

EXHIBIT B

Carl Anderson

From: Shawn Blackburn [SBlackburn@susmangodfrey.com]
Sent: Friday, October 17, 2014 6:12 PM
To: Carl Anderson; Antonio Sistos; Andy Tindel; Charles K Verhoeven; David Perlson; Erik C. Olson; Eugene Mar; Gregory Blake Thompson; James Mark Mann; Michelle Ernst; QE-Google-Rockstar; Robert Wilson; Roderick Thompson; Sam Stake; Sean Pak
Cc: Alexander L. Kaplan; Amanda Bonn; Cyndi Obuz; John Dolan; John Lahad; Justin A. Nelson; Max L. Tribble; Meng Xi; Parker Folse; Stacy Schulze; Tammie J. DeNio
Subject: RE: Activity in Case 2:13-cv-00893-JRG-RSP Rockstar Consortium US LP et al v. Google Inc Sealed Document

Carl,

Thank you for your email. Rockstar was aware of Google's general position and its proposed construction of "data processing device" as of the filing of the JCCS. I have reviewed your attached correspondence and it has little to do with the relevant question of whether Rockstar knew of Exhibits 25-31. As I explained to your colleague, Mr. Sistos, Rockstar complied with P.R. 4-3(b) by identifying the extrinsic evidence known to Rockstar at the time of filing. That the web pages were potentially accessible via the internet is immaterial to whether they were known to Rockstar.

As you may be aware, long after the filing of the JCCS, your colleague David Perlson elicited testimony from Richard Skillen regarding the existence of tablets and smart phones around the time of the invention in which Mr. Skillen confirmed their existence. Following Mr. Skillen's deposition and the receipt of Google's responsive brief, which stated without support that "tablets and smartphones [] would not be considered 'conventional hardware/software' by a person of skill in 1997," Rockstar investigated Mr. Skillen's assertions and discovered the evidence found in Exhibits 25-31. Finally, it appears to be Google's position that no evidence may be included in the claim construction briefs that was not included in the JCCS. There is no such rule.

Best,

Shawn

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From: Carl Anderson [mailto:carlanderson@quinnemanuel.com]
Sent: Monday, October 13, 2014 8:05 PM
To: Shawn Blackburn; Antonio Sistos; Andy Tindel; Charles K Verhoeven; David Perlson; Erik C. Olson; Eugene Mar; Gregory Blake Thompson; James Mark Mann; Michelle Ernst; QE-Google-Rockstar; Robert Wilson; Roderick Thompson; Sam Stake; Sean Pak
Cc: Alexander L. Kaplan; Amanda Bonn; Cyndi Obuz; John Dolan; John Lahad; Justin A. Nelson; Max L. Tribble; Meng Xi;

Parker Folse; Stacy Schulze; Tammie J. DeNio

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Shawn,

Rockstar cannot contend that it was unaware of Google's position on "data processing device" as of the filing of the JCCS. Not only did we explain that position to Rockstar on the meet and confers, we provided case support for that position at Rockstar's request. That correspondence is attached. Nor can Rockstar contend that it did not have access to the web pages and documents it attached in Exhibits 25-31. Given the above, please explain why Rockstar contends that it was unaware of those exhibits.

As Google also mentioned on the meet and confer, to the extent it resolves the parties' dispute, we are willing to modify our construction of "data processing device" to "a desktop computer or laptop, such as a PC or a Macintosh, executing a browser." While Rockstar previously rejected Google's compromise construction, we will renew the offer in order to avoid unnecessary motion practice. Please advise by Tuesday, October 14, 2014 whether Rockstar agrees so that we can update the joint claim construction chart as needed.

Very truly yours,
Carl

Carl Anderson

Partner,

Quinn Emanuel Urquhart & Sullivan, LLP

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From: Shawn Blackburn [<mailto:SBlackburn@susmangodfrey.com>]

Sent: Thursday, October 09, 2014 8:46 AM

To: Antonio Sistos; Andy Tindel; Carl Anderson; Charles K Verhoeven; David Perlson; Erik C. Olson; Eugene Mar; Gregory Blake Thompson; James Mark Mann; Michelle Ernst; QE-Google-Rockstar; Robert Wilson; Roderick Thompson; Sam Stake; Sean Pak

Cc: Alexander L. Kaplan; Amanda Bonn; Cyndi Obuz; John Dolan; John Lahad; Justin A. Nelson; Max L. Tribble; Meng Xi; Parker Folse; Stacy Schulze; Tammie J. DeNio

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Antonio:

As you know P.R. 4-3(b) only 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." We fully complied with that rule. Exhibits 25 through 31 are properly incorporated to rebut the argument in Google's response that "Rockstar ignores the relevant time period altogether in a bid to capture devices like tablets and smartphones that would not be considered 'conventional hardware/software' by a person of skill in 1997." We will not withdraw them.

