

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSINHYPERPHRASE TECHNOLOGIES, LLC and
HYPERPHRASE INC.,

Plaintiffs,

v.

GOOGLE INC.,

Defendant.

Civil Action No. 06-cv-199-bbc

**GOOGLE INC.'S OBJECTION TO COUNSEL'S MOTION TO WITHDRAW AND TO
TERMINATE REPRESENTATION OF PLAINTIFFS**

Google Inc. objects to Counsel's Motion to Withdraw and to Terminate Representation of Plaintiffs HyperPhrase Technologies, LLC and HyperPhrase Inc. Dkt. # 158. Plaintiffs' counsel should not simply be permitted to abandon a case they aggressively pursued against Google through two rounds of dispositive motions at the district court and through one appeal to the Federal Circuit. Google respectfully seeks its costs for the burden presented by this suit, which were awarded by this Court's judgment of December 5, 2008.

For months Google has patiently encouraged Plaintiffs' compliance with that judgment. At no time did Plaintiffs' counsel ever communicate to Google that they could not reach their client or that they no longer represented Plaintiffs. The time to withdraw was prior to service of the discovery Google now seeks compelled or at the very least prior to the deadline for Plaintiffs to have responded or otherwise objected to that discovery. *See* Exhibit 1 (letter to Mr. Niro dated July 14, 2009 regarding representation).

Google presently has no confirmed contact information for HyperPhrase. While HyperPhrase's complaint stated that it has an office in Madison (Dkt. # 2 at ¶ 2 ("402 Gammon Place, Suite 300, Madison")), this address appears to be the address of a real estate company called Park Towne Development Corporation ("Park Towne"), which owns the building at the given address—in fact, Park Towne is in the same suite identified by HyperPhrase. *See* Exhibit

2 (contact information for Park Towne, taken from <http://www.parktowne.com/contact.asp>). The undersigned counsel called Park Towne at (608) 833-9044, whose representative indicated that it did not believe HyperPhrase was ever a tenant.

While counsel for Google understands that the presently scheduled telephone conference will be *ex parte* between the Court and HyperPhrase counsel, Google's counsel remains available at (858) 678-4719 for the Court's convenience at the scheduled time should any additional input from Google be necessary.

Dated: September 21, 2009

/s/ Jason W. Wolff

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Attorneys for Defendant GOOGLE INC.

CERTIFICATE OF SERVICE

I hereby certify that on the 21st of September 2009, a true and correct copy of **GOOGLE INC.'S OBJECTION TO COUNSEL'S MOTION TO WITHDRAW AND TO TERMINATE REPRESENTATION OF PLAINTIFFS** was filed with the Clerk of the Court using the ECF filing system, which will send notification of such filing to the following:

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