UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

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)
I/P ENGINE, INC.,   )
)
                        Plaintiff,   )
            v.   )   Civ. Action No. 2:11-cv-512
)
AOL, INC. et al.,   )   **REDACTED VERSION**
)
                        Defendants.   )
_____)

OPPOSITION TO GOOGLE AND IAC'S MOTION TO COMPEL
PLAINTIFF TO SUPPLEMENT ITS INFRINGEMENT CONTENTIONS

I. INTRODUCTION AND SUMMARY

Google Inc. and IAC Search & Media, Inc.'s (collectively "Defendants") Motion to

Compel I/P Engine to provide supplemental infringement contentions is without merit. I/P

Engine has voluntarily provided clear and comprehensive infringement contentions. I/P

Engine's infringement contentions served on February 17, 2012 represent its current

contentions. Those contentions are impressively detailed, especially considering that Defendants

have yet to complete their production of responsive documents. Aside from their initial

production on which the current contentions are based, Defendants have produced few

documents. Google, for example, has been continually dragging its feet regarding long-promised

production of custodial documents that should provide further evidence that I/P Engine can use

to supplement the current contentions. Google's interminable delays have caused I/P Engine to

file a motion to compel. I/P Engine has committed to supplement on a timely basis its

contentions as Defendants produce additional documents.

I/P Engine's current contentions are more than adequate to provide Defendants notice as to I/P Engine's allegations regarding where each claim limitation is found in each accused system. Defendants' assertion that they "do not understand why their products allegedly infringe the patents-in-suit" is specious; I/P Engine has provided clear explanations, amply supported by citations to Defendant's own documents.

Defendants' motion primarily turns on their disagreement with the merits of I/P Engine's contentions, or on Defendants' disputed construction of certain claim terms, which are concurrently being briefed and are scheduled for hearing on June 4, 2012. While Defendants may not agree with I/P Engine's contentions, or may dispute I/P Engine's construction of the relevant claim terms, neither of those arguments provide a basis for compelling I/P Engine to supplement its fulsome contentions.

Tellingly, although Defendants assert that they are "entitled to know how each of their products allegedly meets each of the limitations of the asserted claims so that they can defend themselves," they have failed to meet that same standard. Prior to filing their motion, Defendants repeatedly refused to explain the basis for their non-infringement contentions. Likewise, prior to the filing of their motion, Defendants' interrogatory responses did not describe any deficiencies in I/P Engine's infringement contentions. Their motion should be denied.

II. FACTUAL BACKGROUND

A. I/P Engine's Initial Infringement Contentions

Though not required by local rules or court order, I/P Engine voluntarily provided Defendants with preliminary infringement contentions before Defendants responded to the Complaint, and before receiving a single document production. *See, e.g.,* Exs. 1-4 (I/P Engine's Preliminary Disclosure of Asserted Claims and Pre-Discovery Infringement Contentions as to Google AdWords, Google Search, IAC's Ask.com Sponsored Listings, and IAC's Use of Google

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AdWords).[1] I/P Engine's preliminary contentions were narrative in format, identified all of the

asserted claims, and set forth in detail, based on publicly-available documents, how each of

Defendants' accused systems satisfied each and every limitation of each asserted claim. *Id.* I/P

Engine's preliminary contentions incorporated citations to hundreds of pages of documents

created by Defendants, and specifically quoted from those documents to show, in Defendants'

own words, how each of the Defendants' accused systems infringed I/P Engine's patents. *Id.*

Pursuant to the parties' stipulation, beginning on December 7, 2011, Defendants

produced certain technical documents regarding their respective accused systems. That

production included wholly irrelevant documents relating to Google Earth and other non-accused

projects. I/P Engine's counsel immediately started reviewing those over 300,000 documents,

having to sift out a great amount of irrelevant information. While this review was ongoing, the

parties agreed that I/P Engine would supplement its initial infringement contentions on February

17, 2012, in exchange for Defendants' commitment to disclose their invalidity contentions on

March 3, 2012. Ex. 5. While I/P Engine met its commitment (as described below), Defendants

refused to supplement their invalidity contentions as promised. Ex. 6.

