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

Proceeding	91203541
Party	Defendant Google Inc.
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Submission	Motion to Compel Discovery
Filer's Name	Eric J. Ball
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Signature	/Eric J. Ball/
Date	07/02/2013
Attachments	Googles Motion to Compel Further Responses.pdf(72243 bytes ) Ball Decl ISO Motion to Compel Further Responses.pdf(22333 bytes ) Exhibit 01 - Google's First Set of Interrogatories to Andre Rossouw.pdf(4376159 bytes ) Exhibit 02 - Google Inc. 's First Set of Requests Production to Andre Rossouw.pdf(3803986 bytes ) Exhibit 03 -Google Inc.'s First Set of Requests for Admission to Andre Rossouw.pdf(5370009 bytes ) Exhibit 04 - OPPOSER'S RESPONSE TO APPLICANT'S INTERRAGATORY (1).pdf(197653 bytes ) Exhibit 05 - OPPOSER'S RESPONSE TO PRODUCTION OF DOCUMENTS.pdf(202149 bytes ) Exhibit 06 - Opposers response to request for admission.pdf(182120 bytes ) Exhibit 07 - Record of Discovery Conference.pdf(165316 bytes ) Exhibit 08 - OPPOSER'S AMENDED RESPONSES INTERROGATORY AFTER MEET AND CONFER.pdf(165560 bytes ) Exhibit 09 - OPPOSER'S AMENDED RESPONSES PRODUCTION OF DOCUMENTS AFTER MEET AND CONFER.pdf(162918 bytes ) Exhibit 10 - AMENDED RESPONSES AFTER MEET AND CONFER 2.pdf(59958 bytes ) Exhibit 11 - GOOGLE+ Opposition Meet and Confer.pdf(76572 bytes ) Exhibit 12 - GOOGLE+ Opposition Meet and Confer.pdf(48131 bytes ) Exhibit 13 - Initial request for admission.pdf(173788 bytes )

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

In the matter of Trademark Application No. 85358119  
Mark: GOOGLE+  
Filed: June 28, 2011

ANDRE ROSSOUW,

Opposer,

v.

GOOGLE INC.,

Applicant

Opposition No. 91203541

**APPLICANT GOOGLE INC.'S MOTION TO COMPEL FURTHER RESPONSES  
FROM OPPOSER ANDRE ROSSOUW AND TO DETERMINE THE SUFFICIENCY OF  
OBJECTIONS**

Applicant Google Inc. hereby moves the Trademark Trial and Appeal Board for an Order compelling Opposer Andre Rossouw (“Opposer”) to respond fully to Google’s Interrogatory Nos. 2-5, 7-8, 11-15, 18-19, 21-23, 25-27 and 29-30; Requests for Production of Documents Nos. 1-9 and 11-41; and Requests for Admission Nos. 1, 3-63, 65-81, 83-89 and 95 (collectively, the “Discovery”).

## **I. INTRODUCTION**

Opposer seeks to block Google’s registration of the Google+ mark – a variation on Google’s longstanding and famous GOOGLE mark. But five months after serving discovery on Opposer, Google has yet to obtain basic discovery responses. For example, although Opposer continues to pursue the implausible theory that GOOGABOX and GOOGLE are not confusingly similar, but somehow, GOOGABOX and GOOGLE+ are confusingly similar, he refuses to provide *any* discovery on this issue. Instead, Opposer relies on improper objections and refuses to respond to discovery that is essential to Google’s defense.

Opposer’s objections obstruct Google’s access to information in Opposer’s possession, custody and control, delay these proceedings and delay Google’s pending application. For the reasons set forth below, the Board should enter an order compelling Opposer to serve full and complete responses to the Discovery.

## **II. FACTUAL BACKGROUND**

### **A. Google’s Services and the Famous Google Mark**

Google is undoubtedly one of the world’s best-known companies. Due to Google’s extensive number of users and voluminous media coverage, the GOOGLE mark is well-known among consumers as identifying Google’s products and services, including social networking-related services. The Board has repeatedly recognized the strength of the GOOGLE mark. *See,*

