

# EXHIBIT B

## Jen Ghaussy

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**From:** Brothers, Kenneth [BrothersK@dicksteinshapiro.com]  
**Sent:** Thursday, February 09, 2012 2:51 PM  
**To:** Margaret P. Kammerud; David Perlson; 'Noona, Stephen E.'  
**Cc:** David Bilsker; Emily O'Brien; 'Burns, Robert'; 'Courtney, Mary L.'; zz-IPEngine; Sherwood, Jeffrey; 'Donald C. Schultz'  
**Subject:** RE: Google/IP Engine Pretrial

Meg, this is fine, thanks.

-----Original Message-----

From: Margaret P. Kammerud [mailto:megkammerud@quinnemanuel.com]  
Sent: Thursday, February 09, 2012 12:05 PM  
To: Brothers, Kenneth; David Perlson; 'Noona, Stephen E.'  
Cc: David Bilsker; Emily O'Brien; 'Burns, Robert'; 'Courtney, Mary L.'; zz-IPEngine; Sherwood Jeffrey; 'Donald C. Schultz'  
Subject: RE: Google/IP Engine Pretrial

Ken,

Based on the parties' discussions, we made some minor additions to your proposed language regarding fact witness depositions. Our proposed language is below. Please let us know if you agree with this proposal.

Thanks,  
Meg

### B. Fact Witness Depositions

The parties agree that Plaintiff shall have the right to a Rule 30(b)(6) deposition on liability issues lasting no longer than 7 hours, a Rule 30(b)(6) deposition on damages issues lasting no longer than 7 hours; and the right to depose each fact witness affiliated with a defendant and who has been disclosed pursuant to Rule 26(a) (currently 14 individuals for all defendants). Defendants have agreed to this expansion of the deposition limitations under the Federal Rules of Civil Procedure with the express understanding that this will be substantially all the depositions that plaintiff will take; any additional depositions by plaintiff must be by leave of Court on motion for good cause shown.

The length of deposition time shall be determined solely by the official court reporter or videographer. The party requesting the deposition shall be responsible for arranging the reporter and location, unless otherwise agreed by the parties.

### C. Depositions of Inventors

Defendants shall have the right to depose each of the named inventors for a total of 14 hours pursuant to Rule 30(b)(1) and/or Rule 30(b)(6). Defendants will designate one attorney for each inventor that is deposed who will take the lead in asking questions for all Defendants; provided, that the designation of a lead counsel for the examination will not preclude counsel for any other Defendant from making a reasonable, non-duplicative examination, or from asking reasonable, non-duplicative follow up questions.

-----Original Message-----

From: Brothers, Kenneth [mailto:BrothersK@dicksteinshapiro.com]  
Sent: Tuesday, February 07, 2012 5:11 PM

To: David Perlson; 'Noona, Stephen E.'  
Cc: David Bilsker; Emily O'Brien; Margaret P. Kammerud; Burns, Robert; Courtney, Mary L.; zz-IPEngine; Sherwood, Jeffrey; Donald C. Schultz  
Subject: RE: Google/IP Engine Pretrial

Yes, for each defendant, 7 hours of 30b6 on damages and 7 hours of 30b6 on liability. We will serve separate notices.

-----Original Message-----

From: David Perlson [mailto:davidperlson@quinnemanuel.com]  
Sent: Tuesday, February 07, 2012 7:49 PM  
To: Brothers, Kenneth; 'Noona, Stephen E.'  
Cc: David Bilsker; Emily O'Brien; Margaret P. Kammerud; Burns, Robert; Courtney, Mary L.; zz-IPEngine; Sherwood, Jeffrey; Donald C. Schultz  
Subject: RE: Google/IP Engine Pretrial

One more question. When you say one 30b6 of each defendant on damages and one for liability, is that 7 hours of deposition time for each, or do you intend it to mean something else. Please clarify.

