

Exhibit 65

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-RG
v.)	
)	
GOOGLE INC.)	
)	
Defendant.)	
)	
)	

PLEASE TAKE NOTICE that, pursuant to Rule 45 of the Federal Rules of Civil Procedure, Defendant Google Inc. will serve a Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises (“the Subpoena”) on Turner Broadcasting System, Inc. The specific categories of the documents which he should produce are listed in Attachment A to the Subpoena. A true and correct copy of the Subpoena is attached to this notice.

Dated: June 20, 2014

Respectfully submitted,

s/ Sam Stake

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New York, NY 10010

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**ATTORNEYS FOR DEFENDANT
GOOGLE INC.**

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record are being served via electronic mail with a copy of this document on June 20, 2014.

s/ Sam Stake

Sam Stake

samstake@quinnemanuel.com

Quinn Emanuel Urquhart & Sullivan

50 California Street, 22nd Floor

San Francisco, CA 94111

415-875-6600

UNITED STATES DISTRICT COURT

for the

Eastern District of Texas

Rockstar Consortium US LP & NetStar Technologies LLC)

Plaintiff)

v.)

Google Inc.)

Defendant)

Civil Action No. 13-cv-00893-RG

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Turner Broadcasting System, Inc.
100 International Boulevard, 1 CNN Center NW, Atlanta, GA 30303

(Name of person to whom this subpoena is directed)

Production: **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: Attachment A

Place: Chris Stanton 1327 Arkwright Place Atlanta, GA 30317	Date and Time: 07/18/2014 9:00 am
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Inspection of Premises: **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

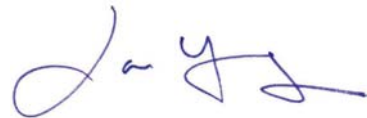
Place:	Date and Time:
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The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 06/20/2014

CLERK OF COURT

OR



Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____

Google Inc. _____, who issues or requests this subpoena, are:

Lance Yang, Quinn Emanuel Urquhart & Sullivan, LLP, 865 S. Figueroa St., 10th Floor, Los Angeles, California 90017, 213-443-3360

lanceyang@quinnemanuel.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 13-cv-00893-RG

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

DEFINITIONS

1. “TBS” “YOU,” and “YOUR,” means Turner Broadcasting System, Inc., and its officers, directors, current and former employees, counsel, agents, consultants, representatives, and any other persons acting on behalf of any of the foregoing, and all of Turner Broadcasting System, Inc.’s affiliates, parents, divisions, joint ventures, licensees, franchisees, assigns, predecessors and successors in interest, and any other legal entities, whether foreign or domestic, that are owned or controlled by Turner Broadcasting System, Inc., and all predecessors and successors in interest to such entities.
2. “TBS WEBSITE” means any SOURCE CODE or EXECUTABLE SOFTWARE related to any website owned by TBS, including the website that was made available at www.turner.com, prior to July 8, 1999.
3. “ADAPT/X” means any SOURCE CODE, EXECUTABLE SOFTWARE, or services offered by Bellcore related to or marketed as Adapt/X Advertiser prior to July 8, 1999, as referenced in, by way of example only, Exhibit 2.
4. “NETGRAVITY” means the any SOURCE CODE, EXECUTABLE SOFTWARE, or services offered by NetGravity, Inc., previously known as Netvertiser, Inc. prior to July 8, 1999, as referenced in, by way of example only, Exhibit 3.
5. “PATENTS-IN-SUIT” refers to U.S. Patent Nos. 6,098,065; 7,236,969, 7,469,245; 7,672,970; 7,895,183; 7,895,178; and 7,933,883, individually and collectively, including all underlying patent applications, all continuations, continuations-in-part, divisionals, and reissues.
6. “NORTEL” means Nortel Networks Corporation and its officers, directors,

current and former employees, counsel, agents, consultants, representatives, and any other persons acting on behalf of any of the foregoing, and Nortel Networks Corporation's affiliates, parents, divisions, joint ventures, licensees, franchisees, assigns, predecessors and successors in interest, and any other legal entities, whether foreign or domestic, that are owned or controlled by Nortel Networks Corporation, and all predecessors and successors in interest to such entities.

7. "ROCKSTAR" means Rockstar Consortium Inc. and their officers, directors, current and former employees, counsel, agents, consultants, representatives, and any other persons acting on behalf of any of the foregoing, and Rockstar Consortium Inc.'s affiliates, parents, divisions, joint ventures, licensees, franchisees, assigns, predecessors and successors in interest, and any other legal entities, whether foreign or domestic, that are owned or controlled by Rockstar Consortium Inc., including Rockstar Consortium US LP, Rockstar Consortium LLC, Rockstar Bidco, or NetStar Technologies LLC, and all predecessors and successors in interest to such entities.

8. "ROCKSTAR SHAREHOLDER" means any shareholder in ROCKSTAR and includes, but is not limited to, Apple Inc., Microsoft Corporation, Sony Corporation, Ericsson, and Blackberry Ltd.

9. "DOCUMENT" includes, without limitation, all written, graphic or otherwise recorded material, including without limitation, microfilms or other film records or impressions, electronically stored information regardless of the form of storage medium, tape recordings or computer cards, floppy disks or printouts, any and all papers, photographs, films, recordings, memoranda, books, records, accounts, communications, letters, telegrams, correspondence, notes of meetings, notes of conversations, notes of telephone calls, inter-office memoranda or written communications of any nature, recordings of conversations either in writings or upon any

mechanical or electrical recording devices, including email, notes, papers, reports, analyses, invoices, canceled checks or check stubs, receipts, minutes of meetings, time sheets, diaries, desk calendars, ledgers, schedules, licenses, financial statements, telephone bills, logs, and any differing versions of any of the foregoing, whether so denominated, formal, informal or otherwise, as well as copies of the foregoing which differ in any way, including by the addition of handwritten notations or other written or printed matter of any nature, from the original. The foregoing specifically includes information stored in a computer database and capable of being generated in documentary form, such as electronic mail.

10. “SOURCE CODE” includes source code, hardware code, machine code, assembly code, or code written in any programming language, and code that can be compiled or acted upon by a processor, any listings or printouts thereof, and any release notes describing the features or modifications of such code.

11. “EXECUTABLE SOFTWARE” means computer files containing encoded instructions capable of being executed by a processing unit (e.g. central processing unit, microcontroller), and any release notes describing the features or modifications of such files. The term shall include, without limitation, firmware and executable binary files.

12. “COMMUNICATION” means, without limitation, any transmission, conveyance or exchange of a word, statement, fact, thing, idea, DOCUMENT, instruction, information, demand or question by any medium, whether by written, oral or other means, including but not limited to, electronic communications and electronic mail.

13. “PERSON” refers to any individual, corporation, proprietorship, association, joint venture, company, partnership or other business or legal entity, including governmental bodies and agencies.

14. “REFLECT,” “REFLECTING,” “RELATE TO,” “REFER TO,” “RELATING TO,” and “REFERRING TO” mean relating to referring to, concerning, mentioning, reflecting, pertaining to, evidencing, involving, describing, discussing, commenting on, embodying, responding to, supporting, contradicting, or constituting (in whole or in part), as the context makes appropriate.

15. “Include” and “including” shall mean including without limitation.

16. Use of the singular also includes the plural and vice-versa.

17. The words “or” and “and” shall be read in the conjunctive and in the disjunctive wherever they appear, and neither of these words shall be interpreted to limit the scope of these Interrogatories.

