response addressing the deficiencies identified by Google by July 25.

Interrogatory No. 7: Rockstar confirmed that it will supplement its response to this interrogatory to address the deficiencies identified in my June 26 letter. Rockstar further confirmed that it will provide this supplementation by July 25.

Interrogatory No. 9: Rockstar confirmed that it will supplement its response to this interrogatory to confirm that it will rely on Rule 33(d). Otherwise, Rockstar stated that its investigation is ongoing and it is not in the position to supplement at this time.

Interrogatory Nos. 10 and 11: Rockstar maintained its objection to these interrogatories based on the position that they call for expert testimony. Rockstar asked us to provide case law in support of Google's position that Rockstar should respond to these contention interrogatories. Google refers Rockstar to the following: Order Granting Defendants' Motion to Compel Response to Defendants' First Set of Interrogatories, *Orion IP, LLC v. Ford Motor Co.*, No. 2:04-cv-313, Dkt. 140, at 2-4 (E.D. Tex. Jan. 1, 2006); Order, *In re Cyclobenzaprine Hydrochloride Extended-Release Capsule Patent Litig.*, No. 09-MD-2118, SLR, Dkt. 453, at 1-3 (D. Del. Oct. 22, 2013); and *Aristocrat Techs. v. Int'l Game Tech.*, 2009 WL 3573327, \*1-2 (N.D. Cal. Oct. 30, 2009). We further noted that Rockstar's position that it need not respond to these contention interrogatories is inconsistent with its position that Google must respond to Rockstar's Interrogatory No. 7. Please let us know by Wednesday, July 16 if Rockstar will supplement its responses to these interrogatories.

Interrogatory No. 13: We explained that this interrogatory asks Rockstar to provide information not required to be covered in its P.R. 3-1 contentions, and not provided therein, including the documents in support of its contentions. Rockstar has far more information regarding the Accused Instrumentalities now than it did before it served its P.R. 3-1 contentions, such that it can provide more information, and its ongoing obligations regarding supplementing interrogatories are different than infringement contentions. Rockstar stated that, while it may be able to supplement this response to identify persons with knowledge sometime soon, it will not be in a position to supplement to identify the documents or other evidence supporting its contentions for at least a couple of months. We explained that Google believes that Rockstar should be able to provide a response to this interrogatory, and we should not have to wait a couple more months for it. Rockstar has agreed to supplement the response to identify persons with knowledge of the facts supporting its contentions, and will do so by next week. We made clear that this does not sufficiently address the interrogatory, but we will wait to receive that response before filing a motion to compel.

### **Google's Responses to Rockstar's Interrogatories**

Interrogatory No. 7: We explained, as we did in our response to this interrogatory and my July 2 letter, that our ability to respond to this interrogatory regarding non-infringing alternative is hampered by Rockstar's deficient infringement contentions. Rockstar responded that it does not believe Google's objections are well-taken. Rockstar stated as an example that Google knows that Rockstar is accusing providing search results and advertising together and that Google should be able to say whether there are non infringing alternatives to that process. This example demonstrates the legitimacy of Google's objections. Such general allegations which form Rockstar's infringement contentions do not allow Google to formulate non infringing alternatives to what Rockstar actually is accusing in Google's systems. Nevertheless, Google will agree to take another look at this to try to provide a response based upon its understanding of Rockstar's infringement contentions. We certainly expect that there will be further supplementation, at least after Rockstar supplements its infringement contentions and after claim construction.

Interrogatory No. 12: Google agrees to provide a supplemental response to this interrogatory.

Interrogatory No. 2: We had responded to this interrogatory asking for a meet and confer regarding the scope of what Rockstar is looking for. During the meet and confer, Rockstar initially stated that it wants the development names given to the Accused Instrumentalities during development, and information regarding how the systems (Rockstar said “algorithms”) operate, and any changes to the systems. We responded that if there are specific functionalities identified by Rockstar, we may be able to provide a response. But, Rockstar seemed to be asking Google to identify every code name used for any aspect of Search or AdWords, and every change that has ever occurred. We do not know how we could possibly provide an answer to such a broad request. Rockstar offered to provide a good faith list of the specific and targeted functionalities that it is interested in, and we responded that this would be helpful. Rockstar provided that list on the evening of July 10. We are reviewing and will provide a response as to whether we can supplement our response to this interrogatory.

Interrogatory No. 8: We responded to this interrogatory asking for a meet and confer regarding the scope of what Rockstar is looking for. Rockstar confirmed that it agrees that Google can provide the requested financial data in summary form. For sub-part (a), Rockstar stated that it wants an explanation for how Google recognizes and generates revenue. Rockstar further stated that, although it has not accused AdSense for Content, if there is user data used to help target ads for AdSense for Content, then Rockstar believes it is entitled to financial data regarding AdSense for Content. Thus, to the extent that other, non-accused Google products use search or ads data, or user profile data, Rockstar believes the financial data for those products should be provided. Google agrees to provide a supplemental response to this interrogatory. But, we think that, absent further explanation of its relevance, Rockstar’s request for financial data regarding non-accused products is too far afield of what is relevant.

Interrogatory No. 9: We responded to this interrogatory asking for a meet and confer regarding the scope of what Rockstar is looking for. Rockstar explained that in response to this interrogatory, it wants to know how Google recognizes revenue. In particular, if Google allocates revenue to the U.S., Rockstar wants to know how Google does that. Based upon this clarification, Google agrees to provide a supplemental response to this interrogatory.