-----Original Message-----

From: Brothers, Kenneth [mailto:BrothersK@dicksteinshapiro.com]  
Sent: Tuesday, February 07, 2012 4:28 PM  
To: David Perlson; 'Noona, Stephen E.'  
Cc: David Bilsker; Emily O'Brien; Margaret P. Kammerud; Burns, Robert; Courtney, Mary L.; zz-IPEngine; Sherwood, Jeffrey; Donald C. Schultz  
Subject: RE: Google/IP Engine Pretrial

David:

It's hard to say without knowing your topics. To the extent defendants have topics regarding the patent, I would expect that an inventor could be a 30(b)(6) designee. If your topics are about I/P Engine, then Lang may be a designee, especially since you'd probably be asking most of those questions of them regardless of whether they were designees. Either way, we're not willing to agree at this point to expose the inventors to more than 14 hours each of Rule 30(b)(1) or 30(b)(6) deposition time, without further court order or agreement of the parties -- the same conditions that protect Defendants if plaintiff seeks depositions outside of our proposal.

Ken

-----Original Message-----

From: David Perlson [mailto:davidperlson@quinnemanuel.com]  
Sent: Tuesday, February 07, 2012 7:19 PM  
To: Brothers, Kenneth; 'Noona, Stephen E.'  
Cc: David Bilsker; Emily O'Brien; Margaret P. Kammerud; Burns, Robert; Courtney, Mary L.; zz-IPEngine; Sherwood, Jeffrey; Donald C. Schultz  
Subject: RE: Google/IP Engine Pretrial

Ken, does Plaintiff intend to designate either of the inventors as 30b6 witnesses? We are concerned that your proposal may be too limiting if, for example, Plaintiff seeks to designate Mr. Lang on most Rule 30b6 topics.

-----Original Message-----

From: Brothers, Kenneth [mailto:BrothersK@dicksteinshapiro.com]  
Sent: Tuesday, February 07, 2012 11:23 AM

To: Brothers, Kenneth; 'Noona, Stephen E.'; David Perlson  
Cc: David Bilsker; Emily O'Brien; Margaret P. Kammerud; Burns, Robert; Courtney, Mary L.; zz-IPEngine; Sherwood, Jeffrey; Donald C. Schultz  
Subject: RE: Google/IP Engine Pretrial

B. Fact Witness Depositions

The parties agree that Plaintiff shall have the right to a Rule 30(b)(6) deposition on liability issues, a Rule 30(b)(6) deposition on damages issues; and the right to depose each fact witness affiliated with a defendant and who has been disclosed pursuant to Rule 26(a) (currently 14 individuals for all defendants).

The length of deposition time shall be determined solely by the official court reporter or videographer. The party requesting the deposition shall be responsible for arranging the reporter and location, unless otherwise agreed by the parties.

C. Depositions of Inventors

Defendants shall have the right to depose each of the named inventors for a total of 14 hours pursuant to Rule 30(b)(1) and/or Rule 30(b)(6). Defendants will designate one attorney for each inventor that is deposed who will take the lead in asking questions for all Defendants; provided, that the designation of a lead counsel for the examination will not preclude counsel for any other Defendant from making a reasonable, non-duplicative examination, or from asking reasonable, non-duplicative follow up questions.

-----Original Message-----

From: Brothers, Kenneth  
Sent: Tuesday, February 07, 2012 2:06 PM  
To: 'Noona, Stephen E.'; 'David Perlson'  
Cc: David Bilsker; Emily O'Brien; Margaret P. Kammerud; Burns, Robert; Courtney, Mary L.; zz-IPEngine; Sherwood, Jeffrey; Donald C. Schultz  
Subject: RE: Google/IP Engine Pretrial

We're on the call with 4 others - please try again

-----Original Message-----

From: Noona, Stephen E. [mailto:senoona@kaufcan.com]  
Sent: Tuesday, February 07, 2012 2:03 PM  
To: Brothers, Kenneth; 'David Perlson'  
Cc: David Bilsker; Emily O'Brien; Margaret P. Kammerud; Burns, Robert; Courtney, Mary L.; zz-IPEngine; Sherwood, Jeffrey; Donald C. Schultz  
Subject: RE: Google/IP Engine Pretrial

Cannot get in number--busy?

