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Filing date: **11/05/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91183905
Party	Plaintiff Google Inc.
Correspondence Address	James L. Vana Pekins Coie LLP 1201 Third Avenue40th Floor Seattle, WA 98101-3099 UNITED STATES pctrademarks@perkinscoie.com, rronald@perkinscoie.com
Submission	Other Motions/Papers
Filer's Name	Richard R. Ronald
Filer's e-mail	pctrademarks@perkinscoie.com, rronald@perkinscoie.com
Signature	/Richard R. Ronald/
Date	11/05/2009
Attachments	Google v. Watson Motion to Suspend.pdf (50 pages)(2615107 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

GOOGLE INC.,

Opposer,

v.

ERIC WATSON,

Applicant.

Opposition No.: 91183905

OPPOSER'S MOTION TO SUSPEND

Google Inc. ("Opposer"), a Delaware corporation having its principal place of business at 1600 Amphitheatre Parkway, Mountain View, California 94043, hereby respectfully requests that this opposition be suspended until such time as Eric Watson ("Applicant") responds to Opposer's First Set of Requests for Production of Documents and Things, Opposer's First Set of Requests for Admission, and Opposer's First Set of Interrogatories (collectively, "Opposer's Discovery Requests").

The following facts and law support this Motion to Suspend:

1. On September 23, 2009, Opposer timely served Opposer's Discovery Requests on Applicant via first-class mail addressed to Applicant's counsel, Michael F. Hughes, Hughes Law Firm PLLC, 4164 Meridian Street, Suite 302, Bellingham, Washington 98266-5583. *See* Attachment 1.
2. Under TBMP 403.03, Applicant's responses to Opposer's Discovery Requests were due on October 28, 2009.
3. On October 23, 2009, Applicant's counsel requested an extension of unspecified length of the October 28, 2009 deadline to provide responses to Opposer's Discovery Requests. *See* Attachment 2.
4. Between October 26, 2009 and October 28, 2009, Applicant and Opposer corresponded via email regarding Applicant's request without reaching a resolution. *See*

Attachment 3. As of this filing, Applicant has not substantively responded to Opposer's email of October 28.

5. Applicant failed to respond to Opposer's Discovery Requests by the October 28, 2009 deadline.

6. On November 2, 2009, Opposer notified Applicant that his discovery responses were delinquent and proposed a meet-and-confer to discuss the matter. *See* Attachment 4.

7. On November 5, 2009, Applicant requested a telephonic conference, but provided no further substantive information or explanations. *See* Attachment 5.

8. The Board may suspend proceedings for good cause upon motion approved by the Board. 37 § C.F.R. 2.117; TBMP 510. Here, Opposer's ability to effectively proceed in this opposition has clearly been prejudiced as a result of Applicant's failure to respond to Opposer's Discovery Requests. Without the benefit of Applicant's discovery responses, Opposer cannot file complete pre-trial disclosures and cannot effectively prepare for or take trial testimony in this opposition. Moreover, without a suspension, Opposer will be forced to formulate, plan, and disclose its trial strategy without the benefit of Applicant's discovery answers.

9. The prejudice to Opposer's case caused by Applicant's failure to provide discovery responses is clearly good cause, and the Board should suspend proceedings until such time as Applicant responds to Opposer's Discovery Requests.¹ Opposer requests that its testimony period be reset so that it opens thirty (30) days after Opposer receives complete and fulsome answers to Opposer's Discovery Requests.

¹ Opposer respectfully notes that when a party files a motion for an order to compel discovery, the case will be suspended with respect to all matters not germane to the motion. 37 § C.F.R. 2.120(e)(2); TBMP 510; TBMP 523.01. Opposer continues to make a good faith effort to work with Applicant to resolve the issues caused by Applicant's failure to provide discovery responses, and has not yet filed a motion to compel. However, the circumstances under which the current motion is being filed are analogous to those underlying a motion to compel, and the Board should suspend proceedings accordingly.

WHEREFORE, Opposer requests that Opposition No. 91183905 be suspended until such time as Applicant responds to Opposer's Discovery Requests.

Dated: November 5, 2009

CERTIFICATE OF SERVICE

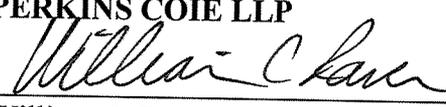
I hereby certify that this, OPPOSER'S MOTION TO SUSPEND, is being deposited with the United States Postal Service with sufficient postage as first class mail on November 5, 2009 in an envelope addressed to counsel for Applicant: Michael F. Hughes, Hughes Law Firm, PLLC, 5160 Industrial Place #107, Ferndale, WA 98248

Signature: 

Printed Name: Karen Chebenian

Respectfully submitted,

PERKINS COIE LLP

 11/5/09

William C. Rava
Richard R. Ronald
Perkins Coie LLP
1201 Third Avenue, 40th Floor
Seattle, Washington 98101-3099
(206) 359-3036
Attorneys for Google Inc.

Attachment 1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

GOOGLE INC.,

Opposer,

v.

Eric Watson,

Applicant.

