

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

HYPERPHRASE TECHNOLOGIES, LLC and  
HYPERPHRASE INC.,

Plaintiffs,

v.

GOOGLE INC.,

Defendant.

Civil Action No. 06 C 0199 bbc

**GOOGLE'S MOTION  
TO FIND THIS CASE EXCEPTIONAL PURSUANT TO 35 U.S.C. § 285 AND  
TO AWARD POST-REMAND ATTORNEYS' FEES AND EXPENSES**

Pursuant to Fed. R. Civ. P. 54(d)(2) Google Inc. ("Google") respectfully submits this motion seeking its attorneys' fees and expenses incurred since the remand of this case after appeal. As explained more fully in the supporting memorandum filed with this motion, the Court should deem this case exceptional because of litigation conduct by Hyperphrase Technologies, LLC and Hyperphrase, Inc. ("Hyperphrase") and its attorneys. Since remand, Hyperphrase has unreasonably prolonged and complicated this action, causing Google to incur significant additional expense when the case should have been wrapped up expeditiously after remand. For the reasons set forth in the accompanying memorandum, Google respectfully submits that this case is exceptional and that Google is entitled to an award of fees pursuant to 35 U.S.C. § 285.

Dated: January 23, 2009

By:           s/James D. Peterson          

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***Attorneys for Defendant Google, Inc.***

## CERTIFICATE OF SERVICE

I hereby certify that on January 23, 2009, I caused the following documents

- GOOGLE'S MOTION TO FIND THIS CASE EXCEPTIONAL PURSUANT TO 35 U.S.C. § 285 AND TO AWARD POST-REMAND ATTORNEYS' FEES AND EXPENSES;
- GOOGLE'S MEMORANDUM IN SUPPORT OF ITS MOTION TO FIND THIS CASE EXCEPTIONAL PURSUANT TO 35 U.S.C. § 285 AND TO AWARD POST-REMAND ATTORNEYS' FEES AND EXPENSES.

to be electronically filed with the Clerk of the Court using the ECF system which will send notification to the following ECF participants:

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