Interrogatory No. 10: We responded to this interrogatory asking for a meet and confer regarding the scope of what Rockstar is looking for. Rockstar’s explanation regarding this interrogatory was also hard to follow. Initially, Rockstar stated that it wanted studies reflecting any changes to search and ads. It suggested that Google should provide a detailed explanation of how search results and ads are returned (which Rockstar said is called for in Interrogatory No. 2), and then Rockstar could provide more specificity regarding the functionalities it is interested in. Ultimately, Rockstar stated that if there was testing performed when Google started using user profile data, then Rockstar is interested in that information in response to this interrogatory. We are looking into this further based upon Rockstar’s clarification to see if we are able to provide a supplemental response.

As I indicated on July 10, Google will endeavor to provide supplemental interrogatory responses by July 25.

## **Source Code**

Rockstar explained that it believes that Google was required to make source code available for inspection at the time that its P.R. 3-4(a) production was due, or after the Protective Order was entered. We disagree. The Patent Local Rules require the production of documents sufficient to show the operation of the Accused Instrumentalities. While they state that source code may be included in that production, it does not have to be. In this case, Google produced over 180,000 pages of documents in response to P.R. 3-4(a)—which Rockstar admits it has not reviewed in its entirety. We further explained that Google is working to collect the relevant source code, based on our understanding of Rockstar’s infringement contentions, but that it is a complicated procedure which requires getting approvals before production. We told you that we currently anticipate that Google will be able to start making source code available for inspection on August 8, and will have a substantial production at that time. We are also looking for ways in which we can expedite it even more.

## **Rockstar’s Responses to Google’s Document Requests**

Rockstar confirmed that if documents responsive to Request Nos. 2, 3, 6, 12, 14, 15, 16, 17, 18, 21, 22, and 30, exist, Rockstar will produce or log them.

Request No. 32: Rockstar confirmed that it will produce documents responsive to this request, and may supplement its production as the parties’ contentions regarding secondary considerations of non-obviousness evolve.

Request No. 27-28: Rockstar confirmed that if responsive documents exist and can be located, it will produce them. We clarified that we are not looking for log data showing that Rockstar employees accessed prior art systems. But, if there are other types of documents discussing these prior art systems and how they operated, they should be produced.

We further discussed Rockstar’s claim of a common interest privilege and settlement communications privilege. As we understand it, at this point, Rockstar is not asserting either privilege with respect to any particular document, but if it does, it will identify that in its privilege log. While we do not necessarily agree that documents should appropriately be withheld on these bases, until Rockstar actually does so, there is not a dispute to discuss.

Finally, Rockstar proposed that it intends to serve a privilege log by category of document, rather than entering each document individually. It agreed that if Google agrees to this, it would be mutual. As we told you on July 10, Google is not inclined to agree. Rockstar indicated that it would provide more information regarding the categories it anticipates using. As Mr. Verhoeven explained, we are unlikely to agree to a format in which Google is not provided with the information to which it is entitled.

## **Google’s Responses to Rockstar’s Document Requests**

At the outset, during the July 10 meet and confer, Rockstar expressed concern that Google is relying on its P.R. 3-4(a) production because P.R. 3-4(a) only required Google to produce documents “sufficient to show,” and Rockstar’s document requests are not so limited. As I explained on July 10 and in my June 18 letter, Google’s May 20 production pursuant to P.R. 3-

4(a) goes well beyond what is required by that rule. Google's production was not limited to documents "sufficient to show." Moreover, for the categories of documents where Google has stated it will search for documents, Google has never stated that it would rely exclusively on its production from Google's wikis (though that is where technical documents are stored). Google also is searching custodial data.

Request Nos. 2, 3, 5, 6, 7, and 8: Rockstar clarified that what it is looking for, at least initially, are documents explaining the operation of the current versions of how search and search plus ads operates, and the current and prior versions of the use of "user profiles" in providing search results and search ads. In Ms. Bonn's July 10 email, she limited this narrowing to Request Nos. 2, 3, and 8. We believe that during the parties' discussion on July 8, they were discussing Request Nos. 2, 3, 5, 6, 7, and 8. With respect to those six requests, we agree that we will search for documents regarding the operation of the functionality of search and ads at issue to the extent we understand Rockstar's contentions as they existed at the time of the complaint, as well as documents explaining the operation of the current and prior versions of the use of "user profiles" in providing search results and search ads to the extent we understand Rockstar's contentions in relation thereto, and produce what is located after a reasonably diligent search, to the extent it has not already been produced. We note, however, that we have already produced documents from the main sources of non-email documents.

Request No. 4: Rockstar confirmed that this request is withdrawn.

Request Nos. 9 and 10: Rockstar explained that it is looking for design and technical documents dating back to 2007 explaining how Google's ad selection and ad targeting, and Ad Mixer work. Rockstar is seeking the general backend specification documents explaining the operation. To the extent that such documents still exist and have not already been produced, Google will produce what is located after a reasonably, diligent search.

Request No. 11: Rockstar explained that it is seeking technical overviews regarding how Google matches searches or search terms with ads. To the extent that such documents have not already been produced, Google will produce what is located after a reasonably, diligent search.

Request No. 12: Rockstar explained that it is seeking documents related to the creation of the Accused Instrumentalities which talk about the importance of them. It suggested that there are often presentations that describe how a new product works and expectations for it. Those would be responsive to what Rockstar is looking for here. We will investigate whether such documents exist and will produce what is located in a reasonably diligent search,

Request No. 13: In Ms. Bonn's July 10 letter, she lumped this request (along with Nos. 15 and 16) with Request No. 12. The parties discussed them separately, and so we address them separately here. With respect to Request No. 13, Rockstar explained that it is seeking technical documents and presentations regarding how Google uses data collected from Google Plus, Google Play, Doubleclick, Google Display Network, Android, and Advertiser IDs for Android, in any system returning search results or search results and ads and any other system. To the extent this data is used in the Accused Instrumentalities, Google will produce documents located in a reasonably diligent search, to the extent that they have not already been produced. Google,

however, believes that Rockstar's request for information regarding how this data is used in non-accused products is far afield of what is relevant.