Opposition No.: 91183905

OPPOSER'S FIRST SET OF REQUESTS
FOR ADMISSION (NOS. 1- 37)

Application Serial No.: 77/020,099

Filing Date: October 12, 2006

Publication Date: November 6, 2007

TO: Eric Watson ("Applicant")

Opposer Google Inc. ("Opposer"), through its counsel Perkins Coie LLP, hereby serves Opposer's First Set Of Requests For Admission (each, a "Request" and together, the "Requests"). These Requests incorporate the Instructions and Definitions from Opposer's First Set of Interrogatories.

Requests for Admission

1. Admit that You have never provided Your Services in interstate commerce under the GOOTUBE Mark.
2. Admit that You have provided Your Services in interstate commerce under the GOOTUBE Mark.
3. Admit that You have never provided any goods in interstate commerce under the GOOTUBE Mark.
4. Admit that You have provided any goods in interstate commerce under the GOOTUBE Mark.
5. Admit that You have never provided services in interstate commerce under the GOOTUBE Mark.

6. Admit that You have provided services in interstate commerce under the GOOTUBE Mark.
7. Admit that You have never provided any goods under the GOOTUBE Mark.
8. Admit that You have provided goods under the GOOTUBE Mark.
9. Admit that You have never provided services under the GOOTUBE Mark.
10. Admit that You have provided services under the GOOTUBE Mark.
11. Admit that You took no steps toward offering Your Services under the GOOTUBE Mark prior to filing Applicant's Application.
12. Admit that You have taken no steps toward offering Your Services under the GOOTUBE Mark since filing Applicant's Application.
13. Admit that Your Services are or will be provided, at least in part, over the Internet.
14. Admit that Your Services are or will be provided, at least in part, over the Internet via the website at <http://www.gootube.com>.
15. Admit that Opposer's YOUTUBE Goods and Services are provided, at least in part, over the Internet.
16. Admit that Opposer's YOUTUBE Goods and Services are provided, at least in part, over the Internet at Opposer's YouTube Website.
17. Admit that Opposer's GOOGLE Goods and Services are provided, at least in part, over the Internet.
18. Admit that Opposer's GOOGLE Goods and Services are provided, at least in part, over the Internet at Opposer's Google Website.
19. Admit that Your Services include hosting digital media on the Internet.
20. Admit that Opposer's YOUTUBE Goods and Services include hosting digital media on the Internet.
21. Admit that Opposer's GOOGLE Goods and Services include hosting digital media on the Internet.

22. Admit that individuals looking for online digital content are among the actual or potential customers of Your Services under the GOOTUBE Mark.
23. Admit that individuals looking for online digital content are among the actual or potential customers of Opposer's GOOGLE Goods and Services under Opposer's GOOGLE Mark.
24. Admit that individuals looking for online digital content are among the actual or potential customers of Opposer's YOUTUBE Goods and Services under Opposer's YOUTUBE Marks.
25. Admit that Your Services are encompassed by the YOUTUBE Services.
26. Admit that Your Services are encompassed by the GOOGLE Services.
27. Admit that the letters "goo" have no meaning related to Your Services.
28. Admit that You were aware of the YouTube Purchase before Applicant's Application was filed on October 12, 2006.
29. Admit that the YouTube Purchase was announced on October 9, 2006, as shown in Exhibit D of the Amended Notice of Opposition.
30. Admit that Exhibit E of the Amended Notice of Opposition includes press and other media accounts referring to Opposer as "GooTube."
31. Admit that the document attached hereto as Exhibit 1 is a true, accurate, and complete copy of the web page found at <http://blogs.zdnet.com/ip-telephony/?p=1274>.
32. Admit that You made the statements attributed to you in Exhibit 1.
33. Admit You were aware of Opposer's YOUTUBE Marks, Opposer's YOUTUBE Applications and/or the website at <http://www.youtube.com> prior to adopting the GOOTUBE Mark.
34. Admit You were aware of Opposer's YOUTUBE Marks, Opposer's YOUTUBE Applications and/or the website at <http://www.youtube.com> prior to filing for Applicant's Application.

35. Admit You were aware of Opposer's GOOGLE Mark, Opposer's GOOGLE Registrations, Opposer's GOOGLE Applications and/or the website at <http://www.google.com> prior to adopting the GOOTUBE Mark.

36. Admit You were aware of Opposer's GOOGLE Mark, Opposer's GOOGLE Registrations, Opposer's GOOGLE Applications and/or the website at <http://www.google.com> prior to filing for Applicant's Application.

37. Admit that all documents and things produced in connection with Opposer's First Set of Requests for Production of Documents and Things are true, accurate, and complete copies of those documents and things.

DATED: September 23, 2009.