18. The use of a verb in any tense shall be construed as the use of the verb in all other tenses.

INSTRUCTIONS

The following instructions shall apply to each of the Document Requests herein:

1. This subpoena seeks DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things in existence as of the date of service hereof and to the full extent permitted by the Federal Rules of Civil Procedure.
2. This subpoena shall apply to all DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things in your possession, custody or control as of the date of service hereof or coming into your possession, custody, or control before the date of the production.
3. If any portion of a DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things is responsive to a request, the entire DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things shall be produced, redacting only privileged material if any.
4. YOU are to produce the original and each non-identical copy of each DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things requested herein that is in YOUR possession, custody or control.
5. DOCUMENTS produced pursuant to these requests shall be produced in the original files and shall not be shuffled or otherwise rearranged. DOCUMENTS which were stapled, clipped, or otherwise fastened together shall be produced in that form.
6. Things produced pursuant to these requests shall be produced in their present form and shall not be changed or modified in any way.
7. In the event that any DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things called for by these requests or subsequent requests is to be withheld on

the basis of a claim of privilege or immunity from discovery, that DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things is to be identified by stating:

- (a) the author(s), addressee(s) and any indicated or blind copyee(s);
- (b) the DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things' date, number of pages and attachments or appendices;
- (c) the subject matter(s) of the document;
- (d) the nature of the privilege or immunity asserted; and
- (e) any additional facts upon which you would base your claim of privilege or immunity.

8. In the event that any DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things called for by these requests or subsequent requests has been destroyed or discarded, that DOCUMENT or thing is to be identified by stating:

- (a) the author(s), addressee(s) and any indicated or blind copyee(s);
- (f) the DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things' date, number of pages and attachments or appendices;
- (g) the DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things' subject matter;
- (h) the date of destruction or discard, manner of destruction or discard, and reason for destruction or discard;
- (i) the PERSONS who were authorized to carry out such destruction or discard; and

(j) whether any copies of the DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things presently exist and, if so, the name of the custodian of each copy.

9. If any of the DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things are considered “confidential” such DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things should be produced subject to the terms and provisions of the protective order entered in this case, attached as Exhibit 1.

10. If no DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things are responsive to a particular request, you are to state that no responsive DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things exist.

11. These Requests shall be deemed continuing so as to require further and supplemental production in accordance with the Federal Rules of Civil Procedure.

DOCUMENTS TO BE PRODUCED

REQUEST FOR PRODUCTION NO. 1:

All DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things, including presentations, instructions, technical plans, diagrams, workbooks, manuals, published articles, publications, and user guides, relating to any and all versions of TBS WEBSITE that were created, licensed, made available or sold in the U.S. prior to July 8, 1999.

REQUEST FOR PRODUCTION NO. 2:

All DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things, including presentations, instructions, technical plans, diagrams, workbooks, manuals, published articles, publications, and user guides, relating to any and all versions of ADAPT/X that were created, licensed, made available or sold in the U.S. prior to July 8, 1999.

REQUEST FOR PRODUCTION NO. 3:

All DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things, including presentations, instructions, technical plans, diagrams, workbooks, manuals, published articles, publications, and user guides, relating to any and all versions of NETGRAVITY that were created, licensed, made available or sold in the U.S. prior to July 8, 1999.

REQUEST FOR PRODUCTION NO. 4:

DOCUMENTS sufficient to identify, by build name or number, any and all versions of TBS WEBSITE that YOU manufactured, sold, or otherwise made available in the U.S. prior to July 8, 1999.

REQUEST FOR PRODUCTION NO. 5:

DOCUMENTS sufficient to show YOUR marketing, advertising, or promotional efforts related to TBS WEBSITE prior to July 8, 1999.

REQUEST FOR PRODUCTION NO. 6:

DOCUMENTS sufficient to show the time period during which each version of TBS WEBSITE was made available to the public prior to July 8, 1999.

REQUEST FOR PRODUCTION NO. 7:

DOCUMENTS sufficient to identify any persons knowledgeable about the creation, design, development, and operation of TBS WEBSITE sold, licensed, or made available prior to July 8, 1999.

REQUEST FOR PRODUCTION NO. 8:

DOCUMENTS sufficient to identify any persons knowledgeable about the creation, design, development, and operation of ADAPT/X sold, licensed, or made available prior to July 8, 1999.

REQUEST FOR PRODUCTION NO. 9:

DOCUMENTS sufficient to identify any persons knowledgeable about the creation, design, development, and operation of NETGRAVITY sold, licensed, or made available prior to July 8, 1999.

REQUEST FOR PRODUCTION NO. 10:

All DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things, including presentations, instructions, technical plans, diagrams, workbooks, manuals, published articles, publications, and user guides, relating to the use or incorporation of ADAPT/X with TBS WEBSITE prior to July 8, 1999, including beta testing, as referenced in, by way of example only, Exhibit 2.

REQUEST FOR PRODUCTION NO. 11:

All DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things, including presentations, instructions, technical plans, diagrams, workbooks, manuals, published articles, publications, and user guides, relating to the use or incorporation of NETGRAVITY with TBS WEBSITE prior to July 8, 1999, including beta testing, as referenced in, by way of example only, Exhibit 3.

REQUEST FOR PRODUCTION NO. 12:

DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things, sufficient to show the technical operation or use of any functionality related to the display or incorporation of advertisements on the website available at www.turner.com or any other website owned by TBS, prior to July 8, 1999, including the method for selecting the advertisement.

REQUEST FOR PRODUCTION NO. 13:

DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things, sufficient to show the technical operation or use of any functionality related to TBS WEBSITE that returns search results or advertisements based, in part, upon information about the user requesting the search results, prior to July 8, 1999.

REQUEST FOR PRODUCTION NO. 14:

DOCUMENTS, SOURCE CODE, EXECUTABLE SOFTWARE, or things, sufficient to show the technical operation or use of any functionality related to tracking the performance of advertisements displayed or incorporated on www.turner.com or any other website owned by TBS, prior to July 8, 1999, including whether the advertisement was clicked by a visitor to these websites and the amount of advertising fees generated by the advertisement.

REQUEST FOR PRODUCTION NO. 15:

DOCUMENTS sufficient to identify any persons knowledgeable about the use of advertisements with TBS WEBSITE prior to July 8, 1999.

REQUEST FOR PRODUCTION NO. 16:

DOCUMENTS sufficient to identify any SOURCE CODE or EXECUTABLE SOFTWARE developed by a third party related to the display or incorporation advertisements on a web search engine webpage related to TBS WEBSITE prior to July 8, 1999.

REQUEST FOR PRODUCTION NO. 17:

DOCUMENTS sufficient to identify any SOURCE CODE or EXECUTABLE SOFTWARE related to search engine functionality and developed by a third party that was used in TBS WEBSITE prior to July 8, 1999.

REQUEST FOR PRODUCTION NO. 18:

All COMMUNICATIONS between YOU and NORTEL, ROCKSTAR, ROCKSTAR SHAREHOLDER, or a named inventor on the PATENTS-IN-SUIT, related to TBS WEBSITE, ADAPT/X, NETGRAVITY, or the PATENTS-IN-SUIT.

EXHIBIT 1

**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. 2:13-cv-893

JURY TRIAL DEMANDED

PROTECTIVE ORDER

WHEREAS, Plaintiffs Rockstar Consortium US LP and Netstar Technologies LLC and Defendant Google Inc., hereafter referred to as "the Parties," believe that certain information that is or will be encompassed by discovery demands by the Parties involves the production or disclosure of trade secrets, confidential business information, or other proprietary information;

WHEREAS, the Parties seek a protective order limiting disclosure thereof in accordance with Federal Rule of Civil Procedure 26(c):

THEREFORE, it is hereby stipulated among the Parties and ORDERED that:

1. Each Party may designate as confidential for protection under this Order, in whole or in part, any document, information or material that constitutes or includes, in whole or in part, confidential or proprietary information or trade secrets of the Party, or of any person who is not a Party to this Action ("Third Party") to whom the Party reasonably believes it owes an obligation of confidentiality with respect to such document, information or material ("Designated Material").