Request No. 14: Rockstar explained that it is seeking information regarding what information Google uses in other, non-accused products, based on search and ads. Rockstar explained that this information is relevant to the importance of the Accused Instrumentalities and damages as a possible conveyed sale. As stated above, we disagree that documents regarding information Google uses in other, non-accused products based on search ads is relevant to this case.

Request Nos. 15 and 16: Rockstar confirmed that what it seeks in these Requests is covered in prior requests discussed above.

Request No. 17: This request seeks all documents related to the importance of the Accused Instrumentalities. We explained that we do not know how to effectively search for such documents. Rockstar suggested that we look for marketing presentations, Board financials, documents regarding the historical implementation of AdWords in the pre-IPO period, quarterly financial projections, or high level strategy meetings. Google will investigate whether such documents exist and be located in a reasonably diligent search.

Request No. 18: Rockstar explained that the reference in this request to "the request immediately above" references No. 14. With this clarification, however, it appears that Request No. 18 is duplicative of entirely Request No. 14, as clarified by Rockstar. If not, please explain how they differ.

Request No. 19: Rockstar explained that it is looking for information regarding improvements or impact on CTR before and after user profiles started to be used, and suggested Google produce dashboard information. We indicated that this is still very vague. As we indicated, a dashboard is a manner through which someone at Google may access certain types of information in Google's logged data. Google also sometimes will run tests of logged data. The manner in which Rockstar has articulated its request, however, would seem to suggest that Rockstar is looking for the underlying log data, although on the call Rockstar indicated that is not what it is seeking. Rockstar asked that we check to see what might exist. We are looking into this. We note that most Google dashboards do not go back sufficiently far in time to capture when Google introduced personalization to search or ads. But, we are nevertheless looking into this request.

Request No. 20 and 21: We confirmed that we will produce responsive videos located after a reasonably, diligent search. Rockstar further stated that it will provide us with a list of the functionalities in which it is interested in assist us in identifying what it is interested in.

Request No. 22: Rockstar is seeking presentations or documents provided to the Board discussing changes to the operation of Smart Ads, search, and search plus ads. Rockstar is further seeking presentations or documents provided to senior management groups—Rockstar identified the EMG—or officers. We expressed the concern, articulated in my June 18 letter, that this is very broad because it asks for any document provided to one of these entities or individuals. That concern remains.

Request Nos. 23 and 24: Rockstar confirmed that what it seeks in response to these requests is covered by the parties' discussion with respect to Request No. 19.



Request No. 25: In Ms. Bonn's July 10 letter, she grouped this request with Request No. 27. We did not address those requests together. In any event, 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. We are still unsure about what Rockstar means by how ads are "priced." Ads are "priced" in the auction, and Google has produced documents relating to the auction already. Can you please clarify this?

Request No. 26-27: With respect to AdSense for Content and Google Display Network, which are not accused, Rockstar is seeking information regarding how these services use user profiles in their operation. Rockstar explained that it wants to know if these services use data gleaned from search and search plus ads, and vice versa. We explained that this is attenuated.

Request No. 28: Rockstar explained that it is seeking agreements between Google companies (such as Google Inc. and Google Ireland) to determine how much Google is licensing its own IP for. Rockstar contends that this is relevant to the royalty rate because its patents are just as important as Google's patents. We disagree that these documents are relevant, but are nevertheless considering the request.

Request No. 29: Rockstar confirmed that it does not need all revenue share agreements Google has with third party publishers on AdSense for Search products. Rockstar indicated that if there is a list identifying the revenue for the top 50 revenue sharing agreements, it would be satisfied with that. It does not even need the agreements themselves. We do not understand the relevance of this information, but are nevertheless trying to determine if such a list exists.

Request No. 30: Rockstar confirmed that it is seeking documents regarding how AdSense for Search, or other services through which Google serves ads and search results on third party sites, operates. Google already indicated that it would produce documents responsive this request located in a reasonably, diligent search, to the extent it has not already done so. Rockstar further noted that it wants to confirm that Google's search for such documents is not limited to a search of wikis. Google has never said that its document collection would be limited to wikis.

Request No. 31: This request seeks all dashboard information for any Accused Instrumentality since January 1, 2007. We do not agree with the account of the parties' discussion of this Request in Ms. Bonn's July 10 email. On the call, Rockstar stated that it is not asking Google to create something new, but wants what already exists. As we explained above and during the July 8 meet and confer, a dashboard is a manner through which someone at Google may access certain types of information in Google's logged data. Google also sometimes will run tests of logged data. The manner in which Rockstar has articulated its request, however, would seem to suggest that Rockstar is looking for the underlying log data, which would indeed be unduly burdensome. On the call, Rockstar both stated that it is interested in presentations summarizing dashboard data, as well as information regarding what data can be accessed through the dashboard so that Rockstar can identify what Google should produce. In any event, this Request seems to be duplicative of Request No. 19 discussed above.

Request No. 32: We confirmed on the call that Google has already searched its internal wiki system for documents relevant to the Accused Instrumentalities, to the extent Google understands Rockstar's infringement contentions.

Request No. 33: Rockstar clarified that it is not seeking all agreements with AdSense for Search partners, but rather is looking for agreements with third parties for whom Google provides search services. Rockstar contends that this is relevant to damages. In any event, Rockstar indicated that it would check with its damages expert regarding what it needs with respect to this request and get back to Google.

