EXHIBIT AA

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF VIRGINIA NORFOLK DIVISION

I/P ENGINE, INC.,

Plaintiff,

Civ. Action No. 2:11-cv-512

ν.

AOL, INC. et al.,

Defendants.

CONFIDENTIAL-OUTSIDE COUNSEL ONLY

DEFENDANT GOOGLE INC.'S SECOND SUPPLEMENTAL OBJECTIONS AND RESPONSES TO INTERROGATORY NOS. 6-7 OF PLAINTIFF I/P ENGINE, INC.'S FIRST SET OF INTERROGATORIES

Pursuant to Federal Rules of Civil Procedure 26 and 33, Defendant Google Inc. hereby further objects and responds in writing to I/P Engine, Inc.'s First Set of Interrogatories as served on November 7, 2011.

GENERAL OBJECTIONS

Google makes the following general objections to each and every definition, instruction, and interrogatory made in I/P Engine's First Interrogatories to Google. Each of these objections is incorporated into the Specific Objections set forth below, whether or not separately set forth therein. By responding to any of the interrogatories or failing to specifically refer to or specify any particular General Objection in response to a particular interrogatory, Google does not waive any of these General Objections, nor admit or concede the appropriateness of any purported interrogatory or any assumptions contained therein.

1. Nothing in these responses should be construed as waiving rights or objections that might otherwise be available to Google nor should Google's responses to any of these

interrogatories be deemed an admission of relevancy, materiality, or admissibility in evidence of the interrogatory or the response thereto.

- 2. Google objects to each interrogatory to the extent that it seeks the disclosure of information protected from disclosure by the attorney-client privilege, the attorney work product doctrine or any other applicable privilege or protection as provided by law. Google will not produce such privileged or protected information, and any inadvertent disclosure of any privileged or protected information should not be deemed a waiver of any privilege.
- 3. Google objects to each interrogatory, and to the definitions and instructions, to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure or the Local Rules and Orders of this Court.
- 4. Google objects to each interrogatory, and to the definitions and instructions, to the extent that they are overbroad, vague and ambiguous, unduly burdensome and oppressive, in purporting to require Google to search facilities and inquire of employees other than those facilities and employees that could reasonably be expected to have responsive information, or produce information outside a relevant time period or unrelated to the asserted claims of the patent-in-suit. Google also will not produce information that is not in its possession, custody or control.
- 5. Google objects to each interrogatory to the extent it seeks information already in I/P Engine's possession or equally available to I/P Engine from other sources that are more convenient, less burdensome and/or less expensive.
- 6. Google objects to each interrogatory and to the definitions and instructions included therewith pursuant to Federal Rule of Civil Procedure 26(b)(2)(i) to the extent that it

purports to require the disclosure of information that is more readily available and/or more appropriately obtainable through other means of discovery.

- 7. Google objects to each interrogatory to the extent that it is compound and/or is comprised of subparts constituting more than one interrogatory, particularly in view of I/P Engine's instructions with respect to each "subpart" of each interrogatory as each subpart properly counts as separate interrogatories against the limit of interrogatories for I/P Engine in this case.
- 8. Google objects to each interrogatory, and to the definitions and instructions included therewith, to the extent they seek proprietary, trade secret or other confidential or competitively sensitive business information. Subject to Local Rule 26.2, Google will only produce such relevant, non-privileged information subject to adequate protections for Google's confidential, trade secret and/or proprietary business or technical information via a protective order entered by the Court in this action.
- 9. Google objects to each interrogatory, and to the definitions and instructions included therewith, to the extent that it purports to require Google to disclose private or personally-identifiable information of its users.
- 10. Google objects to each interrogatory, and to the definitions and instructions included therewith, to the extent that it purports to require Google to disclose information that is subject to any protective order, privacy interest, contractual obligation, or other confidentiality obligation owed to any third party.
- 11. Google objects to each interrogatory to the extent that such interrogatory prematurely seeks the production of information and documents in advance of the dates set by the Federal Rules of Civil Procedure, the Local Rules, or any orders entered by this Court.

- 12. Google objects to each interrogatory as premature and unduly burdensome to the extent that it seeks information likely to depend on construction of claim terms and/or expert analysis of the patent-in-suit, the deadlines for which have not yet been set.
- 13. Google objects to each interrogatory as premature and unduly burdensome to the extent that it seeks discovery regarding non-infringement of any claim(s) of the patent-in-suit for which I/P Engine has not provided a substantive contention that Google practices every element of such claim(s).
- 14. Google objects to each interrogatory as unduly burdensome to the extent it seeks information about every version or release of purportedly accused technology or functionality. The burden and expense associated with producing such information grossly outweighs its benefit and relevance.
- 15. Google objects to I/P Engine's definition of "Google" as overly broad and unduly burdensome, to the extent that includes current and past offices, directors, agents, employees, consultants, attorneys, and others acing on Google's behalf.
- 16. Google objects to I/P Engine's definitions of the terms "Identify," "Describe," and "Communication" as vague, overbroad, unduly burdensome, and oppressive.
- 17. Google objects to I/P Engine's definitions of the term "Search Technology incorporating User Feedback," as vague, overbroad, unduly burdensome, and oppressive. In particular, it is not clear what "considering how well search results match the user's search query" and "using data relating to other users' feedback to the search result" refer to. To the extent it is meant to refer to the accused products as defined elsewhere in I/P Engine's requests, Google objects on the ground that it cannot be expected to identify every "search system" any part of which "utilize[es] a calculation, algorithm, value or score that uses, in some way, user

feedback to determine search results" regardless of relevance. The burden and expense associated with producing such information grossly outweighs its benefit and relevance.

- 19. Google objects to I/P Engine's definitions of the term "Relevance Score," as vague, overbroad, unduly burdensome, and oppressive. In particular, it is not clear what "any variable, score, and/or value" and "systems utilizing a calculation, algorithm, value or score" refer to. To the extent it is meant to refer to systems other than Google's AdWords system and AdSense for Search system, Google objects on the ground that it cannot be expected to identify every system of which any part of which meets I/P Value's broad defining factors, regardless of relevance. The burden and expense associated with producing such information grossly outweighs its benefit and relevance.
- 20. Google objects to each interrogatory, definition, and instruction to the extent the burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the case, the amount in controversy, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.
- 21. Google responds to these interrogatories based upon its current understanding and reserves the right to supplement its responses if any additional information is identified at a later time and to make any additional objections that may become apparent.
- 22. Each of Google's responses to these interrogatories are made subject to and without waiving, limiting, or intending to waive:
 - A. each of the above-stated general objections and reservations;
- B. the right to object on the grounds of competency, privilege, relevancy, or materiality, or any other proper grounds, to the use of the documents or information, for any

purpose, in whole or in part, in any subsequent step or proceeding in this action or any other action;

- C. the right to object on any and all grounds, at any time, to other discovery requests involving or relating to the subject matter of the present litigation; and
- D. the right at any time to revise, correct, and add to or clarify any of the responses herein.
- 23. At any point, by responding to these interrogatories, Google does not waive or intend to waive, but expressly reserves, all of its statements, reservations, and objections, both general and specific, set forth in these responses, even though Google may in some instances disclose information over the statements, reservations, and objections contained herein.

STATEMENT ON SUPPLEMENTATION

Google's investigation in this action is ongoing, and Google reserves the right to rely on and introduce information in addition to any information provided herein at the trial of this matter or in other related proceedings. Google has yet to receive complete discovery responses from I/P Engine. In addition, I/P Engine has yet to identify in a coherent way how it contends Google infringes the asserted claims of the Patents-in-Suit. Google anticipates that facts it learns later in the litigation may be responsive to one or more of the interrogatories and Google reserves is right to supplement these interrogatories at appropriate points throughout this litigation without prejudice and/or to otherwise make available to I/P Engine such information. Google also reserves the right to change, modify or enlarge the following responses based on additional information, further analysis, and/or in light of events in the litigation such as rulings by the

Court. Google reserves the right to rely on or otherwise use any such amended response for future discovery, trial or otherwise.