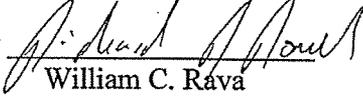
<p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>I hereby certify that this, OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSION, is being deposited with the United States Postal Service with sufficient postage as first class mail on September <u>23</u> 2009 in an envelope addressed to Applicant's counsel: Michael F. Hughes, Hughes Law Firm PLLC, 4164 Meridian Street, Suite 302, Bellingham, Washington 98266-5583.</p> <p>Signature: </p> <p>Printed Name: <u>Karen Chakarian</u></p>	<p style="text-align: center;">PERKINS COIE LLP</p> <p>By  William C. Rava Richard R. Ronald Perkins Coie LLP 1201 Third Avenue, 40th Floor Seattle, Washington 98101-3099 (206) 359-3036 Attorneys for Google Inc.</p>
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EXHIBIT 1

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Russell Shaw

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October 16th, 2006

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Posted by Russell Shaw @ 8:01 am

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Last week, as the "GooTube" moniker began to be applied to Google's acquisition of YouTube, I posted that there actually is a "GooTube."

Founded a year ago by Internet marketer Eric Watson, it provides a search engine for glue-related tube type products. Keep in mind that Eric secured the gootube domain a year ago, before hardly anyone had heard of YouTube and probably no one ever thought the video site would be so popular that it would be courted by Google and others.

Given the GooTube meme, I was curious to find out what Watson thought about this.

Now, I know, for Eric emailed me back the other day.

"Hell yeah i want to sell! My original concept when I bought the domain a year or so ago, was similar in scope, but of course I did not, and still do not, have the resources or finances to do what i would like with it," he writes.

"If Google, Yahoo!, MSN, or some other forward-thinking investor wanted to dig deep enough and purchase this name to hedge their bet, i would certainly consider offers. I am also considering putting the name up for sale at live auction towards the end of the month, in hopes of a record-high sale."

Eric also notes that the parked page which advertises "tube products" is just a way to make a few pennies while he figures out where he is going with all this.

But guess what, Eric has some well-informed opinions on this Google YouTube deal. I suppose his thoughts are as valid as anyone's, and more cogent than many:

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"The 'Big Three' have so saturated the media; that they have all but lost the ability to consistently draw the YouTube demographic," he points out in his email to me. "Let's face it, there is only one way to reach so many people or potential "content-consumers" that fast. It is through viral marketing and social networking, which starts and ends with the consumer. The giants are learning that content and advertising cannot be force-fed, and that the only way to accomplish these goals is to provide the vehicle (e.g. YouTube, Myspace) so that the consumers can do it themselves, and on their own terms.

"When you have deep pockets, why re-invent the wheel?," he asks. "Google Video will always be just another service provided by one of the "giants," and simply by default could not be as cool as something created by and ultimately for, the demographic they are trying to reach. This is not the first, nor will it be the last buyout from Google."

GooTube or no, Eric has some valid points.

Russell Shaw is an enterprise computing journalist, analyst and author based in Portland, Oregon. See his full profile and disclosure of his industry affiliations.

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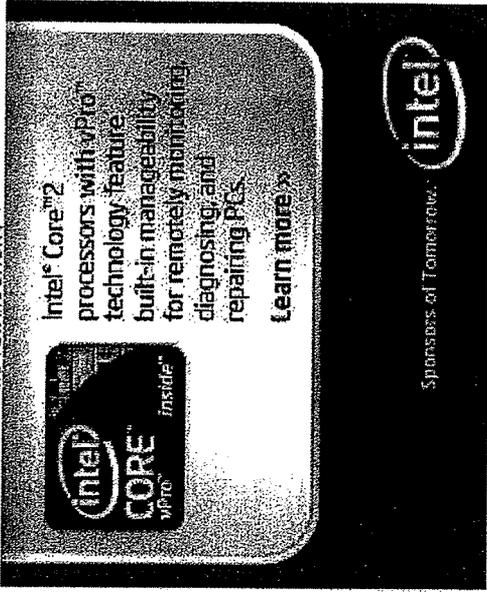
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

GOOGLE INC.,

Opposer,

v.

Eric Watson,

Applicant.

Opposition No.: 91183905

OPPOSER'S FIRST SET OF
INTERROGATORIES (NOS. 1-29)

Application Serial No.: 77/020,099

Filing Date: October 12, 2006

Publication Date: November 6, 2007

TO: Eric Watson ("Applicant")

Opposer Google Inc. ("Opposer"), through its counsel Perkins Coie LLP, hereby serves Opposer's First Set of Interrogatories (each, an "Interrogatory" and together, the "Interrogatories"):

Instructions

- A. These Interrogatories are to be answered separately and fully, in writing and under oath within thirty (30) days of the date of service on you.
- B. If you object to or fail to answer any of these Interrogatories, in whole or in part, state your objections and/or reasons for not responding and state all factual and legal justifications that you believe support your objection or failure to answer.
- C. If you deem that any Interrogatory calls for privileged information, and such privilege is asserted to avoid providing such information, provide a description of the information withheld and the privilege relied upon in sufficient detail to provide a basis for ruling on a motion to compel.
- D. If you object to answering only part of an Interrogatory, specify the part to which you object and answer the remainder.

- E. If you previously had information responsive to an Interrogatory, but no longer have it, please provide what information you do have and explain what led to the loss of the information (e.g., departure of knowledgeable employee, destruction or loss of documents). Where the loss of the information was due to departure of an employee, identify the employee, and identify the nature of the responsive information the employee is likely to have.
- F. You must reasonably and promptly supplement Your answers to these Interrogatories to the full extent required by FRCP 26(e) (as modified by the Trademark Rules).