Defendants also have avoided disclosing their non-infringement contentions, despite I/P

Engine's interrogatories, and representations by Defendants that they would do so.[2] As of the

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[1] Those preliminary infringement contentions were provided pursuant to a November 4, 2011
stipulation between the parties, which obligated defendants to produce certain technical
documents in December 2011. *See* Ex. 7.

[2] I/P Engine has served three different interrogatories requesting non-infringement contentions
from Google. *See* Ex. 8 and Ex. 9 (Interrogatory Nos. 6, 11, and 12). Google initially responded
by providing a list of virtually all of the limitations of the asserted claims, and denying that
Google practiced any aspect of those limitations. *See* Ex. 10 at 13-16 (Response to Interrogatory
No. 6). After several letters and a meet and confer, Defendants supplemented their response by
citing, pursuant to Rule 33(d), over 1,000 documents that they contended showed non-
infringement. Ex. 13 at 18-34 (Supplemental Response to Interrogatory No. 6). I/P Engine has
reviewed every one of those documents, and has failed to locate any evidence that contradicts I/P

date that Defendants filed the instant motion to compel, they had not provided I/P Engine with any meaningful statement of their non-infringement contentions, in contrast to I/P Engine's two sets of detailed infringement contentions.[3]

B. I/P Engine's Supplemental Infringement Contentions

On February 17, 2012, I/P Engine served Defendants with seven claim charts containing detailed infringement contentions related to Google AdWords and AdSense for Search ("Google AdWords") for all defendants, citing and quoting Defendants' own proprietary, technical documents, as well as the public documents previously cited. *See*, *e.g.,* Exs. 11, 12 (supplemental contentions served on Google and IAC). Those contentions represented (and still represent) I/P Engine's current infringement contentions, reflecting its first review of Defendants' initial technical document production and containing additional citations to documents received through discovery. Every asserted claim limitation is supported with detailed citations to, and explanations of, supporting evidence distilled from Defendants' own documents. The supplemental infringement contentions provided further support for – and confirmation of – I/P Engine's preliminary assertions of infringement.

Engine's Present Infringement Contentions or relates to any non-infringement arguments. Monterio Decl. ¶ 2-3. The thousand-document list includes random documents related to unaccused systems, such as ███████████████████████████████████████ ███████████ *See* Ex. 14 (example documents). In short, those "non-infringement contentions" were useless in assisting I/P Engine to supplement its infringement contentions.

[3] Only upon the threat of an imminent motion to compel did Defendants begin to explain their non-infringement positions on March 30, 2012. *See* Ex. 15.

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III. **ARGUMENT**

A. **I/P Engine's Present Infringement Contentions Reflect Plaintiff's Current Contentions, are Sufficient, and Will be Supplemented as Discovery Progresses**

1. **The infringement contentions adequately disclose I/P Engine's current contentions**

I/P Engine's February 17th supplemental infringement contentions as to Google AdWords (Ex. 11), its November 7th preliminary infringement contentions as to Google Search (Ex. 2), and its November 10th preliminary infringement contention as to IAC's Ask.com Sponsored Listings are I/P Engine's present infringement contentions (Ex. 3).[4] I/P Engine's Present Infringement Contentions provide Defendants ample notice of I/P Engine's current infringement theories.