2. Any document produced under Patent Rules 2-2, 3-2, and/or 3-4 before issuance of this Order with the designation "Confidential" or "Confidential - Outside Attorneys' Eyes Only" shall receive the same treatment as if designated "RESTRICTED - ATTORNEYS' EYES ONLY" under this Order, unless and until such document is redesignated to have a different classification under this Order.
3. With respect to documents, information or material designated "CONFIDENTIAL," "RESTRICTED - ATTORNEYS' EYES ONLY," "RESTRICTED - ATTORNEYS' EYES ONLY – PROSECUTION BAR," or "RESTRICTED CONFIDENTIAL SOURCE CODE" ("DESIGNATED MATERIAL"),¹ subject to the provisions herein and unless otherwise stated, this Order governs, without limitation: (a) all documents, electronically stored information, and/or things as defined by the Federal Rules of Civil Procedure; (b) all pretrial, hearing or deposition testimony, or documents marked as exhibits or for identification in depositions and hearings; (c) pretrial pleadings, exhibits to pleadings and other court filings; (d) affidavits; and (e) stipulations. All copies, reproductions, extracts, digests and complete or partial summaries prepared from any DESIGNATED MATERIALS shall also be considered DESIGNATED MATERIAL and treated as such under this Order.
4. A designation of Protected Material (*i.e.*, "CONFIDENTIAL," "RESTRICTED - ATTORNEYS' EYES ONLY," "RESTRICTED - ATTORNEYS' EYES ONLY – PROSECUTION BAR," or "RESTRICTED CONFIDENTIAL SOURCE CODE") may

¹ The term DESIGNATED MATERIAL is used throughout this Order to refer to the class of materials designated as "CONFIDENTIAL," "RESTRICTED – ATTORNEYS' EYES ONLY," "RESTRICTED - ATTORNEYS' EYES ONLY – PROSECUTION BAR," or "RESTRICTED CONFIDENTIAL SOURCE CODE," both individually and collectively.

be made at any time. Inadvertent or unintentional production of documents, information or material that has not been designated as DESIGNATED MATERIAL shall not be deemed a waiver in whole or in part of a claim for confidential treatment. With respect to documents, any Party that inadvertently or unintentionally produces Protected Material without designating it as DESIGNATED MATERIAL may request destruction of that Protected Material by notifying the recipient(s), as soon as reasonably possible after the Producing Party becomes aware of the inadvertent or unintentional disclosure, and providing replacement DESIGNATED MATERIAL that is properly designated. The recipient(s) shall then destroy all copies of the inadvertently or unintentionally produced Protected Materials and any documents, information or material derived from or based thereon.

5. For purposes of this Order, "CONFIDENTIAL" information shall mean all information or material produced for or disclosed in connection with this action to a Receiving Party that a Producing Party, considers to comprise confidential technical, sales, marketing, financial, or other commercially sensitive information, whether embodied in physical objects, documents, or the factual knowledge of persons, and which has been so designated by the Producing Party. Any CONFIDENTIAL information obtained by any party from any person pursuant to discovery in this litigation may be used only for purposes of this litigation.
6. "CONFIDENTIAL" documents, information and material may be disclosed only to the following persons, except upon receipt of the prior written consent of the designating Party, upon order of the Court, or as set forth in paragraph 17 herein:
 - (a) outside counsel of record in this Action for the Parties;

- (b) employees of such counsel assigned to and reasonably necessary to assist such counsel in the litigation of this Action and service vendors of such counsel (including outside copying services and outside litigation support services such as graphics design, jury consultants, translators and interpreters) assisting in the conduct of the Action;
- (c) Up to and including three (3) designated in-house counsel for each of the Parties who are members of at least one state bar in good standing, who either have responsibility for making decisions dealing directly with the litigation of this Action, or who are assisting outside counsel in the litigation of this Action;
- (d) outside consultants or experts² retained for the purpose of this litigation, provided that: (1) such consultants or experts are not existing employees or presently employed by the Parties or their affiliates; (2) before receipt of or access to any DESIGNATED MATERIAL, the consultant or expert has completed the Undertaking attached as Exhibit A and the same is served upon the Producing Party with (a) a current curriculum vitae of the consultant or expert, (b) disclosure of the consultant's or expert's employment for at least the past four years, (c) disclosure of the consultant's or expert's publications for the last eight years, (d) disclosure of any legal action (by name and number of the case and court) in connection with which the consultant or expert was retained or testified at trial or by deposition during the past four years, and (e) a identification of any patents or

² For the purposes of this paragraph, an outside consultant or expert is defined to include the outside consultant's or expert's direct reports and other support personnel, such that the disclosure to a consultant or expert who employs others within his or her firm to help in his or her analysis shall count as a disclosure to a single consultant or expert.

patent applications in which the consultant or expert is identified as an inventor or applicant, is involved in prosecuting or maintaining, or has any pecuniary interest, within 10 (ten) days of receiving the materials identified in the preceding sentence, the Producing Party may notify in writing the Party proposing the consultant or expert that it objects to that consultant's or expert's receipt of or access to DESIGNATED MATERIAL. The objection must be based on the Producing Party's good faith belief that disclosure of its DESIGNATED MATERIAL to the consultant or expert will result in specific business or economic harm to that party. The written objection must set forth in detail the grounds on which it is based.

- (i) The Parties agree to promptly meet and confer in good faith to resolve such objection. If after consideration of the objection, the party desiring to disclose the DESIGNATED MATERIAL to a consultant or expert refuses to withdraw the consultant or expert, that party shall provide notice to the objecting party. Thereafter, the objecting party shall move the Court, within seven (7) business days of receiving such notice, for a ruling on its objection. A failure to object within the 10-day period or subsequently file a motion within the seven business day period, absent an agreement of the parties to the contrary or for an extension, shall operate as an approval of disclosure of DESIGNATED MATERIAL to the consultant or expert. The parties agree to cooperate in good faith to shorten the time frames set forth in this paragraph if necessary to abide by any discovery or briefing schedules.

- (ii) The objecting party shall have the burden of showing to the Court "good cause" for preventing the disclosure of its DESIGNATED MATERIAL to the consultant or expert.
- (iii) A party who has not previously objected to disclosure of DESIGNATED MATERIAL to a consultant or expert or whose objection has been resolved with respect to previously produced information shall not be precluded from raising an objection to a consultant or expert at a later time with respect to materials or information that are produced after the time for objecting to such a consultant or expert has expired. Any such objection shall be handled in accordance with the provisions set forth above in Paragraphs 6(d)(i)-(ii) above. However, this objection shall not serve to suspend the consultant's or expert's receipt of or access to DESIGNATED MATERIAL which has already been produced;
- (e) independent litigation support services, including persons working for or as court reporters, stenographers, or videographers; graphics, translation or design services retained by counsel for purposes of preparing demonstrative or other exhibits for deposition, trial, or other court proceedings in the actions; and non-technical jury or trial consulting services including mock jurors (subject to § 33), and photocopy, document imaging, and database services retained by counsel and reasonably necessary to assist counsel with the litigation of this Action; and
- (f) the Court and any of its staff and administrative personnel, and stenographic reporters (under seal or with other suitable precautions determined by the Court).