*e.g. Google Inc. v. Pivot Design, Inc.*, Opposition No. 91171124, 2007 WL 1207191, at \*3-5 (T.T.A.B. April 20, 2007) (finding the GOOGLE mark famous based on its significant number of users and revenues, fame surveys, numerous awards and the addition of the GOOGLE mark to the dictionary); *Google Inc. v. Nikolaus Gubernator*, Opposition No. 91171014 at 9 (T.T.A.B. March 5, 2005) (“We conclude that [Google] has shown significant market exposure, revenue, and overall fame amongst the relevant public.”). Opposer agrees. Opposer has conceded that the GOOGLE mark is “unique,” “distinctive,” and holds “established fame.” Notice of Opposition (Dkt. No. 1) at 9, 11. Thus, the GOOGLE mark is one of the strongest marks in the world. *See* 2 J. Thomas McCarthy, *McCarthy on Trademarks and Unfair Competition*, § 11:8 (4th ed. 2011) (finding GOOGLE to be a fanciful mark and entitled to broad protection).

To protect its U.S. rights in the GOOGLE mark, Google has obtained and filed registrations and applications with the United States Patent and Trademark Office. Today, Google’s federal trademark registrations and applications include the following marks:

Mark	Registration No./ Application No.	Classes
GOOGLE	2806075	38, 42
GOOGLE	2884502	9
GOOGLE	2954071	9, 11, 12, 16, 18, 21, 25, 28, 35
Google	3140793	9, 11, 16, 18, 21, 25, 28, 35, 38, 42
GOOGLE	3570103	36
GOOGLE CHECKOUT	3725612	36
GOOGLE SIDEWIKI	3962604	9, 41, 42
GOOGLE LATITUDE	3979983	9, 42, 45
Google	3990185	3, 20
GOOGLE GOGGLES	4016470	9, 42
Google	4058966	9, 35, 36, 42

GOOGLE	4202570	42
GOOGLE	4123471	35
GOOGLE TALK	4313394	9, 38, 42
GOOGLE	4120012	38
GOOGLE TV (and design)	4263233	9
GOOGLE TAKEOUT	4159084	38, 39, 42
GOOGLE PLACES	4115005	35, 38, 42
GOOGLE	4168118	42
GOOGLE CURRENTS	4304082	9, 35, 41, 45
GOOGLE WRITELY	78941798	42
GOOGLE CHROME	85463547	9, 35, 42
GOOGLE IDEAS (and design)	85475520	35, 41, 42

Taken together, Google’s registration for and common law use of its famous GOOGLE mark affords it broad rights in the GOOGLE and GOOGLE-formative marks. Google’s application for the GOOGLE+ mark is consistent with these broad rights.

**B. Google’s Discovery and Ongoing Efforts to Obtain Basic Responses from Opposer**

On January 25, 2013, Google served Opposer with Discovery seeking information, documents and admissions relating to the claims and defenses in this opposition. Declaration of Eric Ball in Support of Applicant Google Inc.’s Motion to Compel Further Responses from Opposer Andre Rossouw and to Determine the Sufficiency of Objections (“Ball Decl.”), Exs. 1-3. Opposer responded and served Opposer’s Response to Google Inc.’s First Set of Interrogatories, Opposer’s Response to Google Inc.’s First Set of Requests for Production of Documents, Opposer’s Response to First Set of Requests for Admission by Applicant Google Inc. on February 26, 2013 (collectively, the “Responses”).<sup>1</sup> *See id.* at ¶ 3, Exs. 4 (“Rog Resp.”), 5 (“RFP Resp.”) and 6 (“RFA Resp.”).

Google went to great lengths to meet and confer with Opposer regarding his inadequate Responses and improper objections. *See, e.g., id.* at ¶¶ 7-8, Exs. 11-12. After an initial

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<sup>1</sup> Although dated February 25, 2013, Opposer actually served the Responses by email on February 26, 2013 – one day after Opposer’s deadline to respond.

telephone conference, Opposer served a “Record of Discovery Conference” that purported to amend certain discovery responses, but, instead asserted new or more detailed objections. *Id.* at Ex. 7. Then, after no less than four additional telephone conferences, Opposer finally served new amended responses to the Discovery on May 28, 2013 (“Amended Responses”). *Id.* at ¶¶ 5, 7, Exs. 8-9. But the Amended Responses again added meandering objections that did little to cure the substantive and procedural defects in the Responses. Shortly thereafter, Opposer served “[a]mended revised responses” on June 6, 2013 that addressed a nominal number of Google’s concerns (“Second Amended Responses”). *Id.* at Ex. 10.