Definitions

As used in these Interrogatories, the following terms have the meanings described below:

- i. The singular includes the plural and vice versa. The masculine includes the feminine and neuter genders. The past tense includes the present tense where the clear meaning is not distorted by change of tense.
- ii. "And" and "or" shall be given their ordinary meanings as well as mean "and/or."
- iii. "Person" means any natural person, marital community, partnership, corporation, joint venture, business entity or government entity.
- iv. "You," "Your" or any similar word or phrase includes each individual or entity responding to these discovery requests and, where applicable, each subsidiary, parent or affiliated entity of each such person or entity and all persons acting on its or their behalf.
- v. "Applicant" refers to Eric Watson and shall include without limitation any related entities, and any predecessors, parents, subsidiaries, successors, affiliates, divisions and subdivisions of such entity, and/or all the present and former employees, agents, managers, directors, licensees, distributors, representatives, including legal counsel and private investigators and any other persons or entities acting for or on behalf of such entity.

- vi. "Identify," when used with respect to a person, means to state with respect to each such person:
 - a. Name;
 - b. Last-known residence address;
 - c. Occupation, employer and business address at the date of the event or transaction to which the discovery requests refer; and
 - d. Present occupation, employer and business address (if different than c.).
- vii. "Identify," when used with respect to a fact or event, means to:
 - a. Describe the fact or event with reasonable particularity, including any relevant dates;
 - b. Identify each person believed to have knowledge with respect to the fact or event; and
 - c. Identify each document that refers or relates to the fact or event.
- viii. "Identify," when used with respect to a document, means to describe the document with sufficient particularity so as to provide the basis for a request for production pursuant to FRCP 34. In lieu of identifying a document in this manner, it will be sufficient to produce copies of the document.
- ix. "Explain," when used with respect to a fact or event, means to provide detailed reasons for or descriptions of the fact or event, including any relevant dates.
- x. "Document" means any kind of handwritten, typewritten, printed or recorded material whatsoever, including, without limitation, all drafts, copies, data compilations in computer-readable form, web sites, email, all foreign language documents and all translations of foreign language documents.
- xi. "Applicant's Application" means Application Serial No. 77/020,099, filed with the U.S. Patent and Trademark Office.
- xii. "GOOTUBE Mark" means the mark GOOTUBE.COM as shown in Applicant's Application, or as used by Applicant, or any variation thereof such as GOOTUBE

- or GOO-TUBE.COM, in any case whether in all upper case lettering, all lower case lettering, or any combination thereof.
- xiii. "Your Services" means those services identified in Applicant's Application, namely "hosting of digital content on the internet, namely, hosting of digital media content for infants, children, and the parents of small children."
 - xiv. "Amended Notice of Opposition" means the amended notice of opposition filed by Opposer with the U.S. Patent & Trademark Office in the instant case on July 25, 2008.
 - xv. "Applicant's Answer" means Applicant's answer filed by Applicant with the U.S. Patent & Trademark Office on August 28, 2008 in response to the Amended Notice of Opposition.
 - xvi. "Opposer's YOUTUBE Applications," "Opposer's YOUTUBE Marks," "Opposer's YOUTUBE Goods and Services," "Opposer's Search Engine Services," "Opposer's GOOGLE Mark," "Opposer's GOOGLE Registrations," "Opposer's GOOGLE Applications," and "Opposer's GOOGLE Goods and Services" have the meanings defined in the Amended Notice of Opposition.
 - xvii. "Applicant's Website" means the website to which the domain name "gootube.com" resolves.
 - xviii. "Opposer's Google Website" means the website to which the domain name "google.com" resolves.
 - xix. "Opposer's YouTube Website" means the website to which the domain name "youtube.com" resolves.
 - xx. "YouTube" means YouTube, an independent subsidiary of Google Inc.
 - xxi. "The YouTube Purchase" means Google Inc.'s purchase of YouTube, announced on October 9, 2006, as shown in Exhibit D of the Amended Notice of Opposition.

Interrogatories

1. Identify the person or persons answering or who assisted or were consulted in answering these Interrogatories and Requests for Admission served contemporaneously herewith on behalf of Applicant, including their current employment positions and/or relationships with Applicant and their current business and residence addresses.
2. For each denial (not including denials based on a lack of sufficient information) in Applicant's Answer or in response to the Requests for Admission, state all facts and identify all documents forming the basis for said denial.
3. Identify the date on which Applicant first became aware of Opposer's YOUTUBE Marks and/or Opposer's YOUTUBE Applications, and state all facts and identify all documents relevant thereto.
4. Identify the date on which Applicant first became aware of Opposer's YOUTUBE Marks used in connection with any of Opposer's YOUTUBE Goods and Services, and state all facts and identify all documents relevant thereto.
5. Identify the date on which Applicant first used Opposer's YouTube Website.
6. Identify the date on which Applicant first became aware of Opposer's GOOGLE Mark, Opposer's GOOGLE Applications and/or Opposer's GOOGLE Registrations, and state all facts and identify all documents relevant thereto.
7. Identify the date on which Applicant first became aware of Opposer's GOOGLE Mark used in connection with Opposer's Search Engine Services or with any of Opposer's GOOGLE Goods and Services and state all facts and identify all documents relevant thereto.
8. Identify the date on which Applicant first used Opposer's Google Website.
9. Identify the date on which Applicant first became aware of the YouTube Purchase, and state all facts and identify all documents relevant thereto.
10. Identify the date on which Applicant first became aware of the use of the GOOTUBE Mark by anyone other than Applicant, and state all facts and identify all documents relevant thereto.