7. Documents, information or material produced in this Action, and designated as DESIGNATED MATERIAL, shall be used by the Parties only in the litigation of this Action and shall not be used for any other purpose. Any person or entity who obtains access to DESIGNATED MATERIAL or the contents thereof pursuant to this Order shall not make any copies, duplicates, extracts, summaries or descriptions of such DESIGNATED MATERIAL or any portion thereof except as may be reasonably necessary in the litigation of this Action. Any such copies, duplicates, extracts, summaries or descriptions shall be classified DESIGNATED MATERIAL and subject to all of the terms and conditions of this Order.
8. To the extent a Producing Party believes that certain DESIGNATED MATERIAL qualifying to be designated CONFIDENTIAL is so sensitive that its dissemination deserves even further limitation, the Producing Party may designate such DESIGNATED MATERIAL "RESTRICTED -- ATTORNEYS' EYES ONLY."
9. The RESTRICTED-ATTORNEYS' EYES ONLY designation is reserved for information that constitutes (a) marketing, financial, sales, web traffic, research and development, or technical, data or information; (b) commercially sensitive competitive information, including, without limitation, information obtained from a nonparty pursuant to a current Nondisclosure Agreement ("NDA"); (c) information or data relating to future products not yet commercially released and/or strategic plans; and, (d) commercial agreements, settlement agreements or settlement communications, the disclosure of which is likely to cause harm to the competitive position of the Producing Party. In determining whether information should be designated as RESTRICTED-ATTORNEYS' EYES ONLY, each party agrees to use such designation only in good faith. Technical

information such as would trigger the prosecution bar in paragraph below must be designated as "RESTRICTED - ATTORNEYS' EYES ONLY – PROSECUTION BAR." The following documents and materials shall not be eligible for designation as "RESTRICTED - ATTORNEYS' EYES ONLY – PROSECUTION BAR": (i) documents and information related only to damages or reasonable royalty rates; (ii) publications, including patents and published patent applications; (iii) materials regarding third party systems or products that were publicly known, on sale, or in public use before June 6, 1996 unless such materials are designated "RESTRICTED - ATTORNEYS' EYES ONLY – PROSECUTION BAR" materials by a third party; and (iv) information that is publicly available.

10. For DESIGNATED MATERIAL designated RESTRICTED -- ATTORNEYS' EYES ONLY or "RESTRICTED - ATTORNEYS' EYES ONLY – PROSECUTION BAR," access to, and disclosure of, such DESIGNATED MATERIAL shall be limited to individuals listed in paragraphs 6 a, b, c, d, e, and f; provided, however, that access by in-house counsel pursuant to paragraph 6(c) be limited to in-house counsel who exercise no competitive decision-making authority on behalf of the client.
11. The RESTRICTED CONFIDENTIAL SOURCE CODE designation is reserved for documents containing confidential, proprietary and/or trade secret source code. The following restrictions govern the production, review and use of RESTRICTED CONFIDENTIAL SOURCE CODE information.
 - (a) Source code, to the extent any Producing Party agrees to provide any such information, shall ONLY be made available for inspection, not produced except as provided for below, and shall be made available in electronic format at one of

the locations identified in paragraph 11(d). Source Code will be loaded onto two non-networked computers that are password protected and maintained in a secure, locked area. To facilitate the taking of notes during the review of Source Code, persons admitted into the room containing Source Code shall be entitled to take a personal laptop computer that is not connected to any wired or wireless network; however, the use or possession of any input/output device (e.g., USB memory stick, cameras or any camera-enabled device (including camera-enabled personal laptops), CDs, floppy disk, portable hard drive, or any devices that can access the Internet or any other network or external system, etc.) separate from the laptop computer is prohibited while accessing the computer containing the Source Code. All persons entering the locked room containing the Source Code must agree to submit to reasonable security measures to insure they are not carrying any prohibited items before they will be given access to the locked room. The computers containing Source Code will be made available for inspection during regular business hours, upon reasonable notice to the Producing Party, which shall not be less than three business days in advance of the requested inspection;

- (b) The Receiving Party's outside counsel and/or experts or consultants may request that commercially available licensed software tools for viewing and searching Source Code be installed on the secured computer. The Receiving Party must provide the Producing Party with the CD or DVD containing such software tool(s), and any necessary licenses, at least four business days in advance of the date upon which the Receiving Party wishes to have the additional software tools available for use on the stand-alone computers.

- (c) The Receiving Party's outside counsel and/or expert or consultant shall be entitled to take notes relating to the Source Code but may not copy any portion of the Source Code into the notes. No copies of all or any portion of the Source Code may leave the room in which the Source Code is inspected except as otherwise provided herein. Further, no other written or electronic record of the Source Code is permitted except as otherwise provided herein.
- (d) The Producing Party shall make the Source Code Material available at one of the following locations chosen at the sole discretion of the Producing Party: (1) the offices of the Producing Party's primary outside counsel of record in this action; or (2) a location mutually agreed upon by the receiving and producing parties (e.g. an escrow company). Any location under (1) or (2) above shall be in the continental United States.
- (e) In order to verify that its Source Code Material has not later been altered, the Producing Party may benchmark the materials to confirm that the materials have not been altered before and after they are provided but shall not install any keystroke or other monitoring software on the stand-alone computer.
- (f) The Producing Party shall provide the receiving Party with information explaining how to start, log on to, and operate the stand-alone computer in order to access the produced Source Code Material on the stand-alone computer.
- (g) No person shall copy, e-mail, transmit, upload, download, print, photograph or otherwise duplicate any portion of the designated Source Code, except as the Receiving Party may request a reasonable number of pages of Source Code to be printed by the Producing Party, but only if and to the extent necessary for use in

this action. Within 5 business days or such additional time as necessary due to volume requested, the Producing Party will provide the requested material on watermarked or colored paper bearing Bates numbers and the legend "RESTRICTED CONFIDENTIAL - SOURCE CODE" unless objected to as discussed below. The printed pages shall constitute part of the Source Code produced by the Producing Party in this action. At the Receiving Party's request, up to two additional sets (or subsets) of printed Source Code may be requested and provided by the Producing Party in a timely fashion.

- (h) If the Producing Party objects that the printed portions are not reasonably necessary to any case preparation activity, the Producing Party shall make such objection known to the Receiving Party within five business days. If after meeting and conferring the Producing Party and the Receiving Party cannot resolve the objection (where such meet-and-confer need not take place in person), the Producing Party shall be entitled to seek a Court resolution of whether the printed Source Code in question is reasonably necessary to any case preparation activity. Contested Source Code print outs need not be produced to the requesting party until the matter is resolved by the Court. If the Producing Party does not seek a Court resolution, then the printouts shall be provided.
- (i) Any printed pages of Source Code, and any other documents or things reflecting Source Code that have been designated by the Producing Party as "RESTRICTED CONFIDENTIAL SOURCE CODE" may not be copied, digitally imaged or otherwise duplicated, except in limited excerpts necessary to attach as exhibits to depositions, expert reports, or court filings as discussed below.

- (j) Any paper copies designated “RESTRICTED CONFIDENTIAL SOURCE CODE” shall be stored or viewed only at (i) the offices of outside counsel for the Receiving Party, (ii) the offices of outside experts or consultants who have been approved to access Source Code; (iii) the site where any deposition is taken (iv) the Court; or (v) any intermediate location necessary to transport the information to a hearing, trial or deposition or between locations (i) through (iv). Any such paper copies shall be maintained at all times in a secure location under the direct control of an expert or consultant who has been approved to access Source Code (if stored at the expert or consultant’s office) or counsel responsible for maintaining the security and confidentiality of the designated materials. Nothing herein shall preclude the Receiving Party from mailing, shipping, or delivering source code between locations (i) through (v), provided that the Receiving Party uses at least a tracking number (e.g. a FedEx tracking number) and signed delivery confirmation in mailing, shipping, or delivering between such locations. Should such a shipment go missing, the Receiving Party shall timely notify the Producing Party and the Court with specifics.
- (k) A list of names of persons who will view the Source Code will be provided to the Producing Party in conjunction with any written (including email) notice requesting inspection. The Receiving Party shall maintain a daily log of the names of persons who enter the locked room to view the Source Code and when they enter and depart, and the Producing Party shall be entitled to request a copy of the daily log. In the alternative, if the Receiving Party prefers, the Producing Party may retain the copy of the daily log that is maintained by the Receiving

Party. The Producing Party shall be entitled to have a person observe all entrances and exits from the Source Code viewing room.