Stephen E. Noona  
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-----Original Message-----

From: Brothers, Kenneth [mailto:BrothersK@dicksteinshapiro.com]  
Sent: Tuesday, February 07, 2012 1:03 PM  
To: 'David Perlson'; Noona, Stephen E.  
Cc: David Bilsker; Emily O'Brien; Margaret P. Kammerud; Burns, Robert; Courtney, Mary L.; zz-IPEngine; Sherwood, Jeffrey; Donald C. Schultz

Subject: RE: Google/IP Engine Pretrial

Let's speak today at 11 am PT/2 pm ET and see if we can nail this down. Please use this number:

DIAL IN NUMBER: 888-839-7346

PARTICIPANT PASS CODE: 202 420 4128

-----Original Message-----

From: David Perlson [mailto:davidperlson@quinnemanuel.com]

Sent: Tuesday, February 07, 2012 12:48 PM

To: Noona, Stephen E.; Brothers, Kenneth

Cc: David Bilsker; Emily O'Brien; Margaret P. Kammerud; Burns, Robert; Courtney, Mary L.; zz-IPEngine; Sherwood, Jeffrey; Donald C. Schultz

Subject: RE: Google/IP Engine Pretrial

I can speak at 11 pacific to address the remaining claim construction dates.

Ken, in response to your email below, the meet and confers really need to happen after we have provided our claim constructions, not just the terms. Thus, your suggested meet and confers before we exchange claim constructions don't address the issue.

-----Original Message-----

From: Noona, Stephen E. [mailto:senoona@kaufcan.com]

Sent: Tuesday, February 07, 2012 7:38 AM

To: Brothers, Kenneth; David Perlson

Cc: David Bilsker; Emily O'Brien; Margaret P. Kammerud; Burns, Robert; Courtney, Mary L.; zz-IPEngine; Sherwood, Jeffrey; Donald C. Schultz

Subject: RE: Google/IP Engine Pretrial

The Court's Clerk called this morning. She wants to have our dates as soon as possible. I indicated to her that we were close, that the Trial, Pretrial and Markman Hearing dates are agreed to and that we were close to reaching a agreement on the other claim construction exchange/briefing dates. Could we close ranks and reach a final decision by end of business today? I understand that we are close,...SEN.

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-----Original Message-----

From: Brothers, Kenneth [mailto:BrothersK@dicksteinshapiro.com]

Sent: Tuesday, February 07, 2012 7:44 AM

To: 'David Perlson'

Cc: Noona, Stephen E.; David Bilsker; Emily O'Brien; Margaret P. Kammerud; Burns, Robert; Courtney, Mary L.; zz-IPEngine; Sherwood, Jeffrey; Donald C. Schultz

Subject: RE: Google/IP Engine Pretrial

Let's do the initial exchange of terms on 3/16, then have our first meet and confer on 3/19, another one on 3/21, and another on 3/23 if needed. I'm ok with advancing the exchange of agreed and disputed constructions to 3/23 (only two days later than your proposal), and having another meet and confer on 3/26. If further meet and confers are needed, then they can be scheduled for 3/28 and 3/30.

When are you available to discuss this and the other 16(b) issues by telephone?

-----Original Message-----

From: David Perlson [mailto:davidperlson@quinnemanuel.com]  
Sent: Monday, February 06, 2012 7:49 PM  
To: Brothers, Kenneth  
Cc: Noona, Stephen E.; David Bilsker; Emily O'Brien; Margaret P. Kammerud; Burns, Robert; Courtney, Mary L.; zz-IPEngine; Sherwood, Jeffrey; Donald C. Schultz  
Subject: RE: Google/IP Engine Pretrial

That is precisely the problem. We have no time to a series of conferences under your schedule below. We need to start this process earlier. Otherwise, we will be drafting our briefs as to a moving target.

Parties to Simultaneously Exchange Terms to be Construed: 3/19 Parties to Simultaneously Exchange Construction of Agreed and Disputed Terms: 3/28 Parties Simultaneously File Opening Claim Construction Briefs: 4/11 (no change) Parties Simultaneously File Response Claim Construction Briefs: 5/3 (no change) Parties File Joint Claim Construction Chart and Hearing Statement: 5/17 (no change)

-----Original Message-----

From: Brothers, Kenneth [mailto:BrothersK@dicksteinshapiro.com]  
Sent: Monday, February 06, 2012 4:45 PM  
To: David Perlson  
Cc: Noona, Stephen E.; David Bilsker; Emily O'Brien; Margaret P. Kammerud; Burns, Robert; Courtney, Mary L.; zz-IPEngine; Sherwood, Jeffrey; Donald C. Schultz  
Subject: Re: Google/IP Engine Pretrial

We should start the meet and confer very soon after disclosure, and continue it as needed until done. I've never had resolution on this type of issue in a single conference. Let's schedule a series - every other day - until we are agreed or at an impasse. I'm happy to consider your proposals for the meet and confers.

