

# EXHIBIT 1

## Joshua Sohn

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**From:** Margaret P. Kammerud  
**Sent:** Wednesday, March 07, 2012 4:51 PM  
**To:** Brothers, Kenneth; zz-IPEngine  
**Cc:** QE-IP Engine; Noona, Stephen E.; Burns, Robert; Alexander, Courtney; Bhateja, Rajiv  
**Subject:** I/P Engine v. AOL et al.  
**Attachments:** 4510860\_6\_Proposed ESI Agreement 3 7 12.doc; 4631416\_2\_3 7 12 [Proposed] Stipulation -- TrackChanges.doc

Dear Ken:

I write in regards to the parties' ongoing discussions concerning the ESI agreement and discovery agreement.

During our meet and confer telephone conference on March 1, 2012, you agreed to the most recent language in the ESI agreement proposed by Google concerning custodial document production.

You stated that you believed that the parties had not reached an agreement with regards to instant messages. In reviewing the parties' correspondence on this issue, we determined that the parties already reached an agreement concerning instant messages. On December 15, 2011, you proposed the following language be included in the ESI agreement:

The following locations need not be searched and need not be preserved other than in the normal course of business: information stored on personal digital assistants, personal mobile phones, personal voicemail systems, and automated disaster recovery backup systems and/or disaster recovery backup tapes. No party has an obligation to preserve corporate voicemails or corporate instant messages created after September 17, 2011. If a requesting party has a reasonable basis for seeking production of Responsive Documents from corporate voicemail systems or corporate instant messaging systems created prior to September 17, 2011, then the parties shall meet and confer regarding the implementation of that request.

By email the same day, Google accepted this proposed language. To the extent that the draft ESI agreement I circulated on February 29, 2012 did not include all of this language, it was an inadvertent oversight. I have added the agreed upon language above into the attached ESI agreement draft.

You expressed an interest in adding language to the ESI agreement concerning the process for collecting and processing emails. You said you would send exemplar language for us to review. Once any proposal concerning the process for collecting and processing emails is addressed, we believe the ESI agreement will be complete.

For the discovery agreement, we discussed clarifying the language concerning the supplementation of contentions. We have revised the language slightly, as you can see in the highlighted portion of the attached discovery agreement draft which reads as follows:

The parties may supplement their respective claim charts and contentions after this time only upon a showing of good cause. Except, if a party believes in good faith that the Court's claim construction ruling so requires, no later than 7 days after the Court's ruling, a party may supplement its Claim Charts or Invalidity Contentions solely to address the Court's claim construction.

Please let us know if you have any comments or questions.

Thanks,  
Meg

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