- (l) Unless otherwise agreed in advance by the parties in writing, following each inspection, the Receiving Party's outside counsel and/or experts shall remove all notes, documents, and all other materials from the room that may contain work product and/or attorney-client privileged information. The Producing Party shall not be responsible for any items left in the room following each inspection session.
- (m) The Receiving Party will not copy, remove, or otherwise transfer any portion of the Source Code from the Source Code Computer including, without limitation, copying, removing, or transferring any portion of the Source Code onto any other computers or peripheral equipment. The Receiving Party will not transmit any portion of the Source Code in any way from the location of the Source Code inspection.
- (n) Access to DESIGNATED MATERIAL designated RESTRICTED CONFIDENTIAL - SOURCE CODE shall be limited to:
 - (i) Outside counsel of record for the parties to this action, including any attorneys, paralegals, technology specialists and clerical employees of their respective law firms;
 - (ii) Up to five (5) outside experts or consultants per party, pre-approved in accordance with Paragraph 6(d) and specifically identified as eligible to access Source Code;

(iii) The Court, its technical advisor (if one is appointed), the jury, court personnel, and court reporters or videographers recording testimony or other proceedings in this action. Court reporters and/or videographers shall not retain or be given copies of any portions of the Source Code. If used during a deposition, the deposition record will identify the exhibit by its production numbers;

(iv) While testifying at deposition or trial in this action only: (a) any current or former officer, director or employee of the Producing Party or original source of the information; (b) any person designated by the Producing Party to provide testimony pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure; and/or (c) any person who authored, previously received (other than in connection with this litigation), or was directly involved in creating, modifying, or editing the Source Code, as evident from its face or reasonably certain in view of other testimony or evidence. Persons authorized to view Source Code pursuant to this sub-paragraph shall not retain or be given copies of the Source Code except while so testifying.

(o) The Receiving Party's outside counsel shall maintain a log of all copies of the Source Code (received from a Producing Party) that are delivered by the Receiving Party to any qualified person under Paragraph 11(n) above. The log shall include the names of the recipients and reviewers of copies and locations where the copies are stored. Upon request by the Producing Party, the Receiving Party shall provide reasonable assurances and/or descriptions of the security

measures employed by the Receiving Party and/or qualified person that receives a copy of any portion of the Source Code.

- (p) Except as provided in this paragraph, the Receiving Party may not create electronic images, or any other images, of the Source Code from the paper copy for use on a computer (e.g., may not scan the source code to a PDF, or photograph the code). The Receiving Party may create an electronic copy or image of limited excerpts of Source Code only to the extent necessary in a pleading, exhibit, expert report, discovery document, deposition transcript, other Court document, or any drafts of these documents ("SOURCE CODE DOCUMENTS"). The Receiving Party shall only include such excerpts as are reasonably necessary for the purposes for which such part of the Source Code is used. Images or copies of Source Code shall not be included in correspondence between the parties (references to production numbers shall be used instead) and shall be omitted from pleadings and other papers except to the extent permitted herein. The Receiving Party may create an electronic image of a selected portion of the Source Code only when the electronic file containing such image has been encrypted using commercially reasonable encryption software including password protection. The communication and/or disclosure of electronic files containing any portion of Source Code shall at all times be limited to individuals who are authorized to see Source Code under the provisions of this Protective Order. The Receiving Party shall maintain a log of all SOURCE CODE DOCUMENTS in its possession or in the possession of its retained consultants, including the names of the recipients and reviewers of any SOURCE CODE DOCUMENTS and the

locations where they are stored. Additionally, all SOURCE CODE DOCUMENTS must be labeled "RESTRICTED CONFIDENTIAL - SOURCE CODE."

- (q) A receiving Party may include excerpts of Source Code Material in a pleading, exhibit, expert report, discovery document, deposition transcript, other Court document, provided that the Source Code Documents are appropriately marked under this Order, restricted to those who are entitled to have access to them as specified herein, and, if filed with the Court, filed under seal in accordance with the Court's rules, procedures and orders;
- (r) To the extent portions of Source Code Material are quoted in a Source Code Document, either (1) the entire Source Code Document will be stamped and treated as RESTRICTED CONFIDENTIAL SOURCE CODE or (2) those pages containing quoted Source Code Material will be separately stamped and treated as RESTRICTED CONFIDENTIAL SOURCE CODE;
- (s) All copies of any portion of the Source Code in whatever form shall be securely destroyed if they are no longer in use. Copies of Source Code that are marked as deposition exhibits shall not be provided to the Court Reporter or attached to deposition transcripts; rather, the deposition record will identify the exhibit by its production numbers.
- (t) The Receiving Party's outside counsel may only disclose a copy of the Source Code to individuals specified in Paragraph 11(n) above (e.g., Source Code may not be disclosed to in-house counsel).

- (u) If the receiving Party's outside counsel, consultants, or experts obtain printouts or photocopies of Source Code Material, the receiving Party shall ensure that such outside counsel, consultants, or experts keep the printouts or photocopies in a secured locked area in the offices of such outside counsel, consultants, or expert. The receiving Party may also temporarily keep the printouts or photocopies at:
 - (i) the Court for any proceedings(s) relating to the Source Code Material, for the dates associated with the proceeding(s);
 - (ii) the sites where any deposition(s) relating to the Source Code Material are taken, for the dates associated with the deposition(s);
 - (iii) the Court for any filing(s) related to the Source Code Material, filed under court seal; and
 - (iv) any intermediate location reasonably necessary to transport the printouts or photocopies (*e.g.*, a hotel prior to a Court proceeding or deposition).

- 12. Non-parties may be examined or testify concerning any document containing DESIGNATED MATERIAL of a producing party which appears on its face or from other documents or testimony to have been received from or communicated to the non-party as a result of any contact or relationship with the producing party or a representative of the producing party. Any person other than the witness, his or her attorney(s), or any person qualified to receive DESIGNATED MATERIAL under this Order shall be excluded from the portion of the examination concerning such information, unless the producing party consents to persons other than qualified recipients being present at the examination. If the witness is represented by an attorney who is not qualified under this Order to receive such information, then prior to the examination, the attorney must provide a signed statement, in the form of Attachment A

hereto, that he or she will comply with the terms of this Order and maintain the confidentiality of DESIGNATED MATERIAL disclosed during the course of the examination. In the event that such attorney declines to sign such a statement prior to the examination, the producing party, by its attorneys, may seek a protective order from the Court prohibiting the attorney from disclosing DESIGNATED MATERIAL.

13. Any attorney representing a Party, whether in-house or outside counsel, and any person associated with a Party and permitted to receive the other Party's Protected Material that is designated RESTRICTED -- ATTORNEYS' EYES ONLY and/or RESTRICTED CONFIDENTIAL SOURCE CODE (collectively "HIGHLY SENSITIVE MATERIAL"), who obtains, receives, has access to, or otherwise learns, in whole or in part, the other Party's HIGHLY SENSITIVE MATERIAL under this Order shall not prepare, prosecute, supervise, or assist in the preparation or prosecution of any patent application pertaining to the field of the invention of the patents-in-suit on behalf of the receiving Party or its acquirer, successor, predecessor, or other affiliate during the pendency of this Action and for one year after its conclusion, including any appeals. To ensure compliance with the purpose of this provision, each Party shall create an "Ethical Wall" between those persons with access to HIGHLY SENSITIVE MATERIAL and any individuals who, on behalf of the Party or its acquirer, successor, predecessor, or other affiliate, prepare, prosecute, supervise or assist in the preparation or prosecution of any patent application pertaining to the field of invention of the patent-in-suit. For the avoidance of doubt, nothing in this provision shall preclude any person who obtains, receives, has access to, or otherwise learns, in whole or in part, the other Party's Protected Material under this Order from participating in any post-grant proceeding, except that

such persons may not directly or indirectly assist in drafting, amending or proposing for substitution patent claims in any post-grant proceeding. Nothing in this Section shall prevent any attorney from sending non-confidential prior art to an attorney involved in patent prosecution for purposes of ensuring that such prior art is submitted to the U.S. Patent and Trademark Office (or any similar agency of a foreign government) to assist a patent applicant in complying with its duty of candor. Nothing in this provision shall prohibit any attorney of record in this litigation from discussing any aspect of this case that is reasonably necessary for the prosecution or defense of any claim or counterclaim in this litigation with his/her client. The parties expressly agree that the Prosecution Bar set forth herein shall be personal to any attorney who review DESIGNATED MATERIAL marked RESTRICTED ATTORNEYS' EYES ONLY – PROSECUTION BAR or RESTRICTED CONFIDENTIAL SOURCE CODE and shall not be imputed to any other persons or attorneys at the attorneys' law firm. Individuals who work on this matter without reviewing protected material marked RESTRICTED ATTORNEYS' EYES ONLY – PROSECUTION BAR or RESTRICTED CONFIDENTIAL SOURCE CODE shall not be restricted from engaging in Prosecution Activity on matters that fall within the Prosecution Bar. This prosecution bar may not be applied to operate retroactively against any person who receives an inadvertently mis-designated or undesignated document that is later corrected pursuant to paragraph 4 above.