Despite Opposer’s amendments, Google has yet to receive written discovery responses that provide: (1) answers to the majority of its interrogatories; (2) written confirmation that Opposer will produce responsive documents, or a statement that no responsive documents exist; or (3) admissions or denials to the majority of its requests for admission.

### **III. ARGUMENT**

Opposer must answer each interrogatory separately and fully in writing and “[t]he grounds for objecting to an interrogatory must be stated with specificity.” Fed. R. Civ. P. 33(b)(3), (b)(4). For each request for production, Opposer must state “that [the] inspection and related activities will be permitted as requested or state an objection to the request, including the reasons.” Fed. R. Civ. P. 34(b)(2). And for each request for admission, Opposer must either admit or deny the request or state the grounds for objecting to a request. Fed. R. Civ. P. 36(a)(5). Where Opposer objects, he has the burden to substantiate his objections. *In re ATM Fee Antitrust Litig.*, 233 F.R.D. 542, 545 (N.D. Cal. 2005). He cannot simply invoke boilerplate or general objections. *Walker v. Lakewood Condo. Owners Ass’n*, 186 F.R.D. 584, 587 (C.D. Cal. 1999).

As detailed below, rather than substantively respond, Opposer served a jumble of baseless and inadequate objections. Thus, under CFR § 2.120(e), (h)(1), Google files this motion seeking an order compelling Opposer to: (1) provide full and complete supplemental responses to Google's Interrogatory ("Rog") Nos. 2-5, 7-8, 11-15, 18-19, 21-23, 25-27 and 29-30; (2) provide full and complete supplemental responses to Google's Requests for Production ("RFP") Nos. 1-9 and 11-41 and produce responsive documents or confirm that no responsive documents exist; and (3) provide an answer to Google's Requests for Admission ("RFA") Nos. 1, 3-63, 65-81, 83-89 and 95.<sup>2</sup>

**A. Opposer's Baseless Relevance Objections**

The focus of Google's Discovery relate to either Opposer's likelihood of confusion claims, or Google's defenses. For example, Google seeks discovery on:

- Ownership of the GOOGABOX mark, including any interest owned by the entities Googabox, Googabox World Inc., Googabox World International and GWI. Rog Nos. 2-3; RFP Nos. 21-25; RFA No. 95.
- Consumer perception of the GOOGABOX mark. Rog Nos. 7, 11-15, 23, 25; RFP Nos. 3-5, 7, 11-13, 19-20, 26-30; RFA Nos. 47-53, 84-89.
- The goods and services offered in connection with the GOOGABOX mark. Rog Nos. 5, 7; RFP No. 3.
- Opposer's claim of priority. Rog No. 8; RFP Nos. 2, 6.
- Use of the GOOGABOX mark in commerce. Rog Nos. 11-13; RFP Nos. 4-5, 7-8, 11-13, 17-18, 34-37.
- Channels of trade associated with the GOOGABOX Mark. RFA Nos. 33, 36, 39.
- Opposer and Google's respective customers. RFA Nos. 42-44.
- The strength of the GOOGABOX mark, including advertising and promotional efforts. Rog Nos. 14-15; RFP Nos. 9, 19-20.
- Opposer's efforts to police, monitor and protect its alleged rights in the

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<sup>2</sup> Given the number of requests to which Opposer has refused to substantively respond, Google refers to the interrogatories, requests for production and requests for admission by number. Copies of each request, and Opposer's responses and amended responses thereto are attached as Exhibits 1-10 to the Ball Declaration.

GOOGABOX mark. RFP Nos. 38-39.

- The development of the GOOGABOX mark and potential witnesses thereto. Rog Nos. 18-19; RFP Nos. 14-16.
- Google’s GOOGLE-formative marks and services, and Opposer’s knowledge and use thereof. Rog Nos. 21-22; RFP Nos. 31-33; RFA Nos. 1, 2-32, 34-35, 37-38, 40-41.
- Challenges to the GOOGABOX mark. Rog No. 27.
- The dissimilarity between the GOOGABOX mark and GOOGLE-formative marks. RFA Nos. 45-63, 65-81 and 83.
- Evidence of likely or actual confusion. Rog Nos. 23, 25-26; RFP Nos. 19, 26-30; RFA Nos. 84-89.
- Opposer’s contentions of fact. Rog Nos. 29-30; RFP Nos. 40-41.

