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

ROCKSTAR CONSORTIUM US LP AND NETSTAR TECHNOLOGIES LLC, Plaintiffs, v. GOOGLE INC. Defendant.	)	Civil Action No. 13-cv-00893-RG **JURY TRIAL DEMANDED**

GOOGLE INC.'S MOTION FOR EXPEDITED BRIEFING SCHEDULE ON PLAINTIFFS' MOTION FOR LEAVE TO FILE A SUPPLEMENTAL BRIEF IN RESPONSE TO GOOGLE'S MOTION TO TRANSFER, AND, GOOGLE'S REQUEST, IN THE ALTERNATIVE, TO STAY PENDING RESOLUTION OF GOOGLE'S TRANSFER MOTION

Defendant Google Inc. ("Google") moves for an expedited briefing schedule for Plaintiffs Rockstar Consortium US LP and Netstar Technologies LLC's (collectively "Rockstar's") Motion for Leave to File a Supplemental Brief in Response to Google's Motion to Transfer ("Motion for Leave") (Dkt. No. 92.) Rockstar filed its Motion for Leave on June 20, 2014. Contemporaneously with this Motion, Google has filed its Opposition to Plaintiff's Motion for Leave to File a Supplemental Brief in Response to Google's Motion to Transfer, and, in the Alternative, Cross-Motion to Stay Case Pending Resolution of Google's Transfer Motion ("Opposition"). Google proposes that the following expedited schedule be entered for the remaining briefing on Rockstar's Motion for Leave and Google's requested relief, in the alternative, for a stay:

- Rockstar's Reply shall be due on Monday, June 30, 2014
- Google's Sur-reply shall be due on Wednesday, July 2, 2014

An expedited briefing schedule is warranted here because Google's Motion to Change Venue ("Transfer Motion") has been fully briefed since March 27, 2014 (Dkt. No. 41) and the parties have imminent claim construction deadlines, including yesterday's deadline to comply with P.R. 4-1. (Dkt. No. 68.) Google is concerned that, after Rockstar's Motion for Leave is fully briefed, it will take time for the Court to resolve the Motion for Leave, and if Rockstar's Motion for Leave is granted, Google should be entitled to an opportunity to respond. This will further delay resolution of the Transfer Motion, which should be given "top priority in the handling of th[e] case." *In re Fusion-IO, Inc.*, No. 12-139, 489 Fed. Appx. 465, 466 (Fed. Cir. Dec. 21, 2012) (citing *In re Horseshoe Entm't*, 337 F.3d 429, 433 (5th Cir. 2003). Granting an expedited briefing schedule on Rockstar's Motion for Leave helps to reduce the delay. Moreover, there is no prejudice to Rockstar in setting an expedited briefing schedule on its own motion. A quicker resolution of the Motion for Leave and the Transfer Motion will benefit both

parties given the upcoming deadlines in the case. (Dkt. No. 68.)

Google proposed the above schedule to Rockstar, but Rockstar refused to agree to an expedited briefing schedule even as to its own motion. Rockstar contends that expedited briefing is inappropriate because Google's Opposition seeks alternative relief of a stay pending resolution of the Transfer Motion. Google's arguments regarding a stay, however, fit squarely within the factors the Court should consider in determining whether Rockstar's requested supplemental briefing should be permitted. *Intel Corp. v. Commonwealth Scientific and Indus. Research Organisation*, 2009 WL 8590766, *1 (E.D. Tex. Apr. 9, 2009) (identifying "the availability of a continuance to cure such prejudice" as a relevant factor to the "good cause" determination under Federal Rule of Civil Procedure 16(b)).

For the foregoing reasons, the Court should enter an order granting Google's proposed expedited briefing schedule on Rockstar's Motion for Leave and Google's requested relief, in the alternative, for a stay.

DATED: June 25, 2014

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By */s/ David A. Perlson*

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on June 24, 2014.

/s/ *Andrea Pallios Roberts*

Andrea Pallios Roberts

CERTIFICATE OF CONFERENCE

I hereby certify that the parties have met and conferred telephonically pursuant to Local Rule CV-7(h) on June 25, 2014, and counsel for Rockstar opposed Google's request for an expedited briefing schedule on Rockstar's Motion for Leave to File a Supplemental Brief Regarding Transfer and Google's requested relief. Participants in the conference included Amanda K. Bonn and Jeff Rambin, counsel for Rockstar, and David A. Perlson, Andrea Pallios Roberts, and Mark Mann, on behalf of Google. No agreement could be reached.

/s/ *Andrea Pallios Roberts*

Andrea Pallios Roberts