14. Nothing in this Protective Order shall require production of information that a party contends is protected from disclosure by the attorney-client privilege, the work product immunity, or other privilege, doctrine, right or immunity. Pursuant to Federal Rule of Evidence 502(d), the production of a privileged or work-product-protected document is

not a waiver of privilege or protection from discovery in this case or in any other federal or state proceeding. For example, the mere production of privilege or work-product-protected documents in this case as part of a mass production is not itself a waiver in this case or any other federal or state proceeding. A Producing Party may assert privilege or production over produced documents at any time by notifying the receiving party in writing of the assertion of privilege or protection. In addition, information that contains privileged matter or attorney work product shall be immediately returned if such information appears on its face to have been advertently produced. When a Producing Party or Receiving Party identifies such privileged or protected information, a Receiving Party: (1) shall not use, and shall immediately cease any prior use of, such information; (2) shall take reasonable steps to retrieve the information from others to which the receiving Party disclosed the information; (3) shall within five business days of the Producing Party's request return to the Producing Party or destroy the information and destroy all copies thereof; and (4) shall confirm to the Producing Party the destruction under (3) above of all copies of the information not returned to the Producing Party. No one shall use the fact or circumstances of production of the information in this Action to argue that any privilege or protection has been waived. Notwithstanding this provision, no Party shall be required to return or destroy any information that may exist on their firm's electronic back-up systems that are over-written in the normal course of business.

15. There shall be no disclosure of any DESIGNATED MATERIAL by any person authorized to have access thereto to any person who is not authorized for such access under this Order. The Parties are hereby ORDERED to safeguard all such documents,

information and material to protect against disclosure to any unauthorized persons or entities.

16. Nothing contained herein shall be construed to prejudice any Party's right to use any DESIGNATED MATERIAL in taking testimony at any deposition or hearing provided that the DESIGNATED MATERIAL is only disclosed to a person(s) who is: (i) eligible to have access to the DESIGNATED MATERIAL by virtue of his or her employment with the designating Party, (ii) identified in the DESIGNATED MATERIAL as an author, addressee, or copy recipient of such information, (iii) although not identified as an author, addressee, or copy recipient of such DESIGNATED MATERIAL, has, in the ordinary course of business, seen such DESIGNATED MATERIAL, (iv) a current or former officer, director or employee of the Producing Party or a current or former officer, director or employee of a company affiliated with the Producing Party; (v) counsel for a Party, including outside counsel and in-house counsel (subject to paragraphs 6, 10, and 11(n) of this Order); (vi) an independent contractor, consultant, and/or expert retained for the purpose of this litigation; (vii) court reporters and videographers; (viii) the Court; or (ix) other persons entitled hereunder to access to DESIGNATED MATERIAL. DESIGNATED MATERIAL shall not be disclosed to any other persons unless prior authorization is obtained from counsel representing the Producing Party or from the Court.
17. Parties may, at the deposition or hearing or within thirty (30) days after receipt of a deposition or hearing transcript, designate the deposition or hearing transcript or any portion thereof as "CONFIDENTIAL," "RESTRICTED - ATTORNEY' EYES ONLY," "RESTRICTED - ATTORNEYS' EYES ONLY – PROSECUTION BAR," or

"RESTRICTED CONFIDENTIAL SOURCE CODE" pursuant to this Order. Access to the deposition or hearing transcript so designated shall be limited in accordance with the terms of this Order. Until expiration of the 30-day period, the entire deposition or hearing transcript shall be treated as RESTRICTED ATTORNEYS' EYES ONLY.

18. Native Files. Where electronic files and documents are produced in native electronic format, such electronic files and documents shall be designated for protection under this Order by appending to the file names or designators information indicating whether the file contains CONFIDENTIAL, RESTRICTED ATTORNEYS' EYES ONLY, RESTRICTED - ATTORNEYS' EYES ONLY - PROSECUTION BAR or RESTRICTED CONFIDENTIAL SOURCE CODE material, or shall use any other reasonable method for so designating DESIGNATED MATERIAL produced in electronic format. When electronic files or documents are printed for use at deposition, in a court proceeding, or for provision in printed form to an expert or consultant pre-approved pursuant to Paragraph 6(d), or for any other reason consistent with the provisions of this Protective Order, the party printing the electronic files or documents shall affix a legend to the printed document corresponding to the designation of the Designating Party and including the production number and designation associated with the native file.
19. Any DESIGNATED MATERIAL that is filed with the Court shall be filed under seal and shall remain under seal until further order of the Court. The filing party shall be responsible for informing the Clerk of the Court that the filing should be sealed and for placing the legend "FILED UNDER SEAL PURSUANT TO PROTECTIVE ORDER" above the caption and conspicuously on each page of the filing. Exhibits to a filing shall

conform to the labeling requirements set forth in this Order. If a pretrial pleading filed with the Court, or an exhibit thereto, discloses or relies on confidential documents, information or material, such confidential portions shall be redacted to the extent necessary and the pleading or exhibit filed publicly with the Court.

20. A Party may request in writing to the other Party that the designation given to any DESIGNATED MATERIAL be modified or withdrawn. If the designating Party does not agree to redesignation within ten (10) days of receipt of the written request, the requesting Party may apply to the Court for relief. Upon any such application to the Court, the burden shall be on the designating Party to show why its classification is proper. Such application shall be treated procedurally as a motion to compel pursuant to Federal Rules of Civil Procedure 37, subject to the Rule's provisions relating to sanctions. In making such application, the requirements of the Federal Rules of Civil Procedure and the Local Rules of the Court shall be met. Pending the Court's determination of the application, the designation of the designating Party shall be maintained.
21. No DESIGNATED MATERIAL may leave the territorial boundaries of the United States of America. Without limitation, this prohibition extends to DESIGNATED MATERIAL (including copies) in physical and electronic form. The viewing of DESIGNATED MATERIAL through electronic means outside the territorial limits of the United States of America is similarly prohibited. Notwithstanding this prohibition, DESIGNATED MATERIAL, exclusive of material designated RESTRICTED CONFIDENTIAL - SOURCE CODE, and to the extent otherwise permitted by law, may be taken outside the territorial limits of the United States if it is reasonably necessary for a deposition taken in a foreign country. The restrictions contained within this paragraph may be amended

through the consent of the producing Party to the extent that such agreed to procedures conform with applicable export control laws and regulations.