Despite the relevance of these topics to the elements of the parties’ claims and defenses, Opposer’s Responses rely heavily on baseless relevance objections.<sup>3</sup> For example, Opposer objects that certain requests are “not relevant to the subject matter of this lawsuit and not calculated to lead to the discovery of admissible evidence in violation of the collateral source rule.”<sup>4</sup> Parties, however, may obtain discovery regarding any non-privileged matter that is relevant to any party’s claim or defense — including the existence, description, nature, custody, condition, and location of any documents or other tangible things and the identity and location of persons who know of any discoverable matter. Fed. R. Civ. P. 26(b)(1). A party may take discovery not only as to matters specifically raised in the pleadings, but also as to any matter which might serve as the basis for an additional claim, defense, or counterclaim. *See J. B. Williams Co. v. Pepsodent G.m.b.H.*, 188 USPQ 577, 579 (T.T.A.B. 1975); *Neville Chemical Co. v. Lubrizol Corp.*, 183 USPQ 184, 187 (T.T.A.B. 1974). When pressed on the direct relevance

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<sup>3</sup> Opposer asserts a relevance objection to Interrogatory Nos. 2, 13, 21-22, 30, Request for Production Nos. 6-9, 12-17, 21-25, 31-37, 40 and Request for Admission Nos. 1, 3-47, 49-53, 55-63, 65-81, 83-89, 95.

<sup>4</sup> The collateral source rule relates to a plaintiff’s ability to recover monetary damages in a civil case and has no bearing on this Opposition. *McLean v. Runyon*, 222 F.3d 1150, 1155-56 (9th Cir. 2000) (“benefits received by the plaintiff from a source collateral to the defendant may not be used to reduce that defendant’s liability for damages.”)

of the Discovery, Opposer has stood his ground and refused to substantively respond. *See, e.g.*, Ball Decl. Exs. 8, 10.

One particularly egregious example of Opposer's abuse of the relevance objection is his refusal to respond to *any discovery* targeted at GOOGLE-formative marks and the social networking-related services frequently associated with such marks. *See id.* at Exs. 1, 4 (Rog Nos. 21-22), 2, 5 (RFP Nos. 31-33) and 3, 6 (RFA Nos. 1, 3-5, 7-41, 45-46, 59-61, 65-79, 83-89). Opposer contends that the GOOGLE mark is not at issue in this litigation and that this discovery improperly dissects elements of the GOOGLE+ mark. *Id.* at Ex. 8, at 3. Opposer is incorrect. It is entirely appropriate to accord greater importance to the more distinctive elements in a mark. As the Federal Circuit has observed: "in articulating reasons for reaching a conclusion on the issue of confusion, there is nothing improper in stating that, for rational reasons, more or less weight has been given to a particular feature of a mark, provided the ultimate conclusion rests on consideration of the marks in their entireties. Indeed, this type of analysis appears to be unavoidable." *In re Nat'l Data Corp.*, 753 F.2d 1056, 1058, 224 USPQ 749, 751 (Fed. Cir. 1985); *Fossil Inc. v. Fossil Group*, 49 U.S.P.Q. 2d 1451, 1456 (T.T.A.B. 1998) (reaffirming the rule that in comparing the parties' marks, the Board may give more weight to a mark's dominant feature).

Here, "Google" is the dominate feature of the GOOGLE+ mark and discovery on that element is proper. Moreover, Google's multiple federal registrations for the GOOGLE-formative marks predate the registration of the GOOGABOX mark. Discovery regarding these marks is therefore relevant in support of Google's *Morehouse* defense. *See Morehouse Mfg. Corp. v. J. Strickland and Co.*, 407 F.2d 881, 160 USPQ 715 (C.C.P.A. 1969); *In re Strategic Partners, Inc.*, 102 U.S.P.Q.2d 1397 (T.T.A.B. 2012). Discovery regarding the GOOGLE-

formative marks is further relevant to such issues as: (1) priority; (2) the strength of the GOOGABOX mark in light of the number of other GOOGLE-formative marks already registered and used by Google; (3) Opposer's knowledge of the GOOGLE-formative marks and Google's services; and (4) the fame of GOOGLE-formative marks negating any potential confusion. *See Jacobs v. Int'l. Multifoods Corp.*, 668 F.2d 1234, 1236 (C.C.P.A. 1982) (finding no confusion between BOSTON TEA PARTY and BOSTON SEA