11. Identify the reasons and explain why Applicant selected the GOOTUBE Mark.
12. Identify and explain the meaning of "GOO" as a portion of the GOOTUBE Mark.
13. Identify and explain the meaning of "TUBE" as a portion of the GOOTUBE Mark.
14. Identify any use of the GOOTUBE Mark, and state all facts and identify all documents relevant thereto.
15. Identify any use of the GOOTUBE Mark for Your Services, and state all facts and identify all documents relevant thereto.
16. Identify the dates on which Applicant first used the GOOTUBE Mark, or any variation thereof.
17. Identify the dates on which Applicant first used the GOOTUBE Mark, or any variation thereof, in connection with the offer, sale, advertisement or promotion of any goods or services, and identify those goods or services.
18. Identify the dates on which Applicant first sold any goods and/or rendered any service under the GOOTUBE Mark, or any variation thereof, and identify those goods or services.
19. Identify and describe the manner in which Applicant renders, sells, advertises and promotes, or intends to render, sell, advertise and promote, any goods or services offered under the GOOTUBE Mark, including all web pages, advertisements, or other printed or electronic documents or material on which the GOOTUBE Mark or any variation thereof has been, is being, or will be used on or in connection with any goods or services provided by Applicant.
20. Identify and describe any materials used by Applicant in connection with the rendering, sale, advertising, marketing or promotion of any goods or services under the GOOTUBE Mark or any variation thereof.
21. Identify any use that You (or Your licensees) intend to make of the GOOTUBE Mark in the future, and describe all steps taken towards offering good or services under the GOOTUBE Mark.

22. Identify any agreements between You and any other party, including but not limited to any employment agreement and any authorization, consent or license to use or to seek to register the GOOTUBE Mark.

23. Identify and describe any documents, press releases, news stories, interviews, or any other public statements—including any in-print, online, or broadcast statements—in which Applicant comments on, discusses, or otherwise mentions the GOOTUBE Mark.

24. Identify and describe any documents, press releases, news stories, interviews, and any public statements—including any in-print, online, or broadcast statements—in which Applicant comments on, discusses, or otherwise mentions Opposer, YouTube, or the YouTube Purchase.

25. Identify and describe any documents, press releases, news stories, interviews, and any public statements—including any in-print, online, or broadcast statements—in which Applicant comments on, discusses, or otherwise mentions Opposer's YOUTUBE Marks or Opposer's GOOGLE Mark.

26. Identify the reasons and explain why Applicant filed Applicant's Application on October 12, 2006.

27. Identify Your employment history (including officerships or directorships) for the past five years, and any planned future employment.

28. Identify and describe any current or previous dispute (including administrative and district court litigation and cease and desist correspondence) in which Applicant has been involved relating to the GOOTUBE Mark, and for each such dispute list the names of the parties, the date of and forum for the dispute, and a description of the dispute, including any outcome and the mark or term at issue.

29. Identify all searches of any trademark, service mark or business name conducted by, for or on behalf of Applicant for the GOOTUBE Mark or any variation thereof.

DATED: September 23, 2009.

<p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>I hereby certify that this, Opposer's First Set of Interrogatories, is being deposited with the United States Postal Service with sufficient postage as first class mail on September <u>23</u>, 2009 in an envelope addressed to Applicant's counsel: Michael F. Hughes, Hughes Law Firm PLLC, 4164 Meridian Street, Suite 302, Bellingham, Washington 98266-5583.</p> <p>Signature: </p> <p>Printed Name: <u>Karen Chetkian</u></p>	<p style="text-align: center;">PERKINS COIE LLP</p> <p>By  William C. Rava Richard R. Ronald Perkins Coie LLP 1201 Third Avenue, 40th Floor Seattle, Washington 98101-3099 (206) 359-3036 Attorneys for Google Inc.</p>
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

GOOGLE INC.,

Opposer,

v.

Eric Watson,

Applicant.

Opposition No.: 91183905

OPPOSER'S FIRST SET OF REQUESTS
FOR PRODUCTION OF DOCUMENTS AND
THINGS (NOS. 1- 34)

Application Serial No.: 77/020,099

Filing Date: October 12, 2006

Publication Date: November 6, 2007

TO: Eric Watson ("Applicant")

Opposer Google Inc. ("Opposer"), through its counsel Perkins Coie LLP, hereby serves Opposer's First Set of Requests for Production of Documents and Things (each, a "Request" and together, the "Requests"). These Requests incorporate the Instructions and Definitions from Opposer's First Set of Interrogatories.