SPECIFIC OBJECTIONS AND RESPONSES

Google expressly incorporates the above objections as though set forth fully in response to each of the following individual interrogatories, and, to the extent that they are not raised in the particular response, Google does not waive those objections.

INTERROGATORY NO. 6

Identify and describe each basis for Google's contention that it is not a direct infringer including, but not limited to, all facts, documents, communications and/or events which Google contends are pertinent thereto, and identify the persons having the most knowledge of such facts, documents, communications and/or events.

RESPONSE TO INTERROGATORY NO. 6:

Google incorporates here in response to this interrogatory its General Objections above by this reference. Google objects to this interrogatory on the grounds that: (i) it is overbroad and unduly burdensome, particularly to the extent that it is not confined to those products that are reasonably accused in this case; (ii) it is vague and ambiguous with respect to the phrase "all facts, documents, communications and/or events;" and (iii) it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence. Google further objects to this interrogatory on the ground that it seeks proprietary, trade secret or other confidential or competitively sensitive business information. Google will only produce such relevant, non-privileged information subject to adequate protections for Google's confidential,

trade secret and/or proprietary business or technical information via a protective order entered by the Court in this action.

Subject to the foregoing general and specific objections, Google responds that Google does not infringe any claim of the '420 or '664 Patents. Google further responds that in accordance with Federal Rule of Civil Procedure 33(d), all or part of the non-objectionable discovery sought may be obtained from documents that will be produced. Google will rely on documents produced in this action that identify how the accused functions operate and will identify those documents to the extent reasonable after the time they are produced. Google will supplement its response to Interrogatory No. 6 to reference relevant documents to the extent reasonable.

Google further responds that the accused products do not meet at least the following limitations in the asserted claims:

'420 Patent, Claim 10:

- "a system for scanning a network to make a demand search for informons relevant to a query from an individual user"
- "a content-based filter system for receiving the informons from the scanning system and for filtering the informons on the basis of applicable content profile data for relevance to the query"
- "a feedback system for receiving collaborative feedback data from system users relative to informons considered by such users"
- "the filter system combining pertaining feedback data from the feedback system with the content profile data in filtering each informon for relevance to the query"

'420 Patent, Claim 14:

• "The system of claim 10 wherein the collaborative feedback data comprises passive feedback data"

'420 Patent, Claim 15:

• "The system of claim 14 wherein the passive feedback data is obtained by passively monitoring the actual response to a proposed informon."

'420 Patent, Claim 25:

- "scanning a network to make a demand search for informons relevant to a query from an individual user"
- "receiving the informons in a content-based filter system from the scanning system and filtering the informons on the basis of applicable content profile data for relevance to the query"
- "receiving collaborative feedback data from system users relative to informons considered by such users"
- "combining pertaining feedback data with the content profile data in filtering each informon for relevance to the query"

'420 Patent, Claim 27:

• "The method of claim 25 wherein the collaborative feedback data provides passive feedback data"

'420 Patent, Claim 28:

• "The method of claim 27 wherein the passive feedback data is obtained by passively monitoring the actual response to a proposed informon"

'664 Patent, Claim 1:

- "a scanning system for searching for information relevant to a query associated with a first user in a plurality of users"
- "a feedback system for receiving information found to be relevant to the query by other users"
- "a content-based filter system for combining the information from the feedback system with the information from the scanning system and for filtering the combined information for relevance to at least one of the query and the first user"

'664 Patent, Claim 5:

• "The search system of claim 1 wherein the filtered information is an advertisement"

'664 Patent, Claim 6:

• "The search system of claim 1 further comprising an information delivery system for delivering the filtered information to the first user"

'664 Patent, Claim 21:

• "The search system of claim 1 wherein the content-based filter system filters the combined information relevant to both the query and the first user"

'664 Patent, Claim 22:

• "The search system of claim 1 wherein the content-based filter system filters by extracting features from the information"

'664 Patent, Claim 26:

- "searching for information relevant to a query associated with a first user in a plurality of users"
- "receiving information found to be relevant to the query by other users"
- "combining the information found to be relevant to the query by other users with the searched information"
- "content-based filtering the combined information for relevance to at least one of the query and the first user"

'664 Patent, Claim 28:

• "The method of claim 26 further comprising the step of delivering the filtered information to the first user"

'664 Patent, Claim 38:

• "The method of claim 26 wherein the searching step comprises scanning a network in response to a demand search for the information relevant to the query associated with the first user"

Google reserves its right to supplement, revise or render more specific its responses to Interrogatory No. 6 as its investigation continues, including during expert discovery.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 6:

Subject to the foregoing general and specific objections and despite the fact that Plaintiff has not supplemented its response to Google's Interrogatory No. 7 in order to provide detailed infringement contentions, Google directs Plaintiff to the following documents previously produced by Google that may be pertinent to the issue of direct infringement, although Google cannot be certain of the pertinence of these documents at this point in the litigation because of deficiencies in Plaintiff's infringement contentions for which Plaintiff has yet to supplement despite Google's extensive production of technical documents: G-IPE-0000052 - G-IPE-0000058, G-IPE-0000105 - G-IPE-0000111, G-IPE-0000124 - G-IPE-0000128, G-IPE-0000179 - G-IPE-0000186, G-IPE-0000206 - G-IPE-0000215, G-IPE-0000224 - G-IPE-0000228, G-IPE-0000365 -G-IPE-0000375, G-IPE-0000382 - G-IPE-0000385, G-IPE-0000442 - G-IPE-0000474, G-IPE-0000546 - G-IPE-0000551, G-IPE-0000552 - G-IPE-0000566, G-IPE-0000689 - G-IPE-0000695, G-IPE-0000696 - G-IPE-0000699, G-IPE-0000762 - G-IPE-0000779, G-IPE-0000787 - G-IPE-0000792, G-IPE-0000838 - G-IPE-0000846, G-IPE-0000984 - G-IPE-0000988, G-IPE-0000989 -G-IPE-0000992, G-IPE-0000993 - G-IPE-0001003, G-IPE-0001045 - G-IPE-0001059, G-IPE-0001292 - G-IPE-0001301, G-IPE-0001309 - G-IPE-0001311, G-IPE-0001372 - G-IPE-0001379, G-IPE-0001382 - G-IPE-0001389, G-IPE-0001398 - G-IPE-0001409, G-IPE-0001417 - G-IPE-0001423, G-IPE-0001461 - G-IPE-0001465, G-IPE-0001467 - G-IPE-0001474, G-IPE-0001487 -G-IPE-0001499, G-IPE-0001500 - G-IPE-0001505, G-IPE-0001620 - G-IPE-0001627, G-IPE-0001656 - G-IPE-0001660, G-IPE-0001740 - G-IPE-0001743, G-IPE-0001744 - G-IPE-0001750, G-IPE-0001751 - G-IPE-0001756, G-IPE-0001831 - G-IPE-0001841, G-IPE-0001911 - G-IPE-0001963, G-IPE-0002008 - G-IPE-0002011, G-IPE-0002091 - G-IPE-0002100, G-IPE-0002113 -G-IPE-0002126, G-IPE-0002207 - G-IPE-0002212, G-IPE-0002243 - G-IPE-0002248, G-IPE-