22. Each outside consultant or expert to whom DESIGNATED MATERIAL is disclosed in accordance with the terms of this Order shall be advised by counsel of the terms of this Order, shall be informed that he or she is subject to the terms and conditions of this Order, and shall sign an acknowledgment that he or she has received a copy of, has read, and has agreed to be bound by this Order. A copy of the acknowledgment form is attached as Appendix A. It is expressly contemplated that the protections and obligations provided under this Order apply to non-parties who produce or otherwise provide DESIGNATED MATERIAL.
23. To the extent that discovery or testimony is taken of Third Parties, the Third Parties may designate as "CONFIDENTIAL," "RESTRICTED - ATTORNEYS' EYES ONLY - PROSECUTION BAR," or "RESTRICTED -- ATTORNEYS' EYES ONLY" any documents, information or other material, in whole or in part, produced or give by such Third Parties. The Third Parties shall have ten (10) days after production of such documents, information or other materials to make such a designation. Until that time period lapses or until such a designation has been made, whichever occurs sooner, all documents, information or other material so produced or given shall be treated as "RESTRICTED ATTORNEYS' EYES ONLY" in accordance with this Order.
24. Within 60 days after a final non-appealable judgment or order, or the complete settlement of all claims asserted against all parties in this action, each Party must return all materials designated by any other Producing Party or Third Party under this Order to the Producing Party or Third Party, or destroy such material, including all copies thereof, and provide to

the Producing Party or Third Party a written certification of compliance with this provision. Notwithstanding this provision, outside counsel of record are entitled to retain archival copies of all pleadings, filings, or other documents served by or on any Party or Third Party, trial, deposition, and hearing transcripts, legal memoranda, correspondence, expert reports, attorney work product, and consultant and expert work product, and exhibits to any of these materials, even if such materials reflect materials designated under this Order. Notwithstanding this provision, outside litigation counsel shall not be required to delete information that may reside on their firm's electronic back-up systems that are over-written in the normal course of business. Any such archival and/or backup copies of materials designated under this Order shall remain subject to the provisions of this Order.

25. The failure to designate documents, information or material in accordance with this Order and the failure to object to a designation at a given time shall not preclude the filing of a motion at a later date seeking to impose such designation or challenging the propriety thereof. The entry of this Order and/or the production of documents, information and material hereunder shall in no way constitute a waiver of any objection to the furnishing thereof, all such objections being hereby preserved.
26. Any Party knowing or believing that any other party is in violation of or intends to violate this Order and has raised the question of violation or potential violation with the opposing party and has been unable to resolve the matter by agreement may move the Court for such relief as may be appropriate in the circumstances. Pending disposition of the motion by the Court, the Party alleged to be in violation of or intending to violate this Order shall

discontinue the performance of and/or shall not undertake the further performance of any action alleged to constitute a violation of this Order.

27. Production of DESIGNATED MATERIAL by each of the Parties shall not be deemed a publication of the documents, information and material (or the contents thereof) produced so as to void or make voidable whatever claim the Parties may have as to the proprietary and confidential nature of the documents, information or other material or its contents.
28. Nothing in this Order shall be construed to effect an abrogation, waiver or limitation of any kind on the rights of each of the Parties to assert any applicable discovery or trial privilege.
29. If at any time documents containing DESIGNATED MATERIAL are subpoenaed by any court, arbitral, administrative or legislative body, or are otherwise requested in discovery, the person to whom the subpoena or other request is directed shall immediately give written notice thereof to every party who has produced such documents and to its counsel and shall provide each such party with an opportunity to object to the production of such documents. If a Producing Party does not take steps to prevent disclosure of such documents within ten days of the date written notice is given, the party to whom the referenced subpoena is directed may produce such documents in response thereto, but shall take all reasonable measures to have such documents treated in accordance with terms of this Protective Order.
30. The United States District Court for the Eastern District of Texas is responsible for the interpretation and enforcement of this Agreed Protective Order. After termination of this litigation, the provisions of this Agreed Protective Order shall continue to be binding except with respect to those documents and information that become a matter of public

record. This Court retains and shall have continuing jurisdiction over the parties and recipients of the DESIGNATED MATERIAL for enforcement of the provision of this Agreed Protective Order following termination of this litigation. All disputes concerning DESIGNATED MATERIAL produced under the protection of this Agreed Protective Order shall be resolved by the United States District Court for the Eastern District of Texas.

31. Each of the Parties shall also retain the right to file a motion with the Court (a) to modify this Order to allow disclosure of DESIGNATED MATERIAL to additional persons or entities if reasonably necessary to prepare and present this Action and (b) to apply for additional protection of DESIGNATED MATERIAL. In the event such an application is made, all persons described therein shall be bound by the terms of this Order unless and until it is modified by the Court. This Order is also subject to revocation or modification by written agreement of the Parties (or, as applicable, the Parties and non-parties).
32. Mock jurors hired by jury consultants in connection with this litigation may not view or receive any DESIGNATED MATERIALS; but may view presentations or summaries derived from DESIGNATED MATERIALS, not including Source Code Material provided: (1) they are not affiliated with any party to this case or their direct competitor; (2) they agree in writing to be bound by confidentiality and not to disclose the content or substance of any such derivative materials to any other person outside the jury research exercise; and (3) they are not themselves given custody of any DESIGNATED MATERIALS or of any derivative materials, nor permitted to remove any presentations, questionnaires or notes taken during the exercise from any room in which the research is conducted. For purposes of this paragraph, excerpts from depositions shall not be

considered DESIGNATED MATERIALS, so long as the excerpts do not contain more than five minutes of testimony from any single witness's deposition.

SIGNED this 19th day of June, 2014.


ROY S. PAYNE
UNITED STATES MAGISTRATE JUDGE

**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. 2:13-cv-893

JURY TRIAL DEMANDED

APPENDIX A

**UNDERTAKING OF EXPERTS OR CONSULTANTS REGARDING
PROTECTIVE ORDER**

I, _____ declare that:

1. My address is _____. My current employer is _____. My current occupation is _____.
2. I have received a copy of the Protective Order in this Action. I have carefully read and understand the provisions of the Protective Order.
3. I will comply with all of the provisions of the Protective Order. I will hold in confidence, will not disclose to anyone not qualified under the Protective Order, and will use only for purposes of this Action any information designated as "CONFIDENTIAL," "RESTRICTED -- ATTORNEYS' EYES ONLY," or "RESTRICTED CONFIDENTIAL SOURCE CODE" that is disclosed to me.

4. Promptly upon termination of these actions, I will return all documents and things designated as "CONFIDENTIAL," "RESTRICTED -- ATTORNEYS' EYES ONLY," or "RESTRICTED CONFIDENTIAL SOURCE CODE" that came into my possession, and all documents and things that I have prepared relating thereto, to the outside counsel for the Party by whom I am employed.
5. I hereby submit to the jurisdiction of this Court for the purpose of enforcement of the Protective Order in this Action.

I declare under penalty of perjury that the foregoing is true and correct.

Signature _____

Date _____

EXHIBIT 2



FOCUS - 38 of 41 DOCUMENTS

Copyright 1996 Business Wire, Inc.
Business Wire

June 11, 1996, Tuesday

DISTRIBUTION: Business Editors

LENGTH: 1000 words

HEADLINE: New software solution for the web delivers profitable, measurable, truly interactive advertising

DATELINE: MORRISTOWN, N.J.

BODY:

June 11, 1996--The promise of the World Wide Web as a truly interactive medium came one step closer to reality today with the introduction of a new, targeted advertising software system by Bellcore, a leading provider of communications software, engineering and consulting services.

Bellcore's Adapt/X Advertiser(TM) replicates advertising agencies' real world business models in the cyberworld, enabling them to earn commissions on Web-based advertising placements. The software also makes it easier for companies hosting Web sites to manage on-line advertising, faster and easier for advertisers to place on-line ads and deliver desired results, and more interesting and interactive for Web users to view ads.

Bellcore developed Adapt/X Advertiser as part of its Adapt/X(TM) Technology Solutions suite of products designed to provide industrial-strength solutions for the Web. In contrast to existing advertising solutions for the Web, Adapt/X Advertiser puts more firepower behind companies' on-line efforts, because it is "scalable" and can be expanded depending on the customer's power and volume needs. In addition, Bellcore's software can select hundreds of ads per second, supporting multiple Web servers, with simultaneous users each seeing different ads. The software was written in Sun Microsystems Inc.'s Java(TM) programming language, and its ability to fulfill advertising contracts is based on a patent-pending algorithm developed by Bellcore.