Request No. 34: Rockstar did not agree that this request, which seeks all documents related to or supporting Google's statement that "Ads are matched to search results based on the terms a person uses to search," found at [https://support.google.com/adwords/answer/1722047?hl=en&ref\\_topic=3121771](https://support.google.com/adwords/answer/1722047?hl=en&ref_topic=3121771), is duplicative of prior requests. In addition to the technical documents explaining the operation of the Accused Instrumentalities Google has already produced, Rockstar wants Google to produce any documents relating to this specific statement. We note, however, that the quoted statement does not appear on the webpage cited by Rockstar. Are you referring to an older version of that page? In any event, it still remains unclear, what types of documents Rockstar is seeking beyond technical documents discussing the operation of Search Ads. If you can provide more guidance, we would appreciate it. In any event, Google's Help Center should not be used to understand the technical details of how Google's products operate. (*See* <https://support.google.com/adwords/answer/3094231>).

Request No. 35: Similar to Request No. 34, Rockstar stated that in addition to the technical documents explaining the operation of the Accused Instrumentalities Google has already produced, Rockstar wants Google to produce any documents relating to the three specific statements in this request: a. "Use matching options with your keywords to help control which searches can trigger your ad."  
b. "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."  
c. "Use the search terms report to monitor which keyword variations triggered your ads." As with No. 34, it still remains unclear what types of documents Rockstar is seeking beyond technical documents explaining the operation of the Accused Instrumentalities. If you can provide more guidance, we would appreciate it. And as with No. 34, we refer you to <https://support.google.com/adwords/answer/3094231>.

Request No. 36: Ms. Bonn's July 10 email groups this request with Nos. 35 and 37. Those requests were not discussed together, and are not the same. Request No. 36 asks for Google to produce documents relating to "search terms reports" and how they are used. 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. Rockstar's patents, however, do not cover search terms. Thus, we continue to disagree that this material is relevant.

Request No. 37: Rockstar asked Google to produce all documents relating to the statement, "AdWords allows you to target customers in the geographic locations you've chosen, so your ads can appear in the areas where you do business." Rockstar explained that it is seeking any documents relating to geographic location, which is an element of Rockstar's asserted claims.

Google has already produced documents regarding using location to target ads. Google will produce additional such documents located after a reasonably, diligent search of custodial data.

Request No. 38: Rockstar made the same point with respect to this Request. Rockstar clarified that “device location” in this request refers to GPS information. Google already indicated that it produced documents responsive to this request, and will produce additional documents located after a reasonably, diligent search of custodial data.

Request No. 39: This request is similar to Nos. 37 and 38. Rockstar clarified that “user-selected location” in this request refers to information within Google through which the user can specify the location to search. In any event, Google already indicated that it produced documents responsive to this request, and will produce additional documents located after a reasonably, diligent search of custodial data.

Request No. 40: This request seeks all documents related to the “PREF” cookie, including but not limited to documents related to the use, design, development, testing, and/or modification of the “PREF” cookie. Rockstar confirmed that it does not necessarily need “all” documents related to the “PREF” cookie. Rockstar is interested in documents regarding its design, development, why Google uses the PREF cookie, what it does, what is in it, marketing of the “PREF” cookie, and its importance. We believe that documents covering much of this have already been produced, at least to the extent that PREF cookies are or were used in connection with the Accused Instrumentalities. Google will produce additional responsive documents located after a reasonably, diligent search of custodial data.

Request Nos. 41, 42, and 43: These requests are similar to No. 40, but seek information regarding Advertiser IDs in Android, “conversion cookies ‘used to help advertisers determine how many times people on their ads end up purchasing their products,’” and “any cookies used in advertising.” To the extent that these are or were used in connection with the Accused Instrumentalities, we believe that Google has already produced such documents, and Google will produce additional documents located after a reasonably diligent search of custodial data.

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’ve determined that Google does not use user-specific prior purchasing information in Search or Search Ads.

Request No. 45: Rockstar explained that it is seeking the same type of documents as set forth above with request to No. 44 for AdWords “language targeting.” Rockstar stated that this is relevant because it has a claim relating to language, and that this is part of a user profile. To confirm, when Rockstar refers to “language targeting,” are you referring to what is described here: [https://support.google.com/adwords/answer/1722078?hl=en?](https://support.google.com/adwords/answer/1722078?hl=en)

Request No. 46: Rockstar explained that it believes that documents related to Google Instant predictions are relevant because Rockstar has a claim relating to search refinement, and its infringement contentions purportedly show a screen shot of how Google Instant predictions operates. Google will produce documents responsive to this request located after a reasonably diligent search.

Request No. 48: Rockstar similarly explained that it believes that documents related to “Query Understanding” are relevant to its claims relating to search refinement. Contrary to Ms. Bonn’s July 10 email, we do not believe that Rockstar stated this was also related to user profiles. In any event, Google will produce responsive documents regarding “query understanding” as it is used in the Accused Instrumentalities located in a reasonably diligent search, to the extent that it has not already done so.

Request No. 49: Rockstar acknowledged that this request is a catchall of prior requests. Rockstar clarified that this request specifically asks for all source code for search and search plus ads.

Request No. 50: This request seeks all documents related to Google’s algorithms used to look up search terms in Google’s index to find appropriate pages, as described at <https://www.google.com/intl/en/insidesearch/howsearchworks/crawling-indexing.html> and <http://www.google.com/insidesearch/howsearchworks/thestory/>. Rockstar explained that it believes this is relevant because it explains how search works. Rockstar admitted, however, that search generally is not accused. Thus, Rockstar agreed that Google can focus on producing documents regarding the ordering of search results and use of user profiles. Google has produced such documents, and will produce additional responsive documents located after a reasonably, diligent search. Rockstar, however, further noted that it still needs a general enough understanding of how search works because the claims discuss searching a database. To the extent it has not done so already, Google will produce responsive documents regarding searching for results 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. 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.