On Feb 6, 2012, at 6:32 PM, "David Perlson" <davidperlson@quinnemanuel.com> wrote:

So you are suggesting we have one business day to meet and confer? I don't think it is realistic to think that we could deal with all the issues in only one business day, or that the parties would even be in a position to meaningfully discuss the issues the next day. Thus, given how soon after the exchange the briefing comes, there is effectively no time. We would ask that Plaintiff reconsider this. I think the Court would appreciate and expect that the parties would take the time needed to narrow the issues.

-----Original Message-----

From: Brothers, Kenneth [mailto:BrothersK@dicksteinshapiro.com]  
Sent: Monday, February 06, 2012 3:26 PM  
To: David Perlson

Cc: Noona, Stephen E.; David Bilsker; Emily O'Brien; Margaret P. Kammerud; Burns, Robert; Courtney, Mary L.; zz-IPEngine; Sherwood, Jeffrey; Donald C. Schultz  
Subject: Re: Google/IP Engine Pretrial

The next business day

On Feb 6, 2012, at 5:54 PM, "David Perlson" <davidperlson@quinnemanuel.com> wrote:

Ken, we will not be agreeing to two separate schedules. We need one schedule that we can rely on and plan for.

Under your second schedule below, when would you envision the parties meet and confer to narrow issues and perhaps agree on certain terms?

-----Original Message-----

From: Brothers, Kenneth [mailto:BrothersK@dicksteinshapiro.com]

Sent: Monday, February 06, 2012 12:17 PM

To: David Perlson; 'Noona, Stephen E.'

Cc: David Bilsker; Emily O'Brien; Margaret P. Kammerud; 'Burns, Robert'; 'Courtney, Mary L.'; zz-IPEngine; Sherwood, Jeffrey; 'Donald C. Schultz'

Subject: RE: Google/IP Engine Pretrial

David:

Although the parties may disagree on the need for, and the amount of time needed, to analyze any newly disclosed prior art, given your representations, I think we should be able to reach an agreement along the following lines:

1. If defendants do not add any prior art between now and their supplementation on 3/2/12, then the parties will abide by your earlier deadlines for claim construction, e.g.:

Parties to Simultaneously Exchange Terms to be Construed: 3/9 Parties to Simultaneously Exchange Construction of Agreed and Disputed Terms: 3/21 Parties Simultaneously File Opening Claim Construction Briefs: 4/11 (your proposed date) Parties Simultaneously File Response Claim Construction Briefs: 5/3 (your proposed date) Parties File Joint Claim Construction Chart and Hearing Statement: 5/17 (your proposed date)

2. If, however, defendants assert new prior art between now and 3/2/12, then the deadlines would be as follows:

Parties to Simultaneously Exchange Terms to be Construed: 3/19 Parties to Simultaneously Exchange Construction of Agreed and Disputed Terms: 3/28 Parties Simultaneously File Opening Claim Construction Briefs: 4/11 (no change) Parties Simultaneously File Response Claim Construction Briefs: 5/3 (no change) Parties File Joint Claim Construction Chart and Hearing Statement: 5/17 (no change)

3. The parties revert to Noona's originally proposed (later) dates for expert discovery and close of fact discovery. I believe this is already agreed, but I include for the sake of clarity.

Assuming this is acceptable, please circulate a proposed submission to the Court. In addition, aside from these dates, please advise if you have any issues with the proposed Discovery Plan. I would like to have a meet and confer prior to next Monday's hearing to address any open items.