The Adapt/X Advertiser software system provides extensive advertising management capabilities, based on electronic "contracts" through which advertising agencies and advertisers can define when, where and to whom Web-based ads should appear. The software's powerful engine allows it to "decide" which ad to display to a given consumer, based on tastes and preferences identified as the consumer surfs the Web site. This unique feature allows advertisers to finely target their desired audience, and provides for more interesting and relevant advertisements for consumers. On the Web publisher's end, the software automatically manages the ad placements and provides detailed reports that allow publishers to immediately verify that the electronic contracts have been fulfilled.

"Bellcore has a long history of innovation in the telecommunications industry, and we're now applying the same expertise to develop Web-based business solutions," said Jac Simensen, vice president of Bellcore's Technology

New software solution for the web delivers profitable, measurable, truly interactive advertising Business Wire June 11, 1996, Tuesday

Solutions organization. "Adapt/X Advertiser is one of a suite of solutions that helps companies turn the Web into a strategic, financially beneficial business tool - allowing them to do real business on the Web, with real results."

"With the growing usage of the Internet, the importance and value of advertising has not been lost on content developers or service providers," said Walter Miao, VP-Technology, IDC/LINK. "Bellcore's Adapt/X Advertiser software provides a quick and easy solution to potential advertisers for creating and deploying promotional content, and also provides a means for ongoing support to minimize total (site) cost of ownership. The corporate community should welcome the introduction of this new tool."

In addition, Adapt/X Advertiser offers the following features:

- Enables advertising agencies to electronically define parameters for ad placements, including the time of day, days of the week and number of times per week or month the ads should run;
- Allows agencies and advertisers to complete and send ad placement orders, which also include graphics files for the ad, electronically to companies hosting Web sites;
- Enables companies hosting Web sites to place new ads almost immediately on their sites;
- Manages on-line advertising placements automatically using the agency-defined parameters to "decide" which ads to display and when they should run;
- Ensures fulfillment of contract parameters; and
- Makes it easy for agencies, advertisers and Web publishers to verify actual ad placements immediately with detailed reporting.

"Until now, advertising on the Web has been as static as a billboard along a highway," said Carl Silva, executive director for business development of Bellcore's Technology Solutions business unit. "Adapt/X Advertiser enables Web-based advertising to be interactive and allows advertisers to target their messages to individual viewers."

Through its Adapt/X Technology Solutions suite of products and consulting services, Bellcore provides a comprehensive software solution that can enable companies everywhere to turn the World Wide Web into a tangible, strategic business tool. Bellcore's Adapt/X software solutions and consulting services can make the Web more profitable for businesses, less intimidating to non-technical Web users, and more useful to potential Web publishers, advertisers, marketers and salespeople. The Adapt/X Technology Solutions suite includes Adapt/X Advertiser(TM), Adapt/X RAVE(TM), Adapt/X(TM) Recommender(TM), Adapt/X Rater(TM), Adapt/X Harness(TM), the TraxWay(TM) System and Adapt/X RapidApps(SM).

Bellcore, headquartered in Morristown, provides engineering, software and consulting services for telecommunications carriers, governments and industries worldwide. Bellcore's in-depth research capabilities and technical expertise helped defructure for long distance and local exchange carriers. Bellcore is now applying that same expertise to creating Web-based bnd services is available at Bellcore's Web site, <http://www.bellcore.com>, or by calling 1-800-521-CORE. -0- Adapt/X is a s--jrw/ny*

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1996, Tuesday

LOAD-DATE: June 12, 1996

EXHIBIT 3



35 of 98 DOCUMENTS

Copyright 1997 Business Wire, Inc.
Business Wire

February 12, 1997, Wednesday

DISTRIBUTION: Business Editors & Computer Technology Writers

LENGTH: 816 words

HEADLINE: NetGravity AdServer Chosen By 21 New Customers To Manage Advertising on Their Web Sites; Sites Turn to Leading Advertising Management Software to Establish and Support Online Presence

DATELINE: SAN MATEO, Calif.

BODY:

Feb. 12, 1997--Citing 21 new customers, NetGravity(TM) today announced that NetGravity AdServer is the online advertising management software of choice, enabling a broad range of companies to support their online presence with revenue-generating advertising.

NetGravity's new customers include a diverse group of sites. From telecommunications providers to cable networks, NetGravity's proven ability to deliver reliable, effective solutions has been critical in establishing NetGravity AdServer as the leading online advertising management solution.

"MapQuest chose NetGravity as a partner because they are clearly in the lead in advertising management and reporting technology," said Simon Greenman, vice president of Internet Engineering at MapQuest. "MapQuest is a large, complex Web site, which demands a solution which offers maximum flexibility and a partner who stays ahead of the curve. AdServer and NetGravity meet those needs."

Extensive List of New Customers iVillage, Planet Internet, New Zealand Telecom, The Weather Channel, Warner Brothers, Progressive Networks, Live World, Town Hall, Travel Channel, Virtual Media, Geo Systems, Turner Broadcasting, Ameritech, Continental Cablevision, and Canoe.com are some of the new customer sites benefiting from NetGravity AdServer's scalable, distributed, high performance advertising management. NetGravity gives Web sites the tools they need to attract advertisers to their site, thus increasing their site value.

The mix of new NetGravity customers includes a variety of online publications which are finding the Web a viable place to reach consumers, generate revenue, and maximize advertising efforts. The Los Angeles Times, Newsday, Scientific American, Bloomberg, Nando.Net, and Tribune Interactive all rely on NetGravity technology to effectively manage their advertising.

"NetGravity offers one-stop shopping," said Laura Salant, marketing director of Scientific American. "It gives us the ability to track impressions and click-throughs, provide timely reports and rotate creative -- everything we need to

NetGravity AdServer Chosen By 21 New Customers To Manage Advertising on Their Web Sites; Sites Turn to Leading Advertising Management Software to Establish and Support Online Presence Business Wire Fe

maximize ad revenue."

A recent study from Jupiter Communications found that Web advertising revenue had soared 83 percent in the first half of 1996, and that the Internet was on track to become a \$ 5 billion-a-year advertising medium by the year 2000. These facts reinforce the need for a standard solution, such as NetGravity AdServer, to ensure successful advertising management for Web sites. Being first to market in this software category, NetGravity has significant experience in delivering mission-critical software to advertising-supported Web sites, and offers customers 24 hour-a-day, seven-day-a-week support.

"We are excited about working with NetGravity," said Maureen Caruk, director of marketing for CANOE. "The NetGravity solution will allow CANOE to deliver the right ad to the right place at the right time for our advertisers. It will also allow us to provide timely, reliable, detailed reports."

A major benefit to Web developers that use the NetGravity AdServer is the ability to generate reliable ad performance reports for each advertiser on demand. Sites can strengthen their partnership with agencies and advertisers by offering online copy testing of multiple ad concepts. This function allows advertisers and their agencies to make timely adjustments and corrections to their media campaigns, maximizing click-throughs, effectiveness, and return on investment. As Internet advertising evolves from flat banner formats to rich media types, NetGravity is leading the way by being the first online advertising management solution to support Java, Shockwave, and RealAudio.

"It is imperative that we stay at the leading edge of technology so we can give our clients enough information to keep them coming back for more," said Terry Bemis, online product manager, at Travel Channel. "NetGravity places Travel Channel at the forefront of advertising technology, giving us automatic banner rotation, and dynamic ad delivery, enabling us to deliver timely ad performance reports to our advertisers."

About NetGravity NetGravity, founded in September 1995 and based in San Mateo, Calif., is the proven leader in online advertising management software. Customers include Netscape, The Chicago Tribune, National Geographic Online, Time Inc.'s Pathfinder, Quote.com, CondNet, Individual, Inc., and The Red Herring's herring.com. NetGravity can be found on the World Wide Web at <http://www.netgravity.com> .

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LOAD-DATE: February 13, 1997