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. Rockstar stated that Knowledge Graph returns a different ordering based upon user profile data. Rockstar did not mention search refinement, as referenced in Ms. Bonn’s July 10 letter. In any event, we are looking into Rockstar’s representations.

Request No. 54: This request seeks the same types of documents relating to “Social Search.” Rockstar stated that this is relevant because Social Search is directly related to a user profile. We are looking into Rockstar’s representations.

Request No. 55: This request seeks the same types of documents relating to the “Ads Preferences Manager.” Rockstar explained that this is relevant because it is a functionality that allows users to adjust the settings for ad delivery, which is user profile data. Rockstar contends that this is relevant to Rockstar’s claims. We still do not agree or understand the connection. If you can provide a further explanation, please do.

Request No. 57: This request seeks the same types of documents for “YouTube interest-based advertising.” Rockstar contends that YouTube is accused, and these documents are relevant because Rockstar wants to know if data from search and search plus ads is used when delivering ads on YouTube. The description in Ms. Bonn’s July 10 email is slightly different; it says that it is seeking documents concerning returning ads based on a search in YouTube. We are looking into this request. But, given the different explanations from Rockstar, we would like to confirm what Rockstar is seeking. Is Rockstar looking for documents regarding how ads are returned on YouTube based upon searches run on YouTube?

Request No. 58: This request seeks the same types of documents for “Adwords for video,” which Rockstar says is accused. Rockstar stated that it is looking for documents regarding how Google returns ads based on searches for videos. “Adwords for video” is distinct from Search Ads. It is a functionality relating to ads shown in videos, not returning ads based on searches for videos. Accordingly, it is far afield from what is covered in the asserted claims.

Request No. 59: This request seeks all documents related to “pay-per-click,” “cost-per-click,” and “actual cost-per-click” functionality, including but not limited to documents related to the use, design, development, testing, and/or modification of same. As stated in our June 18 letter, we believe such documents have already been produced. In any event, Rockstar explained that it is looking for documents indicating when Google started using cost-per-click, why it did so, how it works, and its advantages. Google will identify responsive documents located after a reasonably diligent search.

Request No. 60: This request seeks all documents related to determining “click-through rates,” including but not limited to documents related to the use, design, development, testing, and/or modification of any functionality used to determine “click-through rates.” As stated in our June 18 letter, we believe such documents have already been produced. In any event, Rockstar stated that it is looking for the same types of documents as identified with respect to Request No. 59. We are looking into Rockstar’s request. We do, however, need further clarification. Is Rockstar looking for documents regarding historical clickthrough rates?

Request No. 61: We disagree with Ms. Bonn’s account of the parties’ discussion of this request. This request seeks all documents related to determining “Ad Rank” or “Ad Position” including but not limited to documents related to the use, design, development, testing, and/or modification of any functionality used to determine “Ad Rank” or “Ad Position.” As stated in our June 18 letter, we believe such documents have already been produced. In any event, Rockstar stated that it is looking for the same types of documents as identified with respect to Request No. 59.

Request No. 62 and 63: These requests seek all documents related to determining whether an advertisement gets “top” or “other” placement on an original or subsequent search results page,

including but not limited to documents related to the use, design, development, testing, and/or modification of any functionality used to determine whether an advertisement gets “top” or “other” placement on original or subsequent search results pages, and all documents related to determining “Quality Score” including but not limited to documents related to the use, design, development, testing, and/or modification of any functionality used to determine “Quality Score,” respectively. Rockstar explained that these requests are directed at how ads are placed on a page, and they are relevant to Rockstar’s selection and non-selection claims. In our June 18 letter, we already indicated that responsive documents have been produced, and that we would produce further documents located after a reasonably, diligent search of custodial data.

Request No. 66: Rockstar indicated that it would get back to us regarding what it is seeking in this request.

Request No. 67: This request seeks any presentations about Google’s Ad System, Google Front End, Ads Database, Adwords Front End, or Adwords Back End. Rockstar explained that it is seeking information regarding how these systems work. Rockstar further indicated that it wanted all such presentations, regardless of whether they relate to functionalities accused of infringement. Rockstar did, however, indicate that it will limit the request to senior level presentations regarding changes to the systems and the importance of the systems, to the Board, executive management group, vice presidents, and technical leads. We still believe that this is incredibly broad as it is asking for any presentation about any aspect of Google’s Ad System, Google Front End, Ads Database, Adwords Front End, or Adwords Back End, regardless of whether it is accused.

Request No. 68: This request seeks all documents from the analytics and/or strategic insight group(s) regarding performance, improvement, or testing regarding search results and/or advertisements. Rockstar acknowledged that this is covered by prior requests regarding testing and the dashboard.

Request No. 69: This request seeks all documents concerning the marketing, advertising, or promotion of the Accused Instrumentalities to existing or potential advertisers, search partners, licensees, or other third-parties. Rockstar agreed to limit this to documentation from project or marketing leads. In Ms. Bonn’s July 10 email, Rockstar expanded that to documents presented to, prepared by, or in the possession of Director-level executives, executive management group level executives, and group-lead managers. Rockstar indicated on our call that it is looking for information regarding how the Accused Instrumentalities are being marketed and promoted. In the first instance, to the extent that Google markets the Accused Instrumentalities, it is primarily public, such as for example, on the AdWords blog. Thus, these materials are as accessible to Rockstar as they are to Google. In any event, Google will produce responsive documents identified after a reasonably, diligent search of custodial data. We do not, however, agree that it is reasonable to expect Google to search the custodial files of all Director-level executives, executive management group level executives, and group-lead managers working on Search Ads.