While infringement contentions are not required in this Court, I/P Engine's present infringement contentions far exceed the requirements of preliminary infringement contentions required by other courts. Courts have recognized the need "to distinguish the requirements of initial infringement contentions from later stages in litigation," noting that "[i]nfringement contentions need not disclose specific evidence nor do they require a plaintiff to prove its infringement case[.]" *Shurtape Technologies LLC v. 3M Co*., 2001 WL 4750586, at *2 (W.D. N.C. Oct. 7, 2011) (citing *Fenner Invs., Ltd. v. Hewlett–Packard Co.,* 2010 WL 786606, at *2 (E.D. Tex. Feb. 26, 2010)). Instead, early contentions such as I/P Engine's contentions merely need to "provide defendants with notice of infringement beyond the claim language itself." *Id.* ("infringement contentions serve a notice function and need not be incontrovertible or presented

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[4] Defendants' Motion is limited to I/P Engine's current infringement contentions as to Google Adwords and AdSense for Search, Google Search, and IAC's Ask.com Sponsored Listings. Defendants have not challenged the adequacy of I/P Engine's contentions regarding any other accused product.

in excruciating detail") (citations and quotations omitted). Despite Defendants' suggestions to

the contrary, infringement contentions "are not the correct stage to pre-try the case . . . by

conducting a highly detailed and rigorous analysis of the preliminary claim infringement

contentions." *Id*. (quoting *STMicroelectronics, Inc. v. Motorola, Inc.,* 308 F.Supp.2d 754, 756

(E.D. Tex. 2004)).

As set forth in section B, below, I/P Engine's infringement contentions are more than

adequate to provide notice. Indeed, those contentions set forth an unusually detailed and

rigorous analysis of how the accused systems infringe each element of each asserted claim. The

detail of those contentions is remarkable, in view of the fact that Defendants have been dragging

their feet in producing their documents.[5]

2. I/P Engine has committed to supplement its infringement contentions as appropriate

I/P Engine repeatedly has advised Defendants that it will seasonably supplement its

infringement contentions as discovery progresses. I/P Engine made that clear during a meet and

confer on March 13, 2012, and in a letter on March 14, 2012. *See* Ex. 16. On March 16, 2012,

counsel for I/P Engine sent an email and left a detailed voicemail for Steve Noona, local counsel

for Defendants, explaining that I/P Engine's February 17, 2012 infringement contentions were its

current contentions, and that I/P Engine intended to supplement as discovery progressed.

Monterio Decl. ¶ 4. Neither Mr. Noona nor any other counsel for Defendants returned that call

or sought to further discuss the issue, instead filing the instant motion on March 27, 2012.

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[5] Between February 17, 2012 and the date of Defendants' motion, Defendants have not
produced any technical documents that change I/P Engine's present infringement contentions or
current infringement theories, or articulated any reasons why – including non-infringement
arguments – I/P Engine's contentions or theories are misplaced or wrong (as described above).

I/P Engine continues to review documents that Defendants slowly are producing, and are seeking additional documentation from Defendants so that I/P Engine can further bolster its infringement case. Defendants nevertheless continue to drag their feet in their ongoing document production. I/P Engine has received very few technical documents apart from Google's repository document production. For documents specifically related to this case, Google has taken over five months to produce custodial documents responsive to I/P Engine's November 7th document requests. After four months and numerous letters, and multiple meet and confers, and eventual threats of a motion to compel by I/P Engine, the parties finally have agreed to custodians and terms for an initial search. As of the date of this brief, Google promised to produce its custodial documents by June 15, 2012 – which is the subject of a separate motion. Monterio Decl. ¶ 5. Until Google produces those documents, as well as additional documents tailored to this case, I/P Engine is under no obligation to further supplement its contentions.

As an example, I/P Engine seeks additional documents that further describe the use of click through rate ("CTR") in its search ranking algorithm. Ex. 17 at 11-12 (Document Request No. 12). ███

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Ex. 18 (emphasis in original).

Upon learning that ████████████████████████████ (perhaps due to infringement concerns), I/P Engine tried to obtain discovery by other means. For example, I/P

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Engine asked Google to confirm or deny that its search engine uses CTR to influence its search results. Ex. 19. Google has refused to answer, stating that it cannot understand what it means to "use click-through rates or data to rank/return search results" and that Google is "not able to confirm" that it never uses historical data. Ex. 20. Nevertheless, I/P Engine's present infringement contentions explain the basis, as best as it can be gleaned from Defendants' incomplete production, for Plaintiff's infringement contentions.