0002302 - G-IPE-0002308, G-IPE-0002428 - G-IPE-0002439, G-IPE-0002441 - G-IPE-0002444, G-IPE-0002458 - G-IPE-0002467, G-IPE-0002473 - G-IPE-0002477, G-IPE-0002500 - G-IPE-0002504, G-IPE-0002558 - G-IPE-0002566, G-IPE-0002567 - G-IPE-0002570, G-IPE-0007972 -G-IPE-0008050, G-IPE-0009207 - G-IPE-0009215, G-IPE-0009367 - G-IPE-0009372, G-IPE-0009373 - G-IPE-0009380, G-IPE-0009435 - G-IPE-0009440, G-IPE-0010292 - G-IPE-0010305, G-IPE-0010306 - G-IPE-0010326, G-IPE-0010418 - G-IPE-0010459, G-IPE-0010662 - G-IPE-0010663, G-IPE-0011382 - G-IPE-0011407, G-IPE-0011493 - G-IPE-0011503, G-IPE-0012563 -G-IPE-0012565, G-IPE-0012603 - G-IPE-0012609, G-IPE-0013526 - G-IPE-0013530, G-IPE-0013577 - G-IPE-0013581, G-IPE-0013872 - G-IPE-0013877, G-IPE-0014121 - G-IPE-0014125, G-IPE-0014150 - G-IPE-0014158, G-IPE-0014189 - G-IPE-0014193, G-IPE-0014607 - G-IPE-0014610, G-IPE-0015568 - G-IPE-0015571, G-IPE-0016893 - G-IPE-0016899, G-IPE-0017053 -G-IPE-0017053, G-IPE-0017687 - G-IPE-0017690, G-IPE-0017907 - G-IPE-0017911, G-IPE-0018676 - G-IPE-0018680, G-IPE-0018949 - G-IPE-0018954, G-IPE-0018963 - G-IPE-0018968, G-IPE-0019050 - G-IPE-0019054, G-IPE-0030653 - G-IPE-0030657, G-IPE-0036193 - G-IPE-0036201, G-IPE-0036370 - G-IPE-0036370, G-IPE-0039688 - G-IPE-0039692, G-IPE-0039894 -G-IPE-0039898, G-IPE-0040208 - G-IPE-0040212, G-IPE-0040979 - G-IPE-0040983, G-IPE-0042478 - G-IPE-0042556, G-IPE-0042844 - G-IPE-0042853, G-IPE-0043349 - G-IPE-0043351, G-IPE-0044164 - G-IPE-0044169, G-IPE-0045340 - G-IPE-0045418, G-IPE-0045819 - G-IPE-0045824, G-IPE-0046295 - G-IPE-0046299, G-IPE-0046799 - G-IPE-0046803, G-IPE-0047407 -G-IPE-0047412, G-IPE-0047476 - G-IPE-0047554, G-IPE-0050291 - G-IPE-0050300, G-IPE-0050475 - G-IPE-0050480, G-IPE-0050723 - G-IPE-0050731, G-IPE-0050984 - G-IPE-0050984, G-IPE-0051410 - G-IPE-0051417, G-IPE-0051450 - G-IPE-0051463, G-IPE-0051496 - G-IPE-0051504, G-IPE-0051819 - G-IPE-0051824, G-IPE-0051825 - G-IPE-0051831, G-IPE-0051885 -

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G-IPE-0201456 - G-IPE-0201459, G-IPE-0202003 - G-IPE-0202006, G-IPE-0202222 - G-IPE-0202225, G-IPE-0202261 - G-IPE-0202265, G-IPE-0202285 - G-IPE-0202289, G-IPE-0202451 -G-IPE-0202454, G-IPE-0202566 - G-IPE-0202570, G-IPE-0202590 - G-IPE-0202593, G-IPE-0202786 - G-IPE-0202795, G-IPE-0202901 - G-IPE-0202905, G-IPE-0203136 - G-IPE-0203142, G-IPE-0203178 - G-IPE-0203182, G-IPE-0203376 - G-IPE-0203379, G-IPE-0203405 - G-IPE-0203409, G-IPE-0203695 - G-IPE-0203699, G-IPE-0203806 - G-IPE-0203810, G-IPE-0203926 -G-IPE-0203930, G-IPE-0204007 - G-IPE-0204011, G-IPE-0204252 - G-IPE-0204256, G-IPE-0204311 - G-IPE-0204314, G-IPE-0204380 - G-IPE-0204383, G-IPE-0204456 - G-IPE-0204462, G-IPE-0204544 - G-IPE-0204548, G-IPE-0204573 - G-IPE-0204582, G-IPE-0204629 - G-IPE-0204633, G-IPE-0204681 - G-IPE-0204690, G-IPE-0204945 - G-IPE-0204950, G-IPE-0205095 -G-IPE-0205099, G-IPE-0205122 - G-IPE-0205126, G-IPE-0205511 - G-IPE-0205519, G-IPE-0205520 - G-IPE-0205523, G-IPE-0205543 - G-IPE-0205548, G-IPE-0206257 - G-IPE-0206264, G-IPE-0206298 - G-IPE-0206301, G-IPE-0206416 - G-IPE-0206420, G-IPE-0208574 - G-IPE-0208577, G-IPE-0208641 - G-IPE-0208643, G-IPE-0208652 - G-IPE-0208656, G-IPE-0209289 -G-IPE-0209292, G-IPE-0209683 - G-IPE-0209685, G-IPE-0209725 - G-IPE-0209727, G-IPE-0209816 - G-IPE-0209818, G-IPE-0209858 - G-IPE-0209860, G-IPE-0209988 - G-IPE-0209990, G-IPE-0210111 - G-IPE-0210113, G-IPE-0210188 - G-IPE-0210190, G-IPE-0210435 - G-IPE-0210438, G-IPE-0210528 - G-IPE-0210531, G-IPE-0210598 - G-IPE-0210603, G-IPE-0210989 -G-IPE-0210992, G-IPE-0211011 - G-IPE-0211014, G-IPE-0211071 - G-IPE-0211074, G-IPE-0211137 - G-IPE-0211140, G-IPE-0211148 - G-IPE-0211151, G-IPE-0211451 - G-IPE-0211454, G-IPE-0212409 - G-IPE-0212412, G-IPE-0212431 - G-IPE-0212434, G-IPE-0212491 - G-IPE-0212494, G-IPE-0212557 - G-IPE-0212560, G-IPE-0212568 - G-IPE-0212571, G-IPE-0212871 -

G-IPE-0212874, G-IPE-0213954 - G-IPE-0213957, G-IPE-0213965 - G-IPE-0213968, and G-IPE-0214247 - G-IPE-0214250.

Google reserves its right to supplement its response to this Interrogatory.

SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 6:

Subject to the foregoing general and specific objections, and without admitting that Google, Google Search, Google AdWords, or Google AdSense for Search practice any element of any claim of the '420 Patent or the '664 Patent, Google provides the following supplemental response identifying why Plaintiff's Infringement Contentions do not demonstrate that the identified elements of the '420 Patent or the '664 Patent are present in the accused products. Google notes that it has already pointed to numerous documents in support of its contentions, as outlined in its first supplemental response to Interrogatory No. 6. Google relies on the documents listed therein, as well as the documents referenced below. Google also incorporates herein its Initial Disclosures and First Supplemental Initial Disclosures, including its list of persons likely to have knowledge at Google regarding the accused products.

Plaintiff's infringement contentions regarding Google Search are wholly inadequate. As outlined in detail in Defendants' Motion to Compel Supplemental Infringement Contentions ("Motion to Compel"), Plaintiff's contentions regarding Search that depend solely on publicly available information do not support its allegations or provide Google with adequate notice regarding its claims. Plaintiff has not established a good faith basis to assert that Google Search meets all limitations of the asserted claims, and Plaintiff should therefore withdraw all such claims.

Additionally, as outlined in detail in the Motion to Compel, Plaintiff's contentions regarding AdWords and AdSense for Search are also inadequate. Plaintiff's supplementation

fails to disclose the elements in AdWords and AdSense for Search that meet the "collaborative feedback data" limitation recited in the independent claims of the '420 Patent. (February 17, 2012 Infringement Contentions Regarding AdWords and AdSense for Search ("Supplemental Contentions"), 8-9, 14-15.) Plaintiff's supplementation also fails to include numerous other limitations of the independent claims of the patents-in-suit. Plaintiff's supplementation fails to identify what in AdWords and AdSense for Search involves "scanning a network" as required by claims 10(b) and 25(b) of the '420 Patent. (*Id.*, 6-7, 12-13.) Plaintiff's supplementation fails to identify where the "scanning system" and "feedback system" are found in Google AdWords and AdSense for Search, as required by claims 1(b) and (c) respectively of the '664 Patent. (*Id.*, 19-20.) And Plaintiff's supplementation fails to identify how or through what in AdWords and AdSense for Search information is filtered for relevance to the query as required by claim 1(d) of the '664 Patent. (*Id.*, 20-21.) Plaintiff has not established a good faith basis to assert that Google AdWords and AdSense for Search meet all limitations of the asserted claims, and Plaintiff should therefore withdraw all such claims.