Request No. 70: This request seeks all documents that refer or relate to strategic plans, business plans, business strategies, licensing plans, licensing proposals, licensing forecasts, prospectuses, market surveys, marketing strategies, market analyses, and/or marketing forecasts of customer

demand for the Accused Instrumentalities, including both internal documents and any schedules or reports by third-party industry analysts, research firms, trade associations, or similar entities. Rockstar clarified that it will limit this request to documents maintained by project leads or higher. In Ms. Bonn's July 10 email, Rockstar clarified that this request should cover documents presented to, prepared by, or in the possession of Director-level executives, executive management group level executives, and group-lead managers. Rockstar is looking for information regarding plans for the accused products. According to Rockstar, this is "the heart" of proving up the importance of these products, and trying to structure the products to meet demand. Google will produce responsive documents located after a reasonably, diligent search of custodial data. We do not, however, believe it is reasonable to expect Google to search the custodial files of all Director-level executives, executive management group level executives, and group-lead managers working on Search Ads.

Request No. 71: This request seeks all documents mentioning or concerning any of the Patents-in-Suit or their applications or foreign counterparts – including parents, divisional, continuation, or continuation-in-part applications, whether or not they matured into patents, or any patent or patent application held by or assigned to Rockstar. Rockstar stated that it will limit this request to documents that are non-public, as well as documents mentioning the patents-in-suit or Skillen family. In any event, in our June 18 letter, we stated that responsive documents relating to the patents-in-suit may be located in searches of custodial data.

Request No. 72: This request seeks the file histories and patents for any patent or patent application that describes the Accused Products, including but not limited to any declaration, affidavit, or testimony submitted to the Patent and Trademark Office or any other governmental agency regarding the Accused Instrumentalities. Initially, Rockstar indicated that this would include statements made to governmental agencies other than the PTO, such as the FTC. Later, Rockstar agreed to limit the request to non-public submissions to the PTO. Rockstar explained that it is looking for statements regarding the importance of the Accused Instrumentalities. We explained that even as narrowed, this would be very difficult to do. Rockstar responded that Google should determine the scope of what would need to be searched, and the parties will discuss further. Based upon a preliminary investigation, this will be incredibly burdensome for Google to do. There is no central repository at Google where such documentation is stored. In any event, we are continuing to look into Rockstar's request.

Request No. 81: Rockstar explained that it is seeking the technology transfer and authorization-to-use agreements between Google entities. The parties addressed this in a prior request.

Request Nos. 82 and 83: These requests seek all documents related to any third party analysis Google has conducted or authorized regarding the Accused Instrumentalities, including but not limited to any study performed by Houlihan Lokey, and all documents concerning any acquisition Google has made covering any portion of the Accused Instrumentalities, including but not limited to the acquisitions of Doubleclick, youtube, Applied Semantics, or any company related to the provision of search/and advertisements, and including but not limited to any third party analysis of the acquisition such as any study performed by Houlihan Lokey, respectively. Rockstar explained that it is seeking documents regarding analyses of third party acquisitions. We asked Rockstar if is interested in specific acquisitions, because some acquisitions may not

relate at all to what is accused here. Rockstar identified Doubleclick and Applied Semantics as examples, but noted that the request is not limited to those two acquisitions. We responded that Doubleclick is pretty far afield of what is accused, but Rockstar contends that if Doubleclick uses information from search or search plus ads, it is accused. Rockstar stated that these requests would be limited to transactions related to search and search plus ads. We are looking into this request. We do not, however, believe that the YouTube acquisition is relevant to search or search plus ads.

Request No. 85: This request seeks all documents concerning your policies or practices concerning patent clearances, right-to-use opinions, or other mechanisms to avoid your infringement of patents, including the Patents-in-Suit and the patents and patent applications held by or assigned to Rockstar. Rockstar stated that it believes all such documents are relevant to willfulness. It further clarified that it is looking for the general policies regarding patent clearances and right-to-use opinions, or what Google does when someone raises a claim of infringement. We responded that if there is a written licensing policy, we will produce it. Rockstar responded that this request is not limited to formal, written policies. Rockstar further noted that this information may be included in prior deposition testimony. We will consider whether that is a way to provide this information to Rockstar. We further note that Rockstar can obtain this same information in a deposition in this case.

Request No. 87: This request seeks all documents concerning any analysis, opinion, or inquiry regarding potential infringement of the claims in each of the Patents-in-Suit, or their applications or foreign counterparts—including parents, divisional, continuation, or continuation-in-part applications, whether or not they matured into patents—including, but not limited to any documents concerning or relating to pre-litigation investigations performed by or on behalf of Google, Google's partners, Google's licensors, Google's customers, Google's resellers, and/or Google's affiliates, relating to the potential infringement by any products or systems made, used, offered for sale, and/or sold by Google, Google's partners, Google's licensors, Google's customers, Google's resellers, and/or Google's affiliates and any such investigations performed prior to or in conjunction with the 2011 auction of Nortel's patent assets. Rockstar did not have a response to Google's question, in our June 18 letter, that this seems to cover documents that need not be produced until November 18. We had also noted in our June 18 letter that this request appears to be duplicative of prior requests. Rockstar did not indicate on our call whether it agreed or not. Please let us know if Rockstar believes this request covers different information.