Ken

-----Original Message-----

From: David Perlson [mailto:davidperlson@quinnemanuel.com]  
Sent: Monday, February 06, 2012 10:24 AM  
To: Brothers, Kenneth; 'Noona, Stephen E.'  
Cc: David Bilsker; Emily O'Brien; Margaret P. Kammerud; 'Burns, Robert'; 'Courtney, Mary L.';  
zz-IPEngine; Sherwood, Jeffrey; 'Donald C. Schultz'  
Subject: RE: Google/IP Engine Pretrial

Ken, as you know, the reason the supplemental infringement contentions come before the supplemental invalidity contentions is because we first need to look at Plaintiff's infringement allegations to see what they reveal about how Plaintiff is interpreting the patent. For example, as Plaintiff has likely now been able to determine given Google's extensive technical document production, the accused products do not use collaborative filtering. Thus, to the extent Plaintiff is going to continue its case, Plaintiff would need to interpret the patent in a way to eliminate collaborative filtering. We need to see what Plaintiff is going to do in this regard now that it has seen Google's technical documents to determine what, if any, prior art would be appropriately added in any supplementation. Of course, we are not in a position to do that now. If it helps, I can say we are not presently holding back on identifying prior art with the intention of identifying it later.

Further, given the anticipatory prior art we have already identified it seems highly unlikely that any new art we would identify would have any impact on what claim terms Plaintiff selects.

Moreover, under the schedule Plaintiff has a week after supplemental contentions to pick terms, but it does not have to identify constructions at that time.

Nevertheless, to the extent that Plaintiff wishes more time to review our supplemental contentions before proposing claim terms, the easiest way to do that is to provide your supplemental infringement contentions earlier, which Plaintiff should be able to do given the length of time it has had Google's technical document production. Other than, however, we don't see a way to further compress the claim construction schedule to accommodate the earlier claim construction date we all think makes sense, while still allowing the parties adequate time to meet and confer regarding each others claim construction to narrow the issues and provide enough time to craft our briefs with sufficient knowledge of each others positions on claim construction in mind to address the issues.

-----Original Message-----

From: Brothers, Kenneth [mailto:BrothersK@dicksteinshapiro.com]  
Sent: Saturday, February 04, 2012 8:44 AM  
To: David Perlson; 'Noona, Stephen E.'  
Cc: David Bilsker; Emily O'Brien; Margaret P. Kammerud; 'Burns, Robert'; Courtney, Mary L.;  
zz-IPEngine; Sherwood, Jeffrey; 'Donald C. Schultz'  
Subject: RE: Google/IP Engine Pretrial

David:

Thank you for your willingness to revert on the dates for expert discovery and close of fact discovery. With regard to the claim construction dates, the main issue for plaintiff is that we need have sufficient time to analyze defendants' amended invalidity contentions with our experts prior to identifying the claim terms. Your proposed schedule would allocate only a week. If defendants do not expect to add additional prior art to their invalidity contentions, then plaintiff could abide by your proposed changes. If, however, defendants do



add more art, then we would need the additional time to analyze it. Let me know if this would work for defendants.

Ken

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From: David Perlson [davidperlson@quinnemanuel.com]  
Sent: Friday, February 03, 2012 6:13 PM  
To: Brothers, Kenneth; 'Noona, Stephen E.'  
Cc: David Bilsker; Emily O'Brien; Margaret P. Kammerud; 'Burns, Robert'; Courtney, Mary L.; zz-IPEngine; Sherwood, Jeffrey; 'Donald C. Schultz'  
Subject: RE: Google/IP Engine Pretrial

Ken, if we reverted to the dates for expert discovery and close of fact discovery from Steve's chart sent yesterday, would Plaintiff agree to the claim construction dates in the chart he sent today? If so, I think we can reach agreement.

From: Brothers, Kenneth [mailto:BrothersK@dicksteinshapiro.com]  
Sent: Friday, February 03, 2012 12:22 PM  
To: 'Noona, Stephen E.'  
Cc: David Perlson; David Bilsker; Emily O'Brien; Margaret P. Kammerud; 'Burns, Robert'; Courtney, Mary L.; zz-IPEngine; Sherwood, Jeffrey; 'Donald C. Schultz'  
Subject: RE: Google/IP Engine Pretrial

Steve:

I do not understand why these changes are being proposed by defendants. In particular, I am disappointed at the attempt to shorten fact discovery by advancing the cutoff from September 4, 2012 to June 8, 2012. That simply is not enough time, especially given defendants' ongoing delays in producing documents responsive to plaintiff's November 2011 requests. During our meet and confer last week, you specifically proposed on behalf of defendants that the parties agree to September 4 for a mutual cutoff of fact discovery, and I agreed. The reference in your email to an earlier proposed date was before we had a trial date of October 16, and was based upon the expectation of a trial date in August or September. Please revert to the agreed-upon September 4 cutoff.