Requests for Production

1. All documents forming the basis for each denial (not including denials based on a lack of sufficient information) in Applicant's Answer or in response to any Request for Admission, whether served previously or contemporaneously herewith.
2. Documents sufficient to fully show Your employment history over the past five years.
3. Documents sufficient to fully describe the organizational structure or reporting responsibilities of any entity which You have been employed by, served as an officer of, or served as a director of, in connection with the GOOTUBE Mark or which claims the right to use the GOOTUBE Mark or any variation thereof for any goods or services.
4. All documents relating to the selection of the GOOTUBE Mark.
5. All documents relating to the meaning of the GOOTUBE Mark.

6. All documents relating to the meaning of any part of the GOOTUBE Mark.
7. All documents which record, refer to, or relate to Applicant's decision to adopt and use the GOOTUBE Mark including, without limitation, samples of any names, designations and/or marks considered, rejected, used, or considered in the alternative.
8. All documents, reports or records concerning any search or investigation conducted by, for or on behalf of Applicant in connection with or as a result of any use by Applicant, Opposer or any third party of the term "GOOTUBE", including but not limited to, the United States Patent Office records, state trademark records, trademark or trade publications, business directories, or the records of any trademark service search firm, and showing the following:
 - a. The date it was made;
 - b. The name address, occupation and qualifications of each person by whom it was made;
 - c. The name and address of the person who requested it;
 - d. The name and location of each set of records searched; and
 - e. Whether any report was made, and if so, the name and address of the person who has custody of such report.
9. All documents which refer to, relate to, or are in any way concerned with the preparation, filing and/or prosecution by, for or on behalf of Applicant of any applications for registration, state or federal, of any mark consisting of or containing the term "GOOTUBE".
10. All documents relating to any study (including surveys, pilot tests, market research, consumer research, focus groups, or any other type of study) conducted by or on behalf of Applicant related in any way to the GOOTUBE Mark.
11. Documents sufficient to show any provision of Your Services by You.
12. All documents referring or relating to Applicant's first use of the GOOTUBE Mark.

13. All documents referring or relating to Applicant's first use of the GOOTUBE Mark in connection with the offer, sale, advertisement or promotion of any goods or services.

14. All documents referring or relating to any actual or planned use by You of the GOOTUBE Mark.

15. All documents referring or relating to any actual or planned use of the GOOTUBE Mark by You in connection with the offer, sale, advertisement or promotion of any goods or services.

16. All documents referring or relating to the marketing of the goods or services Applicant offers or intends to offer under the GOOTUBE Mark.

17. All documents which record, refer or relate to the target audience, intended market and/or channels of trade for any goods or services marketed or to be marketed by Applicant under the GOOTUBE Mark.

18. Representative copies of all labels, tags, decals, imprints, packaging, package inserts, wrappers, containers, displays, manuals, warranty cards, specifications or instruction sheets, or any other documentation accompanying goods or services on which the GOOTUBE Mark has been, is being or will be used on or in connection with any goods or services provided by Applicant.

19. All documents establishing the total annual revenue received by Applicant as a result of sales of goods or services under the GOOTUBE Mark, for each of the last five years (or since the date on which Applicant began using the GOOTUBE Mark, if that date is more recent).

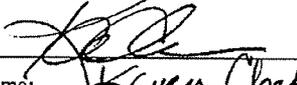
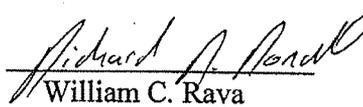
20. All documents establishing the total annual amount spent by Applicant for or in connection with the advertising or promotion of goods or services under The GOOTUBE Mark, for each of the last five years (or since the date on which Applicant began using The GOOTUBE Mark, if that date is more recent).

21. All documents referring or relating to any use by Applicant of the wording "gootube" or "gootube.com" other than as a trademark or service mark.

22. All documents relating to the domain name www.gootube.com.
23. Documents reflecting the current appearance, and all preceding versions, of the web page located at www.gootube.com.
24. All documents constituting or relating to communications between Applicant and any person regarding Applicant's Application, or regarding the GOOTUBE Mark.
25. All documents which record, refer or relate to any encumbrance, assignment, transfer, license, consent or other agreement to which Applicant is a party or of which Applicant is aware involving the GOOTUBE Mark.
26. All documents related to any actual or planned use of the GOOTUBE Mark by an actual or potential assignee, licensee or other third party.
27. All documents referring or relating to the circumstances under which Applicant became aware of Opposer, Opposer's GOOGLE Mark, Opposer's YOUTUBE Marks, Opposer's YOUTUBE Applications, Opposer's GOOGLE Applications, Opposer's GOOGLE Registrations or the YouTube Purchase.
28. All documents referring to Opposer, Opposer's GOOGLE Mark, Opposer's YOUTUBE Marks, or the YouTube Purchase.
29. All documents referring or relating to the web page located at <http://blogs.zdnet.com/ip-telephony/?p=1274>.
30. All documents which record, refer or relate to any actual or alleged instance of confusion between the GOOTUBE Mark and any third party name or mark.
31. All documents which record, refer or relate to any dispute identified in response to Interrogatory 28, served contemporaneously herewith.
32. All documents identified in response to Opposer's First Set of Interrogatories to Applicant not provided in response to the above requests.