I/P Engine has faced similar difficulties in understanding the relevant features of IAC's systems from the presently-produced documents. Although I/P Engine's review of the most recently produced IAC documents is ongoing, the documents so far do not appear to describe the relevant aspects. I/P Engine continues to seek additional evidence through discovery, but has no obligation to update its infringement contentions until such evidence has been produced, reviewed, and analyzed.[6]

I/P Engine recently served its Rule 30(b)(6) deposition notices on Defendants. Monterio Decl. ¶ 7. After those depositions, if additional helpful information is provided, I/P Engine intends to supplement its infringement contentions with any and all obtained evidence.

3. I/P Engine's infringement contentions were served by agreement

This Court does not have local rules that require parties to provide infringement contentions by a specific date, or requires the contents of such contentions, or restricts a party from supplementing such contentions after a certain date unless good cause is shown. Defendants' reliance on precedent from other jurisdictions with such rules, for example the Northern District of California and the Eastern District of Texas, are inapposite.

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[6] I/P Engine has also proposed that the case be streamlined by focusing on the Google AdWords system. Ex. 21. This proposal would lead to the dismissal of Target, Gannett, and IAC. I/P Engine has received no response from Target, Gannett, and IAC, even though they are represented by the same law firm as Google. Google has refused the stipulation.

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I/P Engine voluntarily provided its initial infringement contentions, as well as its supplemental infringement contentions, pursuant to an agreement between the parties, and not because it was required by any local rule, or court order. But for the parties' agreements, discovery could not have been served prior to March 9, 2012, and neither I/P Engine's initial infringement contentions of November 2011, nor the supplemental contentions of February 2012, would have been served. Rule 26(f) Order (D.I. 83).

4. **Because I/P Engine's infringement contentions were not in response to interrogatories, there is nothing to compel**

Because I/P Engine's infringement contentions were served by agreement, and not served in response to any interrogatories, there is nothing for this Court to compel. Defendants cannot seek to compel a response to a discovery request, because I/P Engine's initial and supplemental infringement contentions were served by agreement, not pursuant to an interrogatory served under Rule 33. Do Defendants hope to seek a Court Order obligating I/P Engine to comply with the agreement that I/P Engine serve supplemental infringement contentions on February 17, 2012, in exchange for Defendants serving detailed invalidity contentions on March 3, 2012? If that is the case, I/P Engine satisfied its obligation when it served its supplemental infringement contentions on February 17, 2012. It is Defendants who failed to honor their agreement by failing to serve any supplementation on March 2, as promised. *See* Ex. 6.[7]

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[7] Defendants do not argue that I/P Engine has a supplementation obligation for infringement contentions served pursuant to the agreement between the parties. To the extent that Defendants had a right to compel enforcement of an agreement between the parties instead of a formal discovery request, Defendants waived their opportunity to enforce agreement of the parties as a result of their failure to supplement their invalidity contentions. *See* Ex. 6. And even if I/P Engine's reference to its infringement contentions in an interrogatory response somehow transformed the contentions into a formal interrogatory response, because Defendants possess I/P Engine's current infringement contentions, there is nothing to supplement.

B. Defendants' Criticisms Reflect Disagreements on the Merits or Pending Claim Construction Disputes, not Inadequacies with the Present Infringement Contentions

1. I/P Engine has provided complete infringement contentions as to Google AdWords

I/P Engine's present infringement contentions explain, in Google's own words, how Google AdWords infringes I/P Engine's patents, and reflect I/P Engine's present understanding of Google AdWords. Defendants, through nothing more than conclusory statements and rhetoric, assert four deficiencies in its motion with respect to I/P Engine's Present Infringement Contentions as to Google AdWords:

1) I/P Engine fails to identify what "collaborative feedback data" is received by Google AdWords;

2) I/P Engine fails to identify where and how Google AdWords information is filtered for relevance to the query;

3) I/P Engine fails to identify what in Google AdWords involves "scanning a network"; and

4) I/P Engine fails to identify where the "feedback system" and "scanning system" are found in Google AdWords.