Likewise, I do not understand the basis for proposing a change to the dates for expert discovery to be different from either your proposal of last week (which I accepted), or the court's default discovery plan. This revised proposal would allot only three weeks from the May 31 claim construction hearing to the submission of opening reports. It is unrealistic that the court would issue its Markman ruling quickly enough that the parties would be able to properly prepare and submit opening expert reports by June 22, which would ensure a second round of reports. This is both unnecessary, and inconsistent with the parties' agreement to seek an early claim construction. Please revert to the earlier agreed-upon proposal.

Similarly, I do not understand the reason for the proposed changes to dates for the exchange of claim construction terms. Plaintiff will require sufficient time to review defendants' forthcoming document productions, and will need more than a week to analyze defendants' amended invalidity contentions (due on March 2) before finalizing its list of terms to be construed; thus, we believe that date should remain March 29, and the rest of the dates following as set forth in your proposal of yesterday.

I have no objections to your proposed modifications to the dates for the Rule 26(a)(3) pretrial disclosures, or objections to same.

Please consider plaintiff's objections and advise if we are able to revert, or whether we need to schedule a meet and confer.

Thanks, Ken

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From: Noona, Stephen E. [mailto:senoona@kaufcan.com]  
Sent: Friday, February 03, 2012 2:07 PM  
To: Brothers, Kenneth  
Cc: David Perlson; David Bilsker; Emily O'Brien; Margaret P. Kammerud; 'Burns, Robert'; Courtney, Mary L.; zz-IPEngine; Sherwood, Jeffrey; 'Donald C. Schultz'  
Subject: RE: Google/IP Engine Pretrial

Hold on. Apparently, as per my voicemail, I did not get a set of changes that David Perlson sent--my fault. Attached is a New Chart that has a few different dates. Primarily, the discovery cut off date is earlier and in line with what you originally proposed, the expert disclosure dates are slightly modified to allow more time to complete expert discovery and the claim construction exchange dates are slightly moved to allow more time for the parties to brief their positions. Please take a look at this chart and let me know if it is acceptable before I discuss with the Court.

Again, my apologies for the crossed wires,...SEN.

Stephen E. Noona  
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---

From: Brothers, Kenneth [mailto:BrothersK@dicksteinshapiro.com]  
Sent: Thursday, February 02, 2012 6:03 PM  
To: Noona, Stephen E.  
Cc: David Perlson; David Bilsker; Emily O'Brien; Margaret P. Kammerud; 'Burns, Robert'; Courtney, Mary L.; zz-IPEngine; Sherwood, Jeffrey; 'Donald C. Schultz'  
Subject: RE: Google/IP Engine Pretrial

Steve:

Your chart and dates look fine to plaintiff, and may be submitted as such. Thank you.

Enclosed is a revised discovery plan that incorporates all of your dates, and further fleshes out additional dates consistent with our prior discussions with defendants. I have attempted to articulate what I believe is our current understanding regarding fact depositions. I ask that defense counsel please either confirm their agreement with this Discovery Plan, or advise of any disagreements ASAP, so we can know the issues prior to the Rule 16(b) conference.

Thanks, Ken

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From: Noona, Stephen E. [mailto:senoona@kaufcan.com]  
Sent: Thursday, February 02, 2012 1:04 PM  
To: Brothers, Kenneth; Sherwood, Jeffrey; 'Donald C. Schultz'  
Cc: David Perlson; David Bilsker; Emily O'Brien; Margaret P. Kammerud; 'Burns, Robert'; Courtney, Mary L.