33. All documents that Applicant intends to offer as exhibits in this Opposition.
34. All documents identifying, describing or relating to Applicant's document retention policy and system.

DATED: September 23, 2009.

<p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>I hereby certify that this, OPPOSER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS, is being deposited with the United States Postal Service with sufficient postage as first class mail on September <u>23</u>, 2009 in an envelope addressed to Applicant's counsel: Michael F. Hughes, Hughes Law Firm PLLC, 4164 Meridian Street, Suite 302, Bellingham, Washington 98266-5583.</p> <p>Signature:  Printed Name: <u>Keren Chakemian</u></p>	<p style="text-align: center;">PERKINS COIE LLP</p> <p>By  William C. Rava Richard R. Ronald Perkins Coie LLP 1201 Third Avenue, 40th Floor Seattle, Washington 98101-3099 (206) 359-3036 Attorneys for Google Inc.</p>
--	--

Attachment 2

Ronald, Richard R. (Perkins Coie)

From: Mike Hughes [mhughes@inventionlaw.com]
Sent: Friday, October 23, 2009 12:17 PM
To: Ronald, Richard R. (Perkins Coie)
Subject: gootube

Hi Ron,

Would you agree to an extension to the discovery request regarding the GOOTUBE matter.

Thank you.

--

*

Mike Hughes
Patent Attorney
Mechanical Engineer B.S.
Hughes Law Firm, PLLC
5160 Industrial Place, Suite 107
Ferndale, WA 98248
(360) 647-1296
fax (360) 671-2489
www.inventionlaw.com

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Attachment 3

Ronald, Richard R. (Perkins Coie)

From: Ronald, Richard R. (Perkins Coie)
Sent: Wednesday, October 28, 2009 2:23 PM
To: 'Mike Hughes'
Cc: Rava, William C. (Perkins Coie)
Subject: RE: gootube (41063-7016.0000.PX001)

Mike:

I do not believe the client will agree to such a lengthy extension this late in the process, especially with the possibility of a change in counsel and the delays that such a move would entail. Please note that our client spoke directly to your client regarding a possible settlement in March and has waited for a good faith response since then. We also delayed the filing of discovery on a number of occasions to give your client more time to make a counterproposal, which has not been forthcoming.

The client might agree to a shorter time frame--along the lines of 14 days--provided you can guarantee we would receive actual and complete responses to our requests.

Sincerely,

-Richard

Richard R. Ronald | Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8255
Fax: 206.359.9255
Email: rronald@perkinscoie.com

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

From: Mike Hughes [mailto:mhughes@inventionlaw.com]
Sent: Tuesday, October 27, 2009 4:00 PM
To: Ronald, Richard R. (Perkins Coie)
Subject: Re: gootube /

Hi Ron,

Could we have a 45 day extension. We might transfer this file to another attorney that handles oppositions on a more regular basis.

Thank you.
Mike Hughes

Ronald, Richard R. (Perkins Coie) wrote:

> Mike:
>
> How long do you need to prepare the responses?
>
> Sincerely,
>
>
> -Richard
>
>

>
> Richard R. Ronald | Perkins Coie LLP
> 1201 Third Avenue, Suite 4800
> Seattle, WA 98101-3099
> *: 206.359.8255
> 7: 206.359.9255
> *: rronald@perkinscoie.com
>

>
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> the taxpayer under the Internal Revenue Code of 1986, as amended.
>

>
> -----Original Message-----
> From: Mike Hughes [mailto:mhughes@inventionlaw.com]
>
> Sent: Friday, October 23, 2009 12:17 PM
> To: Ronald, Richard R. (Perkins Coie)
> Subject: gootube
>

> Hi Ron,
>
> Would you agree to an extension to the discovery request regarding the
>
> GOOTUBE matter.
>

> Thank you.
>

> --
>

> *
> Mike Hughes
> Patent Attorney
> Mechanical Engineer B.S.
> Hughes Law Firm, PLLC
> 5160 Industrial Place, Suite 107
> Ferndale, WA 98248
> (360) 647-1296
> fax (360) 671-2489
> www.inventionlaw.com
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>
>
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*
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Attachment 4

Ronald, Richard R. (Perkins Coie)

From: Ronald, Richard R. (Perkins Coie)
Sent: Monday, November 02, 2009 10:07 PM
To: Mike Hughes
Cc: Rava, William C. (Perkins Coie)
Subject: FW: gootube (41063-7016.0000.PX001)

Dear Mike:

It does not appear that we have received either a response to my email below or timely responses to our discovery requests. Accordingly, your responses are delinquent and you have waived any right to object to answering any of the interrogatories or from producing any documents requested. Additionally, you are deemed to have admitted each of the propounded requests for admission, absent a showing of excusable neglect or a successful motion to withdraw or amend the admissions.

It is our hope that we can keep these proceedings moving along in an amiable manner, and that a motion to compel responses will not be needed. We would like to schedule a brief meet-and-confer to discuss these issues. Please let us know of a good time to call you tomorrow or Wednesday.

