

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

ROCKSTAR CONSORTIUM US LP	)	
AND NETSTAR TECHNOLOGIES LLC,	)	
	)	
Plaintiffs,	)	
	)	Civil Action No. 13-cv-00893-JRG-RSP
v.	)	
	)	<b>JURY TRIAL DEMANDED</b>
GOOGLE INC.	)	
	)	
Defendant.	)	
	)	
	)	

**GOOGLE INC.'S NOTICE OF SUPPLEMENTAL AUTHORITY**

Currently pending before the Court is Google Inc.'s Objections to the Magistrate's Memorandum Opinion and Order Denying Google's Motion to Transfer (Dkt. 188), filed October 3, 2014. Plaintiffs Rockstar Consortium US LP and Netstar Technologies LLC have not yet responded. Google files this notice to bring to the Court's attention subsequent authority that is relevant to Google's Objections.

On October 9, 2014, the United States Court of Appeals for the Federal Circuit issued its non-precedential order in *In re Google Inc.*, Case No. 2014-147, Dkt. 22 (the "Order"), attached hereto as Exhibit A. The Order granted Google's petition for a writ of mandamus to this Court in a series of cases filed by Rockstar Consortium US LP and Mobilestar Technologies LLC (the "Respondents"), Nos. 2:13-cv-00894-JRG, 2:13-cv-00895-JRG, 2:13-cv-00898-JRG, 2:13-cv-00900-JRG, and 2:13-cv-00901-JRG. The Federal Circuit vacated orders denying motions to stay in these cases, and ordered the cases stayed pending the outcome of a declaratory judgment action filed by Google in the United States Court for the Northern District of California. While the specific posture of that case raised issues of comity (Order at 5), in granting the writ, the

Federal Circuit further concluded that the convenience factors support venue in the Northern District of California, rather than this District. (Order at 7-8.) The Federal Circuit's findings are directly relevant to Google's Objections.

Specifically, the Federal Circuit analyzed "the comparative convenience of both venues for resolving the matter." (Order at 7.) The court concluded "those considerations point firmly in the direction of the Northern District of California," in part because (1) Google's products at issue (its Android platform) were "designed and created" in the Northern District, (2) "[m]any of the witnesses who can testify to the design and development" of the products "reside near Google's headquarters in Mountain View," and (3) the Respondents "do not name any witnesses in Texas essential to the suit." (*Id.*) Each of these points is relevant to Google's Objections concerning the similar facts in this case. (*See* Dkt. 188, 3.) The Federal Circuit further explained that Google filed a declaration that its records regarding the accused products "are predominantly based in its headquarters in the Northern District of California," a fact that weighs in favor of venue in the Northern District. (Order at 7-8 (citing *In re Genentech, Inc.*, 566 F.3d 1338, 1345 (Fed. Cir. 2009).) This point is relevant to Google's Objections as well. (*See* Dkt. 188, 4-5.) Finally, the Federal Circuit addressed Respondents' evidence of an office in Plano, Texas, finding that "they do not dispute that their primary operations are run out of Canada. Moreover, the only prospective employee witnesses that Respondents name from Plano work as counsel for Respondents, and are thus entitled to little consideration in a convenience calculus." (*Id.* at 8.) This too is relevant to Google's Objections. (*See* Dkt. 188, 2-4.)

DATED: October 17, 2014

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By /s/ David Perlson

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on October 17, 2014.

/s/ Sam Stake \_\_\_\_\_

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