This confirms that (1) Rockstar will not be asserting claims that depend from claim 11 of the '883 Patent (i.e, claims 12 – 19), and (2) that we are amenable to Google's construction of "the user" for '970, claim 45. We suggest that the parties notify the Court about these terms as part of the Joint Claim Construction Chart due on October 14. There is no point wasting the Court and everyone else's time with serial filings.

Best,

Shawn D. Blackburn

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From: Antonio Sistos [<mailto:antoniosistos@quinnemanuel.com>]

Sent: Wednesday, October 08, 2014 3:25 PM

To: Shawn Blackburn; Andy Tindel; Carl Anderson; Charles K Verhoeven; David Perlson; Erik C. Olson; Eugene Mar; Gregory Blake Thompson; James Mark Mann; Michelle Ernst; QE-Google-Rockstar; Robert Wilson; Roderick Thompson; Sam Stake; Sean Pak

Cc: Alexander L. Kaplan; Amanda Bonn; Cyndi Obuz; John Dolan; John Lahad; Justin A. Nelson; Max L. Tribble; Meng Xi; Parker Folse; Stacy Schulze; Tammie J. DeNio

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Counsel,

I write in reference to Rockstar's reply claim construction brief.

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." None of these exhibits were mentioned in Rockstar's P.R. 4-2 disclosures or its P.R. 4-3 exhibit. (See, e.g., Dkt. 121-1 at 4-5.) Nor were these documents included in Google's disclosures. (See, e.g., Dkt. 121-2 at 12.) 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." As Exhibits 25 through 31 were not included in Rockstar's mandatory disclosures, they should not have been included with or referenced in Rockstar's reply. Please let us know today whether Plaintiff will agree to remove the reference to these exhibits from its brief and withdraw its filing of the same.

Further, Footnote 1 of Rockstar's reply asserts that since Rockstar is dropping claim 11 of the '883 patent, the "interacting.. to create user profile data" term briefed at Rockstar's opening brief at 27 and Google's responsive brief at 17-18 need not be construed. As you know, Rockstar has also asserted claims 12 through 19 of the '883 patent, all of which depend from claim 11. Please let us know if Rockstar is dropping those claims, and if not, the basis for Rockstar's contention that the "interacting" term need not be construed. The Court should have a full and accurate picture of the terms actually at issue. Please respond on this point today.

Finally, as noted in footnote 30 of Google's responsive brief, Rockstar's opening brief does not provide any argument for "the user" of claim 45 of the '970 patent, and Rockstar's reply brief does not address the term either. (Reply 16.) As also noted in footnote 30 of Google's brief, Google proposed a compromise construction of "a person or individual

operating the data processing device” for “the user.” Please let us know whether Rockstar agrees with Google’s proposal, and if not, the basis for its disagreement, as Rockstar’s position is not briefed. While we do not need an answer on this point today, please let us know your position this week. Again, to the extent we can narrow issues, the Court would likely appreciate notice of that sooner rather than later.

Regards,

Antonio Sistos

Of Counsel,

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From: Shawn Blackburn [<mailto:SBlackburn@susmangodfrey.com>]

Sent: Tuesday, October 07, 2014 7:37 PM

To: Andy Tindel; Antonio Sistos; Carl Anderson; Charles K Verhoeven; David Perlson; Erik C. Olson; Eugene Mar; Gregory Blake Thompson; James Mark Mann; Michelle Ernst; QE-Google-Rockstar; Robert Wilson; Roderick Thompson; Sam Stake; Sean Pak

Cc: Alexander L. Kaplan; Amanda Bonn; Cyndi Obuz; John Dolan; John Lahad; Justin A. Nelson; Max L. Tribble; Meng Xi; Parker Folse; Shawn Blackburn; Stacy Schulze; Tammie J. DeNio

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Counsel,

Please see attached.

Best,

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Sent: Tuesday, October 07, 2014 9:25 PM