As explained below, none of Defendants' assertions have merit. Each of these features are plainly disclosed in I/P Engine's present infringement contentions. Google's assertions are instead based upon its disagreement with the facts, or based upon its own claim constructions, which the Court has not accepted, and which currently is being briefed in advance of the June 4, 2012 hearing.

a. I/P Engine's present infringement contentions identify what "collaborative feedback data" is received by Google AdWords

Defendants allege that I/P Engine "refuses to identify in its infringement contentions what 'collaborative feedback data' is received" Defendant's Motion (D.I. 105) at 10. This is incorrect. With respect to the limitation "receiving collaborative feedback data from system

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users relative to informons considered by such users," for example as recited in claim 10 of the

'420 patent, I/P Engine's present infringement contentions state:

> Google AdWords includes a system that receives feedback data from system users, the feedback data being related to the website information returned as results and considered by users. For example, Google AdWords receives feedback (in the form of clickthrough data) about information, e.g., advertisements, considered by the other users. See IPE0000064 ("Millions of users click on AdWords ads every day. Every single one of those clicks – and the even more numerous impressions associated with them – is analyzed by our filters (stage 1), which operate in real-time."). Google AdWords uses the "dynamic variable called 'Quality Score' to evaluate keyword relevance." IPE0000058. In AdWords, a component of the "Quality Score" is based on an advertisement's "clickthrough rate (CTR)" *Id.; see also* IPE0000061-IPE0000062 ("[t]he historical clickthrough rate (CTR) of the keyword and the matched ad on Google; if the ad is appearing on a search network page, its CTR on that search network partner is also considered" and that "[h]aving . . . a strong CTR on Google . . . will result in a higher position for your ad."). Google says that, of the three components of Quality Score, CTR is "the biggest one by far" and that "by allowing users to vote with their clicks, we have millions of people that are helping us to decide which ads are best for each search query." IPE0000073. The CTR is feedback data from system users on advertisements considered by the users.
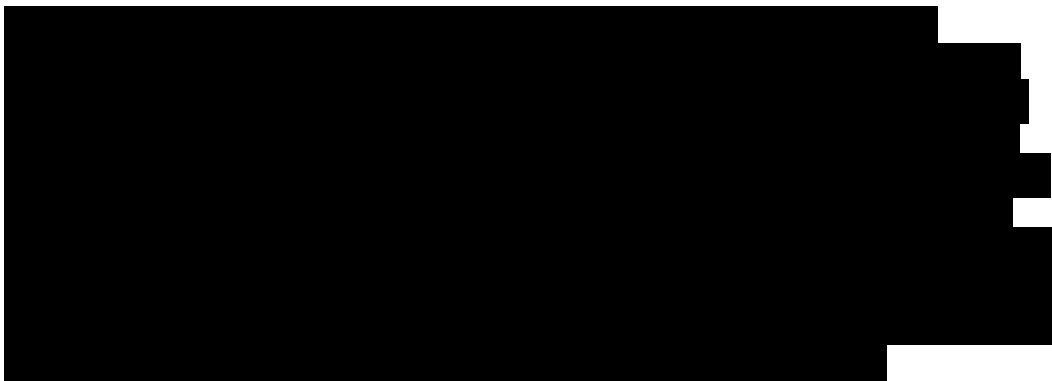
Ex. 11 at 8-9.