Request No. 90: This request seeks all documents related to any time you have cited or mentioned any of the Patents-in-Suit, or their applications or foreign counterparts—including parents, divisional, continuation, or continuation-in-part applications, whether or not they matured into patents, including but not limited to in any other litigation or in any of your patent filings. Rockstar clarified that it will limit this request to non-public documents. It explained that it wants to know if Google raised the patents-in-suit in any patent filings, or as prior art in other litigation. Rockstar claims that this is relevant to how Google talked about the patents, and Google's awareness of the patents-in-suit. We explained that any relevance is minimal, at best, and the burden of trying to locate such documents greatly outweighs any potential relevance.



Nevertheless, we indicated that we would check to see if there is a reasonable way to approach this request.

Request No. 92: This request seeks all documents concerning any patent or patent application Google has in search or advertising. Rockstar confirmed that it does not need any public documents; it is only interested in non-public patent applications. We do not understand why non-public patent applications in search or advertising are relevant to the parties' claims or defenses in this case, and it is very burdensome for Google to search for such materials, which are not stored in a centralized repository. Moreover, given that most filings with the PTO become public within 18 months of filing, and Google is not obligated to produce documents created after the filing of the Complaint, the likelihood of Google locating non-public patent applications that are not privileged is very low.

Request No. 93: We discussed Rockstar's requests for the document productions from prior cases. Rockstar confirmed that it does not want prior art or other documents un-related to this case, but that if it is easiest to just reproduce prior productions, that is acceptable to Rockstar. Rockstar said it is not concerned about getting a document dump from other cases even if it may content irrelevant documents to this case. We explained our concern that there could be third party confidential information in prior productions, such as license agreements, that would preclude reproduction here since we would need to make sure to comply with notice requirements to those third parties. We indicated that we would try to determine if there is a way to segregate from prior productions the problematic documents. And, to the extent that we do agree to re-produce prior productions or portions thereof, Rockstar will need to first agree to a clawback for third party confidential materials that may be included in those productions. We expect that we will produce a subset of the materials requested by Rockstar, and are considering the specifics of Rockstar's request.

Request No. 94: This request seeks all documents relating or referring to the indemnification or offer to indemnify, or request for indemnification by any of Google's customers, prospective customers, or third-parties with respect to the Patents-in-Suit. Rockstar explained that it believes such documents are relevant to willfulness. To the extent that such documents exist, they may be subject to a joint defense privilege. In any event, we are not aware of indemnification demands relating to the Patents-in-Suit.

Request No. 95: This request seeks all documents relating or referring to the indemnification or offer to indemnify, or request for indemnification by any of Google's customers, prospective customers, or third-parties with respect to the Accused Instrumentalities. This request is not limited to the patents-in-suit. Nevertheless, Rockstar contends that it is relevant to revenue recognition and generation. According to Rockstar, this is relevant to whether certain revenue is properly attributed to the revenue base. Rockstar further stated that it is relevant to rebut a divided infringement argument by Google. We disagree that such documents are relevant.

Request No. 96-109: Rockstar acknowledged that it does not need to know where Google servers are located. What it is interested in is information regarding documents sufficient to show how international data flow works, where data is stored, master-client relationships, etc. Ms. Bonn's email states that this has come up in other Google cases. We are looking into Rockstar's request.

Request No. 111: This request seeks all communications with non-party witnesses. Rockstar explained that if Google is communicating with an third parties, those communications should be produced. We note, however, that this request is not limited to communications about the litigation. We also note that this request is not limited to communications prior to the filing of the Complaint, and the E-Discovery Order does not require either party to search for documents created after the filing of the Complaint. To the extent that Rockstar is interested in communications with non-party witnesses that pre-date the Complaint, it is welcome to propose search terms for email requests.

Request No. 113: This request seeks all documents referring or relating to statements made by Google, including communications between Google and any prospective customers or business partners, referring or relating to the actual or contemplated capabilities of the Accused Instrumentalities. Rockstar explained that it is looking for documents regarding the marketing and technical capabilities of the Accused Instrumentalities, and thus likely covered by prior requests. Ms. Bonn's July 10 email does not acknowledge this. If Rockstar is seeking documents that are different from what was already requested, please explain what and why such documents are relevant.

Request No. 114: Rockstar withdrew this request.

Request No. 115: This request seeks all documents concerning past sales, research or development, present sales, research, licenses or development, and projected or contemplated future sales, research, license or development of any of the Accused Instrumentalities. Rockstar acknowledged that this request is likely covered by prior requests. Rockstar is seeking market studies, design, and research, regarding the Accused Instrumentalities. This request additionally seeks, however, revenue information and information regarding contemplated changes. The latter also seem to be duplicative of other requests. If you disagree, please advise.

Request No. 116: This request seeks all documents sufficient to show all sales, revenue, costs, and profit information for the Accused Instrumentalities, broken down by quarter, including all documents sufficient to explain any acronyms or terminology employed by Google's accounting system. Rockstar's request states that, to the extent possible, this information should be as specific as possible, and at a minimum should be broken down by Accused Instrumentality and by country from which the revenue is received, since July 1, 2000. Rockstar acknowledged that it only needs this information dating back to January 1, 2007, but Ms. Bonn's July 10 email states that Rockstar requests documents for three months before the incorporation of user profile data into search functionalities. Google will produce U.S. financial information in summary form. Ms. Bonn's July 10 email further states that Rockstar "may need" high-level revenue and profit information since the introduction of the product in order to show secondary considerations of non-obviousness. We do not understand what you are seeking in terms of "high-level" information, but understand Ms. Bonn's email as not requesting that information at this time.