The '420 Patent

Claim 10

Claim 10 requires "a system for scanning a network to make a demand search for informons relevant to a query from an individual user". ('420 Patent, claim 10(b).) Plaintiff states that "Google AdWords includes a system for scanning a network to make a demand search for information relevant to a query from a user." (Supplemental Contentions, 6.) However, Plaintiff does not point to anything supporting its contention that Google AdWords or AdSense for Search operates in a system where "scanning a network" occurs. (*Id.*) Similarly, Plaintiff does not point to anything supporting its contention that Google Search operates in a system

where "scanning a network" occurs. (November 7, 2011 Infringement Contentions for Search ("Initial Contentions"), 5-6.) Because Plaintiff does not point to anything in Google AdWords, AdSense for Search or Search that meets the "scanning a network" limitation, Plaintiff has failed to meet its burden of proving that Google practices claim 10(b).

Defendants assert that the term "scanning a network to make a demand search for informons relevant to a query from an individual user" is indefinite. (Defendants' Proposed Constructions, 2.) Google cannot infringe an invalid claim. For this reason as well, Google does not practice claim 10(b). While Defendants assert that this term is indefinite, to the extent "scanning a network... for informons relevant to a query" has any meaning at all, it cannot refer to as asserted by Plaintiff (to the extent Google can understand Plaintiff's infringement contentions). (Initial Contentions, 5-6; Supplemental Contentions, 6.) Indeed, neither AdWords nor AdSense for Search "scan a network," such as the Internet, at the time of the query or otherwise. Instead, advertisements are directly entered by advertisers. Additionally,

As noted above, claim 10(b) requires "scanning a network... for informons relevant to a query from an individual user." Plaintiff's infringement contentions as to what meets claim 10(b) are inadequate, as outlined in the Motion to Compel. (Dkt. 105.) That said, it appears that Plaintiff asserts that "informons relevant to a query from an individual user" is met in AdWords and AdSense for Search by the matching of ads to a user's query. (Supplemental Contentions, 6-

Search and Search do not meet this limitation.

7.) However,

For this reason as well, AdWords and AdSense for Search do not meet the limitation of claim 10(b).

Claim 10 also requires "a content-based filter system for receiving the informons from the scanning system and for filtering the informons on the basis of applicable content profile data for relevance to the query". ('420 Patent, claim 10(c).) Claim 10(c) thus recites two systems: "a content-based filter system" and "the scanning system." Plaintiff's contentions regarding Search fail to identify where the "scanning system" is found in Search, as required by claim 10(c). (Initial Contentions, 6.) Plaintiff's supplemental contention fails to identify where the "scanning system" is found in Google AdWords and AdSense for Search. (Supplemental Contentions, 7-8.) Despite this failure, and to the extent that Google can understand Plaintiff's contentions, Plaintiff apparently argues that keyword matching in AdWords and AdSense for Search meets both the "scanning system" and "content-based filter system" limitations of claim 10(c). (Id.) Similarly, Plaintiff appears to contend that in Search that meets both the "scanning system" and "content-based filter system." (Initial Contentions, 5-6.) If these are Plaintiff's allegation, then they fail. The two systems must be different systems. (Defendants' Preliminary Claim Constructions, 9.) Accordingly, Plaintiff has failed to meet its burden of proving that Google practices claim 10(c).

To the extent Plaintiff's contention is that Quality Based Bidding (QBB) is the aspect of AdWords and AdSense for Search that "filters advertisements on the basis of content data...for relevance to the query," Plaintiff's contention also fails. AdWords and AdSense for Search use

what is sometimes
it does not meet claim 10(c) of the '420 Patent.
As noted above, claim 10(c) requires "filtering the informons on the basis of applicable
content profile data for relevance to the query." Plaintiff appears to assert that AdWords and
AdSense for Search also meet this limitation of claim 10(c) through their use of landing page
quality. As recited above, to the extent Plaintiff is referring to landing page quality
, this contention fails for the reasons outlined above. To the extent that Plaintiff is referring
to landing page quality, this
contention also fails.
For this reason as well, AdWords and AdSense for Search do not meet claim 10(c).
While inadequate and virtually incomprehensible, it appears that Plaintiff's infringement
contentions allege that the limitation "filtering the informons on the basis of applicable content
profile data for relevance to the query" is met in Search by analyzing the content of web pages.
(Initial Contentions, 6.) If this is Plaintiff's contention, it too fails.
For this reason as well, Plaintiff has failed to meet its burden of proving that Search practices
claim 10(c).

Claim 10 also requires "a feedback system for receiving collaborative feedback data from system users relative to informons considered by such users". ('420 Patent, claim 10(d).) As outlined in more detail in the Motion to Compel, Plaintiff points to nothing in its infringement contentions that it asserts meets the "collaborative feedback data" limitation of claim 10(d). (Initial Contentions, 6; Supplemental Contentions, 8-9.) Despite the importance of the limitation, Plaintiff refuses to identify in its infringement contentions what "collaborative feedback data" is received by Search, AdWords or AdSense for Search. (Id.) In both its initial or supplemental infringement contentions, Plaintiff never once uses the term "collaborative feedback data" in discussing the accused AdWords and AdSense for Search products. (Id.) Plaintiff's initial contentions allege that in Search the "search logs" are "feedback data." (Initial Contentions, 6.) Plaintiff's supplemental infringement contentions allege that in AdWords and AdSense for Search "CTR is feedback data from system users on advertisements considered by the users." (Supplemental Contentions, 9.) But Plaintiff points to nothing in Search, AdWords or AdSense for Search that it contends is "collaborative" feedback data. (Initial Contentions, 6; Supplemental Contentions, 8-9.) For this reason, Plaintiff has failed to meet its burden of proving that Google practices claim 10(d).

Plaintiff apparently asserts that "feedback data" is met in AdWords and AdSense for Search by the use of historical clickthrough rate or CTR in the calculation of Quality Score. (*Id.*, 8-9.) "Feedback system for receiving collaborative feedback data from system users relative to informons considered by such users" should be construed as "system using a process of filtering informons by determining what informons other users with similar interests or needs found to be relevant." (Defendants' Proposed Claim Constructions, 3.) "Collaborative feedback data" should be construed as "data from users with similar interests or needs regarding what informons

such users found to be relevant." (Id., 7-8.) AdWords and AdSense for Search do not infringe
claim 10(d) under these constructions. Historical CTR is not collaborative feedback data at least
because
Instead, historical CTR is simply a measure of how many times an
ad has been "clicked on." In other words,
For this
reason, AdWords and AdSense for Search do not meet this limitation.
Plaintiff apparently asserts that "feedback data" is met in Google Search through "search
logs." (Initial Contentions, 6.) Plaintiff alleges that "Google collects data regarding results
viewed by users", and that this is the "feedback data" as recited by claim 10(d). (Id.) Google
Search's search logs are not "collaborative feedback data."
. Again, because search logs
Search
does not meet claim 10(d).

Claim 10 also requires "the filter system combining pertaining feedback data from the feedback system with the content profile data in filtering each informon for relevance to the query". ('420 Patent, claim 10(e).) Plaintiff apparently asserts that the SmartAds Selection System is both the "feedback system" and the "filter system" for AdWords and Ad Sense for Search. (Supplemental Contentions, 9-10.) While incomprehensible and inadequate, Plaintiff apparently asserts that is both the "feedback system" and "filter system" for Search. (Initial Contentions, 6-7.) Claim 10(e), like claim 10(c), recites two different systems:

"the filter system" and "the feedback system." These two systems must be different systems.