I/P Engine's contentions are clear: "Google AdWords receives feedback (in the form of

clickthrough data)." Google understood this when it filed this motion, because its belated

response to I/P Engine's non-infringement interrogatories admit that "Plaintiff apparently asserts

that this limitation is met . . . by the use of historical clickthrough rate or CTR in the calculation

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of Quality Score." Ex. 22 at 40, Ex. 23 at 10. There is, in fact, no ambiguity in I/P Engine's present infringement contentions, and Google's statement that I/P Engine has "refused" to identify what feature meets the recited "collaborative feedback data" limitation is contradicted by Defendants' own admission.

        b.   I/P Engine's present contentions identify where and how Google AdWords information is filtered for relevance to the query

Google alleges that I/P Engine's present infringement contentions do not describe what part of Google's system is involved in "filtering each informon for relevance to the query." The plain language of the contentions belie this assertion by explaining how Google AdWords meets the "filtering" element, citing Google's own documents:

Ex. 11 at 9.

I/P Engine thus has detailed how Google's own documents explain that the ████████ ███ ███████████████████████ *See* Ex. 11 at 8, 9, 14-16, 19, 21, 24, 26 ███████ █████████████████████████ Indeed, this filtering based on Quality Score was referenced in I/P Engine's complaint, which stated that "Google's search advertising systems filter advertisements by using "Quality Score." Complaint (D.I. 1) at 9. I/P Engine's infringement contentions have been clear and consistent from the day that complaint was filed. I/P Engine's citations clearly explain how the filtering is infringed using Google's own

documents, and Google cannot reasonably claim that it is unaware what part of its own system is

involved with the quoted functionality.

    c.   **I/P Engine's present infringement contentions identify what in Google AdWords involves "scanning a network"**

    I/P Engine's present infringement contentions regarding the "system for scanning a

network" (claim 10 of the '420 patent for example) include five lengthy paragraphs describing

the specific features of Google AdWords involved in the claimed scanning. Ex. 11 at 6-7. For

example, a portion of that response states:

> Google uses distributed databases in its systems, and the databases distribute
> information across several locations on a network. IPE0000011-IPE0000024; see
> also IPE0000026 (showing distributed systems). . . . ████████████████
> ███
> ███
> ██████████████
> Additionally, the system collects information on landing pages of advertisements
> on the Internet. IPE0000066.

Ex. 11 at 12

    I/P Engine's contentions disclose in detail how the accused features meet the "scanning a

network" limitation. Each statement in the contentions relate to the "scanning a network"

limitation, and includes references to Google's own documents.

    d.   **I/P Engine's present infringement contentions identify where the "feedback system" and the "scanning system" are found in Google AdWords**

    Google claims that I/P Engine has not disclosed a "feedback system" that receives

feedback. A review of I/P Engine's infringement contentions illustrates the shallowness of

Google's complaint:

> Google AdWords receives feedback (in the form of clickthrough data) about
> information, e.g., advertisements, considered by the other users . . . . ████████
> ███
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Ex. 11 at 14-15. From this, Google is reasonably apprised as to the elements of its system that I/P

Engine contends receive collaborative feedback.

I/P Engine's present infringement contentions similarly include a thorough description of

the "scanning system" of Google AdWords that Defendants claim is not identified. As described

above, I/P Engine's contentions include a lengthy description of the components alleged to meet

the scanning system limitation of the claims. For example:

> Google uses distributed databases in its systems, and the databases distribute
> information across several locations on a network. IPE0000011-IPE0000024; see
> also IPE0000026 (showing distributed systems). . . . [REDACTED]
>
> [BLACK REDACTION BOX]
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> Additionally, the system collects information on landing pages of advertisements
> on the Internet. IPE0000066.

Ex. 11 at 27-28.

I/P Engine's detailed description identifies the "scanning system" that I/P Engine is

accusing of infringement. The documents cited in this description detail the corresponding

structures involved in the scanning of the network to the extent they are documented by Google

in produced documents. Accordingly, Google is reasonably apprised of I/P Engine's contention

with respect to this claim element.