Sincerely,

-Richard

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

From: Ronald, Richard R. (Perkins Coie)
Sent: Wednesday, October 28, 2009 2:23 PM
To: 'Mike Hughes'
Cc: Rava, William C. (Perkins Coie)
Subject: RE: gootube (41063-7016.0000.PX001)

Mike:

I do not believe the client will agree to such a lengthy extension this late in the process, especially with the possibility of a change in counsel and the delays that such a move would entail. Please note that our client spoke directly to your client regarding a possible settlement in March and has waited for a good faith response since then. We also delayed the filing of discovery on a number of occasions to give your client more time to make a counterproposal, which has not been forthcoming.

The client might agree to a shorter time frame--along the lines of 14 days--provided you can guarantee we would receive actual and complete responses to our requests.

Sincerely,

-Richard

11/4/2009

Richard R. Ronald | Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8255
Fax: 206.359.9255
Email: rronald@perkinscoie.com

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

From: Mike Hughes [<mailto:mhughes@inventionlaw.com>]
Sent: Tuesday, October 27, 2009 4:00 PM
To: Ronald, Richard R. (Perkins Coie)
Subject: Re: gootube

Hi Ron,

Could we have a 45 day extension. We might transfer this file to another attorney that handles oppositions on a more regular basis.

Thank you.
Mike Hughes

Ronald, Richard R. (Perkins Coie) wrote:

Mike:

How long do you need to prepare the responses?

Sincerely,

-Richard

Richard R. Ronald | Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099

11/4/2009

*: 206.359.8255

7: 206.359.9255

*: ronald@perkinscoie.com

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

From: Mike Hughes [mailto:mhughes@inventionlaw.com]

Sent: Friday, October 23, 2009 12:17 PM

To: Ronald, Richard R. (Perkins Coie)

Subject: gootube

Hi Ron,

Would you agree to an extension to the discovery request regarding the

GOOTUBE matter.

Thank you.

--

*

Mike Hughes

Patent Attorney

Mechanical Engineer B.S.

11/4/2009

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*

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Attachment 5

Chekenian, Karen (Perkins Coie)

From: Mike Hughes [mhughes@inventionlaw.com]
Sent: Thursday, November 05, 2009 2:46 PM
To: Ronald, Richard R. (Perkins Coie)
Subject: Re: FW: gootube (41063-7016.0000.PX001)

Hi Richard,

I would like to discuss this matter further tomorrow if possible.

Thank you.
Mike Hughes

Ronald, Richard R. (Perkins Coie) wrote:

Dear Mike:

It does not appear that we have received either a response to my email below or timely responses to our discovery requests. Accordingly, your responses are delinquent and you have waived any right to object to answering any of the interrogatories or from producing any documents requested. Additionally, you are deemed to have admitted each of the propounded requests for admission, absent a showing of excusable neglect or a successful motion to withdraw or amend the admissions.

It is our hope that we can keep these proceedings moving along in an amiable manner, and that a motion to compel responses will not be needed. We would like to schedule a brief meet-and-confer to discuss these issues. Please let us know of a good time to call you tomorrow or Wednesday.

Sincerely,

-Richard

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

From: Ronald, Richard R. (Perkins Coie)
Sent: Wednesday, October 28, 2009 2:23 PM
To: 'Mike Hughes'
Cc: Rava, William C. (Perkins Coie)
Subject: RE: gootube (41063-7016.0000.PX001)

Mike:

I do not believe the client will agree to such a lengthy extension this late in the process, especially with the possibility of a change in counsel and the delays that such a move would entail. Please note that our client spoke directly to your client regarding a possible settlement in March and has waited for a good faith response since then. We also delayed the filing of discovery on a number of occasions to give your client more time to make a counterproposal, which has not been forthcoming.

11/5/2009

The client might agree to a shorter time frame--along the lines of 14 days--provided you can guarantee we would receive actual and complete responses to our requests.

Sincerely,

-Richard

Richard R. Ronald | Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8255
Fax: 206.359.9255
Email: rronald@perkinscoie.com

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

From: Mike Hughes [<mailto:mhughes@inventionlaw.com>]
Sent: Tuesday, October 27, 2009 4:00 PM
To: Ronald, Richard R. (Perkins Coie)
Subject: Re: gootube

Hi Ron,

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Thank you.
Mike Hughes

Ronald, Richard R. (Perkins Coie) wrote:

Mike:

How long do you need to prepare the responses?

Sincerely,

-Richard

Richard R. Ronald | Perkins Coie LLP

1201 Third Avenue, Suite 4800

Seattle, WA 98101-3099

*: 206.359.8255

7: 206.359.9255

*: rronald@perkinscoie.com

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the taxpayer under the Internal Revenue Code of 1986, as amended.

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

From: Mike Hughes [<mailto:mhughes@inventionlaw.com>]

Sent: Friday, October 23, 2009 12:17 PM

To: Ronald, Richard R. (Perkins Coie)

Subject: gootube

Hi Ron,

Would you agree to an extension to the discovery request regarding the

GOOTUBE matter.

Thank you.

11/5/2009

--

*

Mike Hughes

Patent Attorney

Mechanical Engineer B.S.

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*

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