(Defendants' Preliminary Claim Constructions, 9.) For this reason, Plaintiff's contentions fail.

Additionally, claim 10 requires that the filter system *combine* "feedback data from the feedback system *with* the content profile data in filtering each informon for relevance to the query." ('420 Patent, claim 10(e).) As outlined above, Google disputes that Search, AdWords or AdSense for Search receive "collaborative feedback data" as that term is used in the '420 Patent. Accordingly, there can be no combination of that collaborative feedback data. Additionally, Plaintiff asserts that in AdWords and AdSense for Search, the "Quality Score is a combination of factors including feedback data, i.e., '[a] keyword's clickthrough rate (CTR),' and content data, i.e. 'the relevance of your ad text, keyword, and landing page." (Supplemental Contentions, 9-10.) Plaintiff thus alleges that the Quality Score combines CTR (feedback data) and the relevance of your ad text, keyword, and landing page (content data). However, what Plaintiff is pointing to as two independent data sets or two different factors that are being combined are not two factors. The accused analysis is

. For this reason as well, Plaintiff has failed to meet its burden of proving that AdWords and AdSense for Search practice claim 10(e).

See also G-IPE-002076-80; G-IPE-0004731-43; G-IPE-009726-50; G-IPE-096878-82; G-IPE-0096923-27; G-IPE-0144528-32; G-IPE-0146084-85; G-IPE-0146090-97; G-IPE-0146309-18; Supplemental Contentions, 7.

<u>Claims 14 and 15:</u>

Claim 14 recites "[t]he system of claim 10 wherein the collaborative feedback data comprises passive feedback data". ('420 Patent, claim 14.) Claim 15 recites "[t]he system of claim 14 wherein the passive feedback data is obtained by passively monitoring the actual response to a proposed informon." (*Id.*, claim 15.) For at least the reasons recited above, Google does not infringe claim 10 of the '420 Patent. Accordingly, Google does not infringe the "system of claim 10" as required by claims 14 and 15. Additionally, Google does not have "collaborative feedback data" as outlined above and required by claims 14 and 15. For this reason as well, Google does not infringe claims 14 and 15.

Moreover, Google Search does not "passively monitor[] the actual response to a proposed informon", as required by claim 15. To the extent that Google can understand Plaintiff's infringement contentions regarding Search, it appears that Plaintiff asserts that the "proposed informon" is a webpage. (Initial Contentions, 7.)

For this reason as well, Search does not meet claim 15.

Claim 25:

Claim 25 is identical to claim 10, except that it recites a method rather than a system.

Google thus incorporates herein by reference its contentions regarding claim 10. For all of the reasons recited as to why Google does not infringe claim 10, Google also does not infringe claim 25.

Claims 27 and 28:

Claim 27 recites "[t]he method of claim 25 wherein the collaborative feedback data comprises passive feedback data". ('420 Patent, claim 27.) Claim 28 recites "[t]he method of claim 27 wherein the passive feedback data is obtained by passively monitoring the actual response to a proposed informon." (*Id.*, claim 28.) For at least the reasons recited above, Google

does not infringe claim 25 of the '420 Patent. Accordingly, Google does not infringe the "method of claim 25" as required by claims 27 and 28. Additionally, Google does not have "collaborative feedback data" as outlined above and required by claims 27 and 28. For this reason as well, Google does not infringe claims 27 and 28.

Moreover, Google Search does not "passively monitor[] the actual response to a proposed informon", as required by claim 15. To the extent that Google can understand Plaintiff's infringement contentions regarding Search, it appears that Plaintiff asserts that the "proposed informon" is a webpage. (Initial Contentions, 10.)

For this reason as well, Search does not meet claim 28.

'664 Patent:

Claim 1:

Claim 1 requires "a scanning system for searching for information relevant to a query associated with a first user in a plurality of users". ('664 Patent, claim 1(b).) Plaintiff states that "Google AdWords includes a system for searching for information relevant to a query from a user." (Supplemental Contentions, 19.) However, Plaintiff does not point to anything supporting its contention that Google AdWords or AdSense for Search contain "a scanning system." (Id.) Similarly, Plaintiff does not point to anything in Google Search supporting its contention that Google Search contains "a scanning system." (Initial Contentions, 11-12.)

Because Plaintiff does not point to anything in Google AdWords, AdSense for Search or Search that meets the "a scanning system" limitation, Google does not practice element 1(b).

Defendants assert that the term "a scanning system for searching for information relevant to a query associated with a first user in a plurality of users" is indefinite. (Defendants' Preliminary Proposed Constructions, 3.) Google cannot infringe an invalid claim. For this

reason as well, Google does not practice claim 1(b). While Defendants assert that this term is
indefinite, to the extent "a scanning system for searching for information relevant to a query
associated with a first user in a plurality of users" has any meaning at all it cannot refer to an
as asserted by Plaintiff (to the extent Google can understand Plaintiff's
infringement contentions). (Initial Contentions, 11-12; Supplemental Contentions, 19.) Indeed,
neither AdWords nor AdSense for Search have a scanning system that scans a network, such as
the Internet, at the time of the query or otherwise. Instead, advertisements are directly entered by
advertisers. Additionally, Google Search does not have a scanning system that scans a network,
such as the Internet,
"scanning system" in Search as that term is used in the '664 Patent, to the extent any network,
such as the Internet, is searched,
Accordingly, AdWords, Ad Sense for Search and Search do not meet this limitation.
Furthermore, claim 1(b) requires "a scanning system for searching for information
relevant to a query associated with a first user in a plurality of users." Plaintiff's infringement
contentions as to what meets claim 1(b) are inadequate, as outlined in the Motion to Compel.
(Dkt. 105.) That said, it appears that Plaintiff asserts that "information relevant to a query
associated with a first user" is met in AdWords and AdSense for Search by the matching of ads
to a user's query. (Supplemental Contentions, 19.) However, AdWords and AdSense for Search
For this reason as well, AdWords and AdSense
for Search do not meet the limitation of claim 1(b).

To the extent Plaintiff's contention is that Google's use of Quality Based Bidding (QBB)
is the aspect of AdWords and AdSense for Search that is "a scanning system for searching for
information relevant to a query associated with a first user in a plurality of users," Plaintiff's
contention also fails. AdWords and AdSense for Search use what is sometimes referred to as
Therefore, it does not meet claim 1(b) of the '664 Patent.
As noted above, claim 1(b) requires "a scanning system for searching for information
relevant to a query associated with a first user in a plurality of users." Plaintiff appears to assert
that AdWords and AdSense for Search also meet this limitation of claim 1(b) through their use of
landing page quality. (Supplemental Contentions, 19.) As recited above, to the extent Plaintiff
is referring to landing page quality this contention fails for the reasons outlined
above. To the extent that Plaintiff is referring to landing page quality
this contention also fails.
For this reason as well, AdWords and
AdSense for Search do not meet claim 1(b).
It also appears that Plaintiff asserts that this limitation is met in part in Search by
analyzing the content of web pages. (Initial Contentions, 11-12.) If this is Plaintiff's contention,
it too fails.

For this reason as well, Plaintiff has not met its burden of proving that Search meets the limitation of claim 1(b).

Claim 1 also requires "a feedback system for receiving information found to be relevant to the query by other users". ('664 Patent, claim 1(c).) However, Plaintiff does not point to anything supporting its contention that Google AdWords or AdSense for Search contain "a feedback system." (Supplemental Contentions, 19-20.) Similarly, Plaintiff does not point to anything in Google Search supporting its contention that Google Search contains "a feedback system." (Initial Contentions, 12.) To the extent that Google can understand Plaintiff's contentions, Plaintiff apparently asserts that this limitation is met in AdWords and AdSense for Search by the use of historical clickthrough rate or CTR in the calculation of Quality Score. (Supplemental Contentions, 19-20.) "A feedback system for receiving information found to be relevant to the query by other users" should be construed as a "system using a process of filtering information by determining what information other users with similar interests or needs found to be relevant." (Defendants' Proposed Claim Constructions, 7.) AdWords and AdSense for Search do not infringe claim 1(c) under this construction

	Instead, historical CTR is
simply a measure of how many times an ad has been "clicked on	1."
. For this reason, AdWords and AdSens	se for Search do not meet this

To the extent that Google can understand Plaintiff's contentions, Plaintiff apparently asserts that claim 1(c) is met in Google Search through "search logs." (Initial Contentions, 12.)

limitation.

