

# EXHIBIT E

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January 10, 2012

## Via E-mail

David Perlson, Esq.  
Quinn Emanuel Urquhart & Sullivan, LLP  
50 California Street, 22nd Floor  
San Francisco, CA 94111

Re: Outstanding Discovery Issues

Dear David:

I/P Engine repeatedly has requested that your clients produce all requested documents. We also have requested that your clients identify when they will produce all requested documents. To date, your clients have neither complied with their obligations to produce all requested documents, nor even commit to a date by which all requested documents will be produced. We write to set forth the deficiencies in your clients' document productions, and to insist on prompt and complete production.

With regard to Google's production of non-technical documents, as the parties agreed during their meet and confer, I/P Engine provided Google with its proposed Google custodians and search terms on December 23, 2011. Google responded on January 9, 2012 agreeing to some search terms and custodians and objecting to others. I/P Engine will respond to Google's objected-to search terms and custodians and other related issues concurrently under separate cover. We believe that Google is obligated to provide the responsive, non-technical documents as soon as possible, as more than two months have passed since it was served with I/P Engine's requests.

As a result of our prior meet and confers, we have understood that Google does not intend to withhold production of any relevant, non-privileged documents. If this is not correct, please notify us and fully state the basis for your refusal, so we can have an appropriate meet and confer.

Regarding documents from prior AdWords litigation, you previously indicated that Google has collected and is preparing to produce the documents relating to each of the prior AdWords litigations and categories identified in the parties' emails of December 21 and 22, 2011. I/P Engine is expecting a document production from Google in accordance with those communications.

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With regard to your client IAC Search and Media, Inc., we understand that you have collected and are preparing to produce further technical documents regarding both its own search advertising system, as well as its use of Google's AdWords system. We also expect production of responsive non-technical documents, including financials and other damages-related documents.

To date, your client Target has produced only 217 pages of documents. Likewise, your client Gannett has produced only 25 pages of documents. You have so far rejected I/P Engine's efforts to reduce the scope of Target and Gannett's productions, including I/P Engine's offer to stipulate that Google's liability (based on to the presence or absence of each asserted claim element in the accused system) will determine the liability of Target and Gannett (for that same basis). Thus, we require a complete technical, non-technical, and damages production from each of those parties.

As acknowledged in your letter of December 5, 2012, this case is on a "short schedule" and will move quickly, thus the timely production of documents without delay is imperative to this case. All documents requested by Defendants have been produced in this case. In contrast, we have been waiting over two months for the documents I/P Engine requested. To avoid motion practice, we require production of all requested documents by no later than January 18, 2012.

With respect to I/P Engine's most recent deposition proposal (described in Mr. Brothers' December 22, 2011 email), you stated that the proposal was helpful but wanted further time to consider it. I/P Engine has yet to receive a response. Please let us have your thoughts.

Additionally, in response to your January 5th letter, I/P Engine provides the following comments.

I/P Engine has asked Google to confirm that AdWords is Google's only query-based search advertising system. If Google confirms in writing that this is the case, then I/P Engine is willing to modify its discovery requests to make references to a "Relevance Score" to be co-equal to "Quality Score." As you noted, I/P Engine also has asked whether Google Search uses click-through data to rank, filter or return search results. I/P Engine awaits Google's responses to its inquiries.

Regarding Google's Request for Admission No. 3, I/P Engine has responded appropriately. I/P Engine's response stated its basis for having actual knowledge (i.e., a circumstance or fact resulting from information that would lead a reasonable, prudent person to investigate further). I/P Engine possesses a reasonable basis to believe that Google knew about the '420 patent from prior litigation. If Google believes actual knowledge means something different, please let us know and clarify your request.

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Regarding I/P Engine's Rule 33(d) responses to certain Google interrogatories, I/P Engine maintains that its Rule 33(d) responses are proper. As stated during the teleconference, I/P Engine is willing to serve a supplementation to its interrogatory responses with bates number ranges on the same date that defendants serve similar supplementations to their interrogatory responses. Concurrently, as mentioned in your January 5th letter, Google agreed to supplement its interrogatory and document request responses if Google confirms AdWords is Google's only query-based search advertising system. Defendants have yet to propose such a date; we propose January 18.

With respect to Mr. Lang's documents, all responsive, non-privileged documents in either I/P Engine's or Mr. Lang's custody have been produced. Contrary to your characterization, however, I/P Engine did not withhold, and has not withheld, any responsive, non-privileged documents in its possession, custody or control. *See e.g., Hatfill v. New York Times Co.*, 242 F.R.D. 353 (E.D. Va. 2006). Documents in the possession of an employee, e.g., Mr. Lang, from a prior employment do not automatically become within possession of the new employer, e.g., I/P Engine, simply based on the fact that the individual has a new job. For example, if Google were to hire an individual previously employed by Yahoo, Google is not now in possession of Yahoo documents simply because the individual may have Yahoo documents in his/her home. However, if this is the position of Google, please let us know.

With respect to Google's Interrogatory No. 1, I/P Engine will supplement its response with bates range numbers, etc. once it has had a chance to review Lycos' document production. During the December 22 teleconference, we explained why it was appropriate to review the Lycos and Mr. Lang third party document productions in connection with activities occurring at or near the time of the inventors' work with Lycos. I/P Engine intends to review the third party documents produced by Mr. Lang and Lycos before supplementing its response regarding the date of conception or any reduction to practice. As you know, Google agreed with Lycos to extend the bulk of the Lycos document production until January 19, 2012 so at least a portion of I/P Engine's document review cannot occur until after January 19; thus, Google's requests and threats are premature.

Regarding Google's Interrogatory No. 7, as mentioned during the teleconference, I/P Engine will supplement its infringement contentions once I/P Engine completes its review of the 200,000 pages of technical documents produced by Google. The sooner Google completes its document production, the sooner I/P Engine will be able to review those documents and supplement its interrogatory response.

Regarding I/P Engine's response to Google's Interrogatory No. 9, I/P Engine has explained its positions. I/P Engine will supplement its response when it deems it is appropriate to do so based on whether I/P Engine plans to use any date earlier than the identified date of December 3, 1998.

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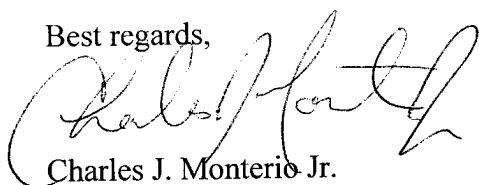
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Regarding Google's Interrogatory No. 10, I/P Engine responded to the interrogatory asserting Rule 33(d). As I/P Engine discovers further information or documents, it will produce and/or supplement its response. I/P Engine has not refused to respond, and is not withholding information.

We look forward to Google's responses. In the meantime, please do not hesitate to contact us if you have any questions.

Best regards,



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CJM/

cc: Stephen E. Noona  
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