

# **EXHIBIT 1**

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**From:** Josh Thane  
**Sent:** Wednesday, January 04, 2012 7:04 PM  
**To:** John B. Campbell  
**Cc:** Defendants-Eolas@ropesgray.com; Eolas  
**Subject:** Re: Number of exhibits

John,

It's unfortunate that we couldn't reach agreement on any of Defendants' proposals. That being said, we do not oppose Plaintiffs' request for leave to designate 400 exhibits.

Thanks,  
Josh

On Jan 3, 2012, at 3:33 PM, "John B. Campbell" <[jcampbell@McKoolSmith.com](mailto:jcampbell@McKoolSmith.com)> wrote:

Josh,

Plaintiffs would like to reach an agreement and avoid motion practice, especially given the number of pending motions. Unfortunately, we have significant disagreement over what is reasonable. Defendants requested to extend the deadlines and compress the time frame to handle exhibit objections on multiple occasions. Defendants represented the compressed schedule would not be an issue because each side was limited to 250 exhibits. Defendants now request 1,425-1,550 total exhibits (please let me know if my math is wrong). Plaintiffs, on the other hand, are requesting 400 total exhibits. If Defendants make a reasonable proposal, we will certainly consider it, but Defendants current request is far from reasonable under the circumstances.

Thanks,  
John

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**From:** Josh Thane [<mailto:jthane@haltomdoan.com>]  
**Sent:** Tuesday, January 03, 2012 1:54 PM  
**To:** John B. Campbell  
**Cc:** [Defendants-Eolas@ropesgray.com](mailto:Defendants-Eolas@ropesgray.com); Eolas  
**Subject:** Re: Number of exhibits

John,

Defendants would certainly like to reach an agreement with respect to each parties proposed number of designated exhibits. While we believe that our previous request was reasonable under

the circumstances, in an attempt to reach agreement and prevent filing opposed motions with the Court on this issue Defendants propose moving for 300 common Defendants' exhibits and 125 individual defendant exhibits. Please let us know if this is something Plaintiffs can agree to.

Thanks,  
Josh

On Jan 3, 2012, at 10:30 AM, "John B. Campbell" <[jcampbell@McKoolSmith.com](mailto:jcampbell@McKoolSmith.com)> wrote:

Josh,

Thanks for repeating Defendants proposal. Since you did not correct my understanding, I assume we have this correct: Defendants asked for an extension of the deadline to exchange exhibit lists expressly representing that time would not be an issue because of the standing order limiting the number of exhibit per side. Defendants now seek to designate between 1,600 and 1,750 exhibits.

Plaintiffs oppose.

Please let us know if you oppose Plaintiffs request to designate no more than 400 total exhibits.

Thanks,  
John

John B. Campbell  
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**From:** Josh Thane [[jthane@haltomdoan.com](mailto:jthane@haltomdoan.com)]  
**Sent:** Monday, January 02, 2012 9:50 PM  
**To:** John B. Campbell; [Defendants-Eolas@ropesgray.com](mailto:Defendants-Eolas@ropesgray.com)  
**Cc:** Eolas  
**Subject:** RE: Number of exhibits

John -

Thanks for the prompt response. I can't speak for Google/YouTube and how they plan to handle their respective exhibits, but Defendants' proposal is as laid out below (250 common Defendants' exhibits and 150 individual defendant

exhibits). Defendants are continuing to attempt to limit the number of proposed exhibits, but they remain some 10 defendants in this single lawsuit with nearly, or over, 100 products/features accused of infringing over 20 claims in two patents.

If you take issue with some portion of Defendants' proposal, please let us know and we will consider an alternative. Given the number of claims asserted and the number of defendants still in this lawsuit, however, we believe that a maximum of 400 exhibits for each defendant (250 of which would be common amongst all the defendants) is more than reasonable.

Thanks,  
Josh

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From: John B. Campbell [[jcampbell@McKoolSmith.com](mailto:jcampbell@McKoolSmith.com)]  
Sent: Monday, January 02, 2012 8:32 PM  
To: Josh Thane; [Defendants-Eolas@ropesgray.com](mailto:Defendants-Eolas@ropesgray.com)  
Cc: Eolas  
Subject: RE: Number of exhibits

Josh,

Let me make sure I understand Defendants' request before I take it to the team...Defendants intend to seek leave to have 1,600-1,750 exhibits (I don't know if you count Google/YouTube as 1 or 2)? Plaintiffs agreed to move the deadline to exchange exhibit lists based on your representation that we would not need much time to address objections because the number of exhibits would be limited. Please let me know if I understand the request correctly and please let me know the total number of exhibits Defendants are seeking.

Thanks,  
John

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From: Josh Thane [[jthane@haltomdoan.com](mailto:jthane@haltomdoan.com)]  
Sent: Monday, January 02, 2012 8:10 PM  
To: John B. Campbell; [Defendants-Eolas@ropesgray.com](mailto:Defendants-Eolas@ropesgray.com)  
Cc: Eolas  
Subject: RE: Number of exhibits

John,

Defendants also intend to request that the Court grant leave to exceed the limit on the number of exhibits in the Court's standing order. At this time, Defendants intend to seek 250 common defendant exhibits (common amongst all defendants) plus 150 exhibits for each individual defendant. This would provide each defendant with a total of 400 exhibits, which is what Plaintiffs are seeking. If this is agreeable to Plaintiffs, we should be able to fill a joint motion seeking leave to exceed the Court's standing order.

Thanks,  
Josh

From: John B. Campbell [<mailto:jcampbell@McKoolSmith.com>]  
Sent: Friday, December 30, 2011 11:28 AM  
To: [Defendants-Eolas@ropesgray.com](mailto:Defendants-Eolas@ropesgray.com)  
Cc: Eolas  
Subject: Number of exhibits

Counsel,

Plaintiffs intend to request that the Court grant Plaintiffs leave to exceed the limit on the number of exhibits specified in the Court's standing order. Plaintiffs intend to ask for leave to identify 400 exhibits instead of the 250 exhibits permitted under the standing order. Please advise if you oppose Plaintiffs motion for leave. If you oppose, please let us know if you are available for a meet and confer Tuesday, January 3rd at 12:00pm CT. (I am assuming your offices are closed Monday, but we are happy to have the meet and confer Monday if it would be more convenient.)

Thanks,  
John

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