Plaintiff alleges that "Google collects data regarding results viewed by users", and that this is th
"feedback" as recited by claim 1(c). (Id.) Google Search's search logs do not meet claim 1(c)
under Defendants' proposed construction.
, Search does not
meet claim 1(c).

Claim 1 also requires "content-based filter system for combining the information from the feedback system with the information from the scanning system and for filtering the combined information for relevance to at least one of the query and the first user". ('664 Patent, claim 1(d).) Although unclear and insufficient, Plaintiff apparently asserts that the SmartAds Selection System is the "feedback system," the "scanning system" and the "filter system." (Supplemental Contentions, 20-21.) Similarly, while incomprehensible and inadequate, Plaintiff apparently asserts that the database look-up is the "feedback system," "filter system," and "scanning system" in Search. (Initial Contentions, 12-13.) Claim 1(d) recites three different systems: "the filter system," "the scanning system" and "the feedback system." These three systems must be different systems. (Defendants' Preliminary Claim Constructions, 9.) For this reason, Google does not meet claim 1(d).

Additionally, claim 1 requires that the filter system *combine* "the information from the feedback system *with the* information from the scanning system." ('664 Patent, claim 1(d).) As outlined above, Google disputes that Search, AdWords or AdSense for Search receive "information from the feedback system" as that term is used in the '664 Patent. Accordingly, there can be no combination of that information. Additionally, Defendants assert that the term

"combining the information from the feedback system with the information from the scanning system" is indefinite. (Defendants' Proposed Constructions, 8.) Google cannot infringe an invalid claim. For this reason as well, Google does not practice claim 1(d). While Defendants assert that this term is indefinite, to the extent it has any meaning at all, it cannot be met as Plaintiff alleges. Plaintiff apparently asserts that in AdWords and AdSense for Search, the "Quality Score is a combination of factors including feedback data, i.e., '[a] keyword's clickthrough rate (CTR),' and content data, i.e. 'the relevance of your ad text, keyword, and landing page." (Supplemental Contentions, 21.) Plaintiff thus alleges that the Quality Score combines CTR (feedback data) and the relevance of your ad text, keyword, and landing page (content data). However, what Plaintiff is pointing to as two independent data sets or two different factors that are being combined are not two factors. The accused analysis is

For this reason as well, Plaintiff has failed to meet its burden of proving that AdWords and AdSense for Search practice claim 1(d).

Claim 1 also requires "filtering the combined information for relevance to at least one of the query and the first user." ('664 Patent, claim 1(d).) Defendants assert that the term "filtering the combined information for relevance to at least one of the query and the first use" is indefinite. (Defendants' Proposed Constructions, 8.) Google cannot infringe an invalid claim. For this reason as well, Google does not practice claim 1(d). While Defendants assert that this term is indefinite, to the extent it has any meaning at all, it cannot be met as Plaintiff alleges. Plaintiff's contentions are insufficient, and fail to identify how or through what in AdWords and

AdSense for Search information is filtered for relevance to the query. To the extent Plaintiff's
contention is that Quality Based Bidding (QBB) is the aspect of AdWords and AdSense for
Search that "filter[s] information for relevance to the query," Plaintiff's contention fails.
AdWords and AdSense for Search
it does not meet claim 1(d) of the '664 Patent.
As noted above, claim 1(d) requires "filtering the combined information for relevance to
at least one of the query and the first user." Plaintiff appears to assert that AdWords and
AdSense for Search also meet this limitation of claim 1(d) through their use of landing page
quality. As recited above, to the extent Plaintiff is referring to landing page quality
, this contention fails for the reasons outlined above. To the extent that Plaintiff is referring
to landing page quality
As such, the landing page quality is not used for
"filteringfor relevance to at least one of the query and the first user." For this reason as well,
AdWords and AdSense for Search do not meet claim 1(d).

Plaintiff's contentions regarding Search are inadequate and virtually incomprehensible, as they do not identify how or through what in Search information is filtered for relevance to at least one of the query and the first user. It appears that Plaintiff's infringement contentions allege that the limitation "filtering the combined information for relevance to at least one of the query and the first user" is met in Search by analyzing the content of web pages. (Initial Contentions, 12.) If this is Plaintiff's contention, it too fails.

this reason as well, Plaintiff has failed to meet its burden of proving that Search practices claim 1(d).

See also G-IPE-002076-80; G-IPE-0004731-43; G-IPE-009726-50; G-IPE-096878-82; G-IPE-0096923-27; G-IPE-0144528-32; G-IPE-0146084-85; G-IPE-0146090-97; G-IPE-0146309-18; Supplemental Contentions, 7.

Claims 5, 6, 21 and 22:

Claim 5 recites "[t]he search system of claim 1 wherein the filtered information is an advertisement". ('664 Patent, claim 5.) Claim 6 recites "[t]he search system of claim 1 further comprising an information delivery system for delivering the filtered information to the first user." (*Id.*, claim 6.) Claim 21 recites "[t]he search system of claim 1 wherein the content-based filter system filters by extracting features from the information." (*Id.*, claim 21.) Claim 22 recites "[t]he search system of claim 21 wherein the extracted features comprise content data indicative of the relevance to the at least one of the query and the user." (*Id.*, claim 22.) For at least the reasons recited above, Google does not infringe claim 1 of the '664 Patent.

Accordingly, Google does not infringe the "system of claim 1" as required by claims 5, 6, 21 and 22.

Moreover, Google Search does not "compris[e] an information delivery system for delivering the filtered information *to the first user*." ('664 Patent, claim 6.) To the extent Google can understand Plaintiff's contentions, Plaintiff contends that "filtered information" is a web page. (Initial Contentions, 12-13.)

For this reason as well, Google Search does not meet claim 6.

Additionally, claim 21 of the '664 Patent requires that "the content-based filter system filters by *extracting* features from the information." ('664 Patent, claim 21.) Claim 22 requires the system of claim 21 "wherein the extracted features comprise content data indicative of the relevance to the at least one of the query and the user." (*Id.*, claim 22.) Both claims 21 and 22 require "extracting features" from the "information." Plaintiff contends that the "information" in AdWords and AdSense for Search are advertisements. (*See, e.g.*, Supplemental Contentions, 22.) Plaintiff contends that AdWords "extracts features (e.g., text) from an advertisement". (*Id.*)

For this reason as well, Plaintiff has failed to meet its burden of proving that AdWords and AdSense for Search practice claims 21 and 22 of the '664 Patent.

Claim 26:

Claim 26 requires "searching for information relevant to a query associated with a first user in a plurality of users". ('664 Patent, claim 26(b).) Plaintiff states that "Google AdWords searches for information relevant to a query associated with a user." (Supplemental Contentions, 23.) To the extent "searching for information relevant to a query associated with a first user in a plurality of users" has any meaning at all it cannot refer to a searches by Plaintiff (to the extent Google can understand Plaintiff's infringement contentions).