Subject: RE: Google/IP Engine Pretrial

Ken: Here is the chart that we discussed. I have included the May 31, 2012 date for the Markman, and the dates preceding it as per our discussions and with the understanding that the plaintiff is going to supplement to its infringement contentions to detail its allegations of infringement and to reflect the technical documentation that Google has now produced. Given the dates for the briefing and exchanging terms and constructions, Defendants suggest that this supplementation occur by February 17, 2012. Defendants can then supplement invalidity contentions on March 2. Please confirm that your agreement to this schedule for supplementation and that the remaining dates are acceptable so I can forward them to Judge Jackson's Clerk. Thanks,...SEN.

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From: Brothers, Kenneth [mailto:BrothersK@dicksteinshapiro.com]  
Sent: Thursday, February 02, 2012 11:51 AM  
To: Noona, Stephen E.  
Subject: RE: Google/IP Engine Pretrial

Steve:

Have you heard from AOL re the 5/31 date? Would you kindly circulate your proposed set of dates per our call, so we can fold them into the discovery plan and continue our discussions with David et al.?

Thanks, Ken

#### Confidentiality Statement

This e-mail message and any attached files are confidential and are intended solely for the use of the addressee(s) named above. This communication may contain material protected by attorney-client, work product, or other privileges. If you are not the intended recipient or person responsible for delivering this confidential communication to the intended recipient, you have received this communication in error, and any review, use, dissemination, forwarding, printing, copying, or other distribution of this e-mail message and any attached files is strictly prohibited. Dickstein Shapiro reserves the right to monitor any communication that is created, received, or sent on its network. If you have received this confidential communication in error, please notify the sender immediately by reply e-mail message and permanently delete the original message.

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postmaster@dicksteinshapiro.com<mailto:postmaster@dicksteinshapiro.com>

Dickstein Shapiro LLP

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From: Noona, Stephen E. [mailto:[senoona@kaufcan.com](mailto:senoona@kaufcan.com)]  
Sent: Monday, January 30, 2012 6:26 PM  
To: Noona, Stephen E.; David A. Perlson ([davidperlson@quinnemanuel.com](mailto:davidperlson@quinnemanuel.com)); 'Margaret P. Kammerud'; Brothers, Kenneth; Sherwood, Jeffrey; 'Donald C. Schultz'; '[wrsnow@cwm-law.com](mailto:wrsnow@cwm-law.com)'; 'Burns, Robert'; 'Alexander, Cortney'  
Subject: RE: Google/IP Engine Pretrial

So far, I understand that The May 31, 2012 date is acceptable to the plaintiffs and most of the defendants. Bob, Courtney, please confirm that the date works for AOL.  
Thanks,...SEN.

Stephen E. Noona  
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From: Noona, Stephen E.  
Sent: Monday, January 30, 2012 11:15 AM  
To: David A. Perlson ([davidperlson@quinnemanuel.com](mailto:davidperlson@quinnemanuel.com)); Margaret P. Kammerud; Brothers, Kenneth; Sherwood, Jeffrey; 'Donald C. Schultz'; '[wrsnow@cwm-law.com](mailto:wrsnow@cwm-law.com)'; Burns, Robert; Alexander Cortney  
Subject: Google/IP Engine Pretrial

I spoke today with the Court's Courtroom Clerk. She indicated that the Court was changing the pretrial conference time from the morning to 3:30 p.m. ET on 2/13/2012. She indicated that the Judge would probably make an appearance for a part of the conference. We talked about a Markman and she said the Judge's calendar was jammed in May. She gave me the following dates: May 31, 2012, June 7 or June 14, 2012. I indicated that the parties envisioned one day for the Markman Hearing. The Judge has requested that the Second Claim Construction Brief needs to be filed between 3 and 4 weeks before the Markman Hearing and the Joint Hearing Statement 2 weeks before the date. We need to agree on a Markman date quickly as the dates are filing up. Please let me know. Also, she is unsure whether the Magistrate or Judge will conduct Final Pretrial (Sometimes the Judge decides to do it) and therefore she will set it before the Magistrate Judge. She indicated that she understands that the Judge will most likely allow a consolidation of fact discovery cutoff dates as we discussed so long as the parties agree. Once we agree upon the Markman date, I will circulate proposed dates as discussed--we need to get those to her soon. Please call if you have questions,...SEN.

Stephen E. Noona  
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