

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

ROCKSTAR CONSORTIUM US LP)
AND NETSTAR TECHNOLOGIES LLC,)

Plaintiffs,)

v.)

GOOGLE INC.)

Defendant.)

Civil Action No. 13-cv-00893-JRG-RSP

JURY TRIAL DEMANDED

**NOTICE OF GOOGLE INC.'S OBJECTIONS TO PLAINTIFFS' EVIDENCE
SUBMITTED WITH ITS REPLY CLAIM CONSTRUCTION BRIEF (DKT. 198)**

Defendant Google Inc. (“Google”) hereby objects to untimely extrinsic evidence disclosed for the first time with the Reply Claim Construction Brief (Dkt. 198) of Plaintiffs Rockstar Consortium US LP and Netstar Technologies LLC (“Rockstar”).

Exhibits 25 through 31 of Rockstar’s reply brief consist of a series of webpages and other documents that purportedly support Rockstar’s construction of “data processing device.” (Dkt. 198 at 8.) None of these exhibits were mentioned in Rockstar’s P.R. 4-2 disclosures or its P.R. 4-3 chart. (Dkt. 121-1 at 4-5.) P.R. 4-3(b) requires “an identification of any extrinsic evidence known to the party on which it intends to rely either to support its proposed construction of the claim or to oppose any other party’s proposed construction of the claim.”

Before the parties’ filed their P.R. 4-3(b) submission, Google carefully explained its position on the construction of “data processing device” during the parties’ meet and confer, and offered Federal Circuit authority supporting its position. (Ex. A at 1.) Indeed, when Google recently communicated its objections to Rockstar’s untimely evidence, Rockstar conceded that it was aware of Google’s position, but only began to “investigate[]” after the receipt of Google’s responsive brief and then “discovered” Exhibits 25-31. (Ex. B at 1.) Rockstar’s untimely delay is contrary to P.R. 4-3(b). The Court should disregard these exhibits.

Even if the Court excuses Rockstar’s untimely disclosure, Exhibits 25-31 are not relevant to the dispute between the parties. As explained in Google’s Responsive Claim Construction Brief, Google contends that “tablets and smartphones [] would not be considered conventional hardware/software by a person of skill in 1997.” (Dkt. 183 at 21.) Exhibits 25-31 provide no evidence that tablets and smartphones were considered conventional at that time, and are therefore irrelevant. If the Court considers them, they should be given no weight.

DATED: October 20, 2014

QUINN EMANUEL URQUHART & SULLIVAN, LLP

By /s/ David A. Perlson

J. Mark Mann
State Bar No. 12926150
G. Blake Thompson
State Bar No. 24042033
MANN | TINDEL | THOMPSON
300 West Main Street
Henderson, Texas 75652
(903) 657-8540
(903) 657-6003 (fax)

QUINN EMANUEL URQUHART &
SULLIVAN, LLP
Charles K. Verhoeven
charlesverhoeven@quinnemanuel.com
David A. Perlson
davidperlson@quinnemanuel.com
50 California Street, 22nd Floor
San Francisco, California 94111-4788
Telephone: (415) 875 6600
Facsimile: (415) 875 6700

Attorneys for Google Inc.

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 20, 2014.

/s/ Carl G. Anderson _____

Carl G. Anderson