(Initial Contentions, 14; Supplemental Contentions, 23-24.) Indeed, neither AdWords nor
AdSense for Search search a network such as the Internet, at the time of the query or otherwise.
Instead, advertisements are directly entered by advertisers. Additionally,
Accordingly, AdWords, Ad Sense for Search and Search do not meet this limitation.
Furthermore, claim 26(b) requires "searching for information relevant to a query
associated with a first user in a plurality of users." Plaintiff's infringement contentions as to
what meets claim 26(b) are inadequate. That said, it appears that Plaintiff asserts that
"information relevant to a query associated with a first user" is met in AdWords by the matching
of ads to a user's query. (Supplemental Contentions, 23-4.)
. For this reason as well, AdWords and AdSense for Search
do not meet the limitation of claim 26(b).
To the extent Plaintiff's contention is that Quality Based Bidding (QBB) is the aspect of
AdWords and AdSense for Search that "search[es] for information relevant to a query associated
with a first user in a plurality of users", Plaintiff's contention also fails. AdWords and AdSense
for Search use

24		Therefore, it does not meet claim 26(b) of the '664
Patent.		

As noted above, claim 26(b) requires "searching for information relevant to a query associated with a first user in a plurality of users." Plaintiff appears to assert that AdWords and AdSense for Search also meet this limitation of claim 26(b) through their use of landing page quality. (Supplemental Contentions, 24.) As recited above, to the extent Plaintiff is referring to landing page quality this contention fails for the reasons outlined above. To the extent that Plaintiff is referring to landing page quality . For this reason as well, AdWords and AdSense for Search do not meet claim 26(b).

It also appears that Plaintiff asserts that this limitation is met in part in Search by analyzing the content of web pages. (Initial Contentions, 14.) If this is Plaintiff's contention, it too fails.

For this reason as well, Plaintiff has failed to meet its

burden of proving that Google Search practices claim 26(b).

Claim 26 also requires "receiving information found to be relevant to the query by other users". ('664 Patent, claim 26(c).) Plaintiff apparently asserts that this limitation is met in AdWords and AdSense for Search by the use of historical clickthrough rate or CTR in the calculation of Quality Score. (Supplemental Contentions, 24-5.) "Receiving information found to be relevant to the query by other users" should be construed as "determining what information

other users with similar interests or needs found to be relevant." (Defendants' Proposed Claim
Constructions, 7.) AdWords and AdSense for Search do not infringe claim 26(c) under this
construction.
. For this
reason, AdWords and AdSense for Search do not meet this limitation.
Plaintiff apparently asserts that claim 26(c) is met in Google Search through "search
logs." (Initial Contentions, 14-5.) Plaintiff alleges that "Google collects data regarding results
viewed by users", and that this is the "information found to be relevant to the query by other

, Search does not meet claim 26(c).

users" as recited by claim 26(c). (Id.) Google Search's search logs do not meet claim 26(c)

Claim 26 also requires "combining the information found to be relevant to the query by other users with the searched information". ('664 Patent, claim 26(d).) Defendants assert that the term "combining the information found to be relevant to the query by other users with the searched information" is indefinite. (Defendants' Proposed Constructions, 8.) Google cannot infringe an invalid claim. For this reason as well, Google does not practice claim 26(d). While Defendants assert that this term is indefinite, to the extent it has any meaning at all, it cannot be

under Defendants' proposed construction.

met as Plaintiff alleges. Plaintiff asserts that in AdWords and AdSense for Search, the "Quality Score is a combination of factors including feedback data, i.e., '[a] keyword's clickthrough rate (CTR),' and content data, i.e. 'the relevance of your ad text, keyword, and landing page." (Supplemental Contentions, 25.) Plaintiff thus alleges that the Quality Score combines CTR (feedback data) and the relevance of your ad text, keyword, and landing page (content data). However, what Plaintiff is pointing to as two independent data sets or two different factors that are being combined are not two factors. The accused analysis is

For this reason

as well, Plaintiff has failed to meet its burden of proving that AdWords and AdSense for Search practice claim 26(d).

Claim 26 also requires "content-based filtering the combined information for relevance to at least one of the query and the first user." ('664 Patent, claim 26(e).) Defendants assert that the term "filtering the combined information for relevance to at least one of the query and the first use" is indefinite. (Defendants' Proposed Constructions, 8.) Google cannot infringe an invalid claim. For this reason as well, Google does not practice claim 26(e). While Defendants assert that this term is indefinite, to the extent it has any meaning at all, it cannot be met as Plaintiff alleges. To the extent Plaintiff's contention is that Quality Based Bidding (QBB) is the aspect of AdWords and AdSense for Search that "filter[s] the combined information for relevance to at least one of the query and the first user" Plaintiff's contention fails. AdWords and AdSense for Search use what is sometimes referred to as

it does not meet claim 26(e) of the '664 Patent.
As noted above, claim 26(e) requires "filtering the combined information for relevance to
at least one of the query and the first user." Plaintiff appears to assert that AdWords and
AdSense for Search also meet this limitation of claim 26(e) through their use of landing page
quality. As recited above, to the extent Plaintiff is referring to landing page quality
this contention fails for the reasons outlined above. To the extent that Plaintiff is referring
to landing page quality
For this reason as well, AdWords and AdSense
for Search do not meet claim 26(e).
Additionally, it appears that Plaintiff's infringement contentions allege that this limitation
is met in Search by analyzing the content of web pages. (Initial Contentions, 14-16.) If this is
Plaintiff's contention, it too fails.
For this reason as well,
Plaintiff has failed to meet its burden of proving that Google Search practices claim 26(e).

See also G-IPE-002076-80; G-IPE-0004731-43; G-IPE-009726-50; G-IPE-096878-82; G-IPE-0096923-27; G-IPE-0144528-32; G-IPE-0146084-85; G-IPE-0146090-97; G-IPE-0146309-18; Supplemental Contentions, 7.

Claim 28:

Claim 28 recites "[t]he method of claim 26 further comprising the step of delivering the filtered information to the first user". ('664 Patent, claim 28.) For at least the reasons recited above, Google does not infringe claim 26 of the '664 Patent. Accordingly, Google does not infringe the "method of claim 26" as required by claim 28.

Claim 38:

Claim 38 recites "[t]he method of claim 26 wherein the searching step comprises scanning a network in response to a demand search for the information relevant to the query associated with the first user". ('664 Patent, claim 38.) For at least the reasons recited above, Google does not infringe claim 26 of the '664 Patent. Accordingly, Google does not infringe the "method of claim 26" as required by claim 38. Additionally, claim 38 requires "wherein the searching step comprises scanning a network in response to a demand search for the information relevant to the query associated with the first user." (*Id.*) Defendants assert that this term is indefinite. (Defendants' Preliminary Proposed Constructions, 3.) Google cannot infringe an invalid claim. For this reason as well, Google does not practice claim 38. Additionally, Google incorporates herein its contentions above regarding claim 10(b) of the '420 Patent and claim 1(b) of the '664 Patent. Google cannot infringe claim 38 of the '664 Patent for the same reasons that it cannot infringe claim 10(b) of the '420 Patent. For all of these reasons, Google also does not infringe claim 38 of the '664 Patent.

Google reserves the right to supplement its response to this interrogatory.

INTERROGATORY NO. 7

Identify and describe each basis for Google's contention that it is not an indirect infringer, including its contention that it is not liable for infringement by inducement and that it is not a contributory infringer including, but not limited to, all facts, documents, communications and/or events which Google contends are pertinent thereto, and identify the persons having the most knowledge of such facts, documents, communications and/or events.

RESPONSE TO INTERROGATORY NO. 7:

Google incorporates here in response to this interrogatory its General Objections above by this reference. Google objects to this interrogatory on the grounds that: (i) it is overbroad and unduly burdensome, particularly to the extent that it is not confined to those products that are reasonably accused in this case; (ii) it is vague and ambiguous with respect to the phrase "all facts, documents, communications and/or events;" and (iii) it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence. Google further objects to this interrogatory on the ground that it seeks proprietary, trade secret or other confidential or competitively sensitive business information. Google will only produce such relevant, non-privileged information subject to adequate protections for Google's confidential, trade secret and/or proprietary business or technical information via a protective order entered by the Court in this action.