Request No. 117: This request seeks all documents that relate to the accounting practices used by Google to account for the sales, expenses, and income for the Accused Instrumentalities, since July 1, 2000. Rockstar explained that what it is looking for is information that explains whether

revenue shared with third parties is properly part of the royalty base. We are looking into this request.

Request No. 118: This request seeks all documents regarding the market share for the Accused Instrumentalities dating back to 1998. Rockstar claimed that this is relevant to secondary considerations. Rockstar further would not limit the time period of this request, as it agreed to do with respect to No. 116. Google does not have a central repository in which it stores documents referring to its “market share.” So, as a practical matter, we are not certain of how we would search for such documents. Moreover, we expect that there are publicly available documents that report on market share. In any event, to the extent that such documents are located in a reasonably, diligent search of custodial information, Google will produce them.

Request Nos. 119-122: Rockstar acknowledged that these are catchall requests, likely covered by prior requests. With respect to No. 119, if a technology transfer or authorization-to-use agreement excludes the Accused Instrumentalities, then it need not be produced.

Request Nos. 125-126: Rockstar acknowledged that these are duplicative of prior requests. Rockstar further noted, however, that it believes Google should search for the names of Rockstar and Nortel employees of which it is aware. With respect to emails, Rockstar can certainly include names of Rockstar and Nortel employees in the search terms it proposes to Google. To the extent that such names appear in Google ESI, we would expect for them to primarily be in emails.

Request No. 142: Ms. Bonn’s summary of the parties’ discussion with respect to this request was incorrect. This request seeks all documents referring or relating to any patents, publications, documents, events, suggestions, arguments or contentions that have been asserted by any person as prior art or as affecting the validity or enforceability of any of the Patents-in-Suit or of any foreign counterparts thereof. Rockstar clarified that it is looking for information regarding the patents, publications, or systems, that Google is asserting as prior art. Rockstar used NetGravity as an example. Rockstar wants all documents that Google has related to NetGravity to the extent that they relate to Google’s contentions, even if Google will not rely on those particular documents. 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.

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. We do not believe that Google’s Accused Instrumentalities use the invention in the patents-in-suit. 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. We additionally note that Google already produced its 10Ks, which contain responsive information.

Request No. 144: This request seeks all documents that refer or relate to whether any invention encompassed in any of the Accused Instrumentalities, or any product that embodies or uses such an invention, has been copied by others. Rockstar explained that it is looking for internal market

studies regarding Bing or Yahoo. Rockstar claims this is relevant to copying. We've reviewed the case cited in Ms. Bonn's July 10 email, *Amazon.com, Inc. v. Barnesandnoble.com, Inc.*, 239 F.3d 1343, 1366 (Fed. Cir. 2001). There, the Federal Circuit held that evidence of copying patent holder Amazon's 1-Click® feature is irrelevant unless it was shown to be an embodiment of the asserted claims. Here, however, Google does not agree that the Accused Instrumentalities embody the asserted claims, thus any copying of the Accused Instrumentalities is irrelevant.

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. Again, we explained that this seems to be a request for documents that would be in Rockstar's possession, custody, or control. Rockstar stated that this is relevant to secondary considerations, and likely covered in prior requests.

Request No. 146: This request seeks all organizational charts for any part of your company engaged in the design, development, or sale of the Accused Instrumentalities. We explained that Google does not have a traditional org chart. It has an internal system in which an employee can be looked up. Rockstar said that this is what it wants; it wants to know who is related to the Accused Instrumentalities so that it can direct Google where to search for documents. We responded that there are hundreds of thousands of people that touch these products in some way, so this would not make sense. Rockstar suggested that Google start at the highest level and work its way down to the team leads for the Accused Instrumentalities. We indicated that we would look to see if there is a way to parse the information Rockstar seeks. We have determined that Google has a tool in which we can enter the name of a witness disclosed on Google's Initial Disclosures, and the tool will identify who that person reports up to all the way up to Larry Page, and will also identify that person's direct reports, and the other people who report to the same person. Please let us know if you would like us to generate these reports for the Google employees on Google's Initial Disclosures..

Request No. 147: Rockstar confirmed that this request seeks the technology transfer agreements requested in prior requests.

Request Nos. 148-149: Rockstar confirmed that these requests are covered by requests previously discussed. Ms. Bonn's July 10 email skips over No. 148.

Request No. 150: Ms. Bonn's July 10 email includes this request, but we do not recall specifically discussing it during our July 9 call. In any event, Google refers Rockstar to its June 18 letter.

Request No. 152: Rockstar confirmed that this request for document retention policies can be limited to Google's document retention policies.

Request No. 153: Rockstar confirmed that this request for litigation holds can be limited to Google's litigation holds. We did note, however, that we think it is likely such documents are privileged. We understand the Rockstar disagrees.

## **Most significant custodians**

Rockstar contends that Google should identify additional “most significant” email custodians because Google (like Rockstar) identified less than 20. We explained that we believe that we identified the most significant custodians who are likely to have information relevant to Rockstar’s claims. That said, as indicated in our June 30 disclosure of custodians, we are willing to work with Rockstar to identify who else should be added. Rockstar suggested that Google should add Larry Page, Sergey Brin, the person in the executive management group responsible for search and ads, and the technical and marketing leads under that person. We noted that we have already identified the technical leads for the accused functionalities. And, we think that to the extent the more senior individuals would have relevant documents, they would almost certainly be duplicative of the documents maintained by the technical leads. In any event, we will continue to work with Rockstar and discuss with our client appropriate additional custodians. At our July 10 meet and confer, Rockstar offered to provide a list of potential custodians for Google to consider.

Very truly yours,



Andrea Pallios Roberts

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