2. I/P Engine has also provided sufficient infringement contentions as to Google Search and IAC's Ask.com Sponsored Listings

Defendants' arguments as to the Google Search and Ask.com Sponsored Listings

contentions are likewise without merit. Despite stating that I/P Engine's infringement

contentions are "noticeably incomplete," Defendants have only identified a single alleged

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deficiency. Defendants' sole argument contends that I/P Engine's Present Infringement Contentions do not explain how the products meet "collaborative filtering" which it refers to as "an element of each of the independent claim to the '420 Patent." In fact, this phrase ("collaborative filtering") does not appear in any of the asserted claims (or in any other claim of either patent-in-suit). I/P Engine has explained to Google that it does not understand to which claim language Defendants are referencing. Ex. 24. Because I/P Engine's infringement contentions are tied to the actual language of the claims, and explain how each recited element is infringed by Defendants' accused systems, Defendants' assertion that the contentions do not speak to a non-existent claim limitation makes no sense.

It appears that Defendants have some special definition of "collaborative filtering" that they would like to see make its way into the claims. To the extent this is a claim construction issue, it will be addressed by the Court in its Markman ruling. Tellingly, when I/P Engine asked Defendants to explain what they meant by "collaborative filtering," or to update their non-infringement contentions to explain this position so that I/P Engine could respond, Defendants refused to elaborate. *See* Exs. 24-25. I/P Engine has pointed out to Google that "Google's response [to Interrogatory No. 6] does not include any mention of 'collaborative filtering[.]'" Ex. 24. If Defendants have a non-infringement theory that is based on some interpretation of the claims that includes a special definition of "collaborative filtering," then it should be included in Defendants' respective responses to I/P Engine's non-infringement interrogatories. As of the filing of Defendants' Motion, the phrase "collaborative filtering" still did not appear in their non-infringement contentions.[8]

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[8] Google's non-infringement contentions served after the filing of their motion do mention "collaborative filtering," although they still fail to tie this concept to any particular claim language.

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If Defendants intended to refer to "collaborative feedback data," (a claimed feature) then no supplementation is necessary. For Google Search, I/P Engine's present infringement contentions explain that "Google collects data regarding results viewed by users" and, in support, the contentions cite Google's own statement that "with [search] logs, we can improve our search results: if we know that people are clicking on the #1 result we're doing something right." Ex. 2 at 6. The use of this feedback data in filtering is similarly explained. The contentions state that "[u]pon information and belief, Google Search also uses collected feedback data to improve how the search algorithm filters items for relevance to the query" and that "Google describes using feedback data, such as user-click-data, to alter a score associated with a document." *Id.* A Google employee is cited as stating: "Google makes it obvious that it uses click data . . . ." *Id.* I/P Engine's assertions with regard to the receipt and use of collaborative feedback data has been adequately explained.

As for IAC's Ask.com Sponsored Listings, I/P Engine's contentions likewise explain the features that meet the "collaborative feedback data." The contentions quote IAC's documents, stating: "Placement of ads on the Ask Sponsored Listings (ASL) network may vary across the ASL network according to [factors including] the click volume your ads received in comparison to that of other advertisers (CTR)." Ex. 3 at 6.

The Google Search and Ask.com Sponsored Listings infringement contentions are sufficient to place Google and IAC on notice of I/P Engine's present contentions. The mere fact that I/P Engine's contentions with respect to these systems rely on publicly available documentation does not in itself indicate any deficiency. The contentions contain specific evidence of the relevant portions of the system that I/P Engine has identified to date, and these

documents place both Google and IAC respectively on notice as to the features that I/P Engine contends infringe.[9]

IV. CONCLUSION

I/P Engine's present infringement contentions are clear, comprehensive, and sufficient as a matter of law. They serve their function of providing adequate notice to Defendants as to the basis of I/P Engine's current infringement theory. Defendants' Motion to Compel should be denied.

Dated: April 12, 2012

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[9] As noted above, I/P Engine will update its contentions as additional documents and testimony are elicited.

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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of April, 2012, the foregoing **OPPOSITION TO GOOGLE AND IAC'S MOTION TO COMPEL PLAINTIFF TO SUPPLEMENT ITS INFRINGEMENT CONTENTIONS,** was served via the Court's CM/ECF system, on the following:

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