Subject to the foregoing general and specific objections, Google responds that Google does not directly infringe any claim of the '420 or '664 Patents and, accordingly, cannot indirectly infringe any claim of the '420 or '664 Patents. Google further responds that in accordance with Federal Rule of Civil Procedure 33(d), all or part of the non-objectionable discovery sought may be obtained from documents that will be produced. Google will rely on

documents produced in this action that identify how the accused functions operate and will identify those documents to the extent reasonable after the time they are produced. Google will supplement its response to Interrogatory No. 7 to reference relevant documents to the extent reasonable.

Further, Plaintiff has not provided substantive contentions regarding indirect infringement beyond stating:

- Google, via its marketing materials and other publicly available sources, provides, sells, offers for sale, and/or promotes the infringing products, methods and systems of Google AdWords to its members of the Google Search Network, advertisers and/or end users that use the infringing Google AdWords....Based on these marketing materials and uses, Google intends for its members of the Google Search Network, advertisers and/or end users to use Google AdWords in an infringing manner. Thus, Google intends to cause infringement of the '420 and '664 patents. By making, using, providing, selling, and/or promoting its infringing Google AdWords, and by continuing to provide, sell, offer for sale, and/or promote its infringing Google AdWords, with the intention of causing at least some members of the Google Search Network, advertisers and/or end users to use Google AdWords in an infringing manner, Google actively and knowingly aids and abets infringement of the '420 and '664 patents and is liable under induced infringement. In addition, Google AdWords is a material part of the claimed invention of the '420 and '664 patents. Google AdWords is especially made or especially adapted for use with only infringing search engine systems and/or search systems. Furthermore, Google AdWords is not a staple article. Google AdWords is not a commodity of commerce and can only be used with infringing search engine systems and/or search systems. Google AdWords is also not suitable for substantial non-infringing uses. Therefore, Google is liable as a contributory infringer.
- Google, via its materials and other publicly available sources, provides, sells, offers for sale, and/or promotes the infringing products, methods and systems of Google Search to its Search Partners and/or end users that use the infringing Google Search....Based on these materials and uses, Google intends for its Search Partners and/or end users to use Google Search in an infringing manner. Thus, Google intends to cause infringement of the '420 and '664 patents. Therefore, by making, using, providing, selling, and/or promoting its infringing Google Search, and by continuing to provide, sell, offer for sale, and/or promote its infringing Google Search, with the intention of causing at least some Search Partners and/or end users to use Google Search in an infringing manner, Google actively and knowingly aids and abets infringement of the '420 and '664 patents and is liable under induced infringement. In addition, Google Search is a material part of the claimed invention

of the '420 and '664 patents. Google Search is especially made or especially adapted for use with only infringing search engine systems and/or search systems. Furthermore, Google Search is not a staple article. Google Search is not a commodity of commerce and can only be used with infringing search engine systems and/or search systems. Google Search is also not suitable for substantial non-infringing uses. Therefore, Google is liable as a contributory infringer.

Plaintiff has not shown how it contends that Google encouraged direct infringement by any third party, had the specific intent to encourage such infringement, or had knowledge of any such infringement. Plaintiff also has failed to provide specific allegations detailing how it contends that Google sold or offered to sell its products with the intention of causing third parties to use such products in an infringing manner. Plaintiff has failed to provide specific allegations detailing how it contends that Google induced infringement or specific allegations that Google had knowledge that any alleged induced acts constituted patent infringement. Furthermore, Plaintiff asserts that "Google AdWords is also not suitable for substantial non-infringing uses," but provides no evidence or analysis in support. Again, Google cannot rebut allegations that have not been made.

Google reserves its right to supplement, revise or render more specific its responses to Interrogatory No. 7 as its investigation continues, including during expert discovery

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 7:

Subject to the foregoing general and specific objections and despite the fact that Plaintiff has not supplemented its response to Google's Interrogatory No. 7 in order to provide detailed infringement contentions including reference to the technical documents produced by Google, Google directs Plaintiff to the following documents previously produced by Google that may be pertinent to the issue of indirect infringement, although Google cannot be certain of the pertinence of these documents at this point in the litigation because of deficiencies in Plaintiff's infringement contentions: G-IPE-0000052 - G-IPE-0000058, G-IPE-0000105 - G-IPE-0000111, G-IPE-

0000124 - G-IPE-0000128, G-IPE-0000179 - G-IPE-0000186, G-IPE-0000206 - G-IPE-0000215, G-IPE-0000224 - G-IPE-0000228, G-IPE-0000365 - G-IPE-0000375, G-IPE-0000382 - G-IPE-0000385, G-IPE-0000442 - G-IPE-0000474, G-IPE-0000546 - G-IPE-0000551, G-IPE-0000552 -G-IPE-0000566, G-IPE-0000689 - G-IPE-0000695, G-IPE-0000696 - G-IPE-0000699, G-IPE-0000762 - G-IPE-0000779, G-IPE-0000787 - G-IPE-0000792, G-IPE-0000838 - G-IPE-0000846, G-IPE-0000984 - G-IPE-0000988, G-IPE-0000989 - G-IPE-0000992, G-IPE-0000993 - G-IPE-0001003, G-IPE-0001045 - G-IPE-0001059, G-IPE-0001292 - G-IPE-0001301, G-IPE-0001309 -G-IPE-0001311, G-IPE-0001372 - G-IPE-0001379, G-IPE-0001382 - G-IPE-0001389, G-IPE-0001398 - G-IPE-0001409, G-IPE-0001417 - G-IPE-0001423, G-IPE-0001461 - G-IPE-0001465, G-IPE-0001467 - G-IPE-0001474, G-IPE-0001487 - G-IPE-0001499, G-IPE-0001500 - G-IPE-0001505, G-IPE-0001620 - G-IPE-0001627, G-IPE-0001656 - G-IPE-0001660, G-IPE-0001740 -G-IPE-0001743, G-IPE-0001744 - G-IPE-0001750, G-IPE-0001751 - G-IPE-0001756, G-IPE-0001831 - G-IPE-0001841, G-IPE-0001911 - G-IPE-0001963, G-IPE-0002008 - G-IPE-0002011, G-IPE-0002091 - G-IPE-0002100, G-IPE-0002113 - G-IPE-0002126, G-IPE-0002207 - G-IPE-0002212, G-IPE-0002243 - G-IPE-0002248, G-IPE-0002302 - G-IPE-0002308, G-IPE-0002428 -G-IPE-0002439, G-IPE-0002441 - G-IPE-0002444, G-IPE-0002458 - G-IPE-0002467, G-IPE-0002473 - G-IPE-0002477, G-IPE-0002500 - G-IPE-0002504, G-IPE-0002558 - G-IPE-0002566, G-IPE-0002567 - G-IPE-0002570, G-IPE-0007972 - G-IPE-0008050, G-IPE-0009207 - G-IPE-0009215, G-IPE-0009367 - G-IPE-0009372, G-IPE-0009373 - G-IPE-0009380, G-IPE-0009435 -G-IPE-0009440, G-IPE-0010292 - G-IPE-0010305, G-IPE-0010306 - G-IPE-0010326, G-IPE-0010418 - G-IPE-0010459, G-IPE-0010662 - G-IPE-0010663, G-IPE-0011382 - G-IPE-0011407, G-IPE-0011493 - G-IPE-0011503, G-IPE-0012563 - G-IPE-0012565, G-IPE-0012603 - G-IPE-0012609, G-IPE-0013526 - G-IPE-0013530, G-IPE-0013577 - G-IPE-0013581, G-IPE-0013872 -

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Google reserves its right to supplement its response to this Interrogatory.

SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 7:

Subject to the foregoing general and specific objections, and without admitting that Google, Google Search, Google AdWords, or Google AdSense for Search practice any element of any claim of the '420 Patent or the '664 Patent, Google incorporates herein its Response, Supplemental Response, and Second Supplemental Response to Plaintiff's Interrogatory No. 6. Google reserves the right to supplement its response to this interrogatory.

Dated: March 30, 2012

By:

/s/ David A. Perlson

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CERTIFICATE OF SERVICE

I hereby certify that on March 30, 2012, I will serve the foregoing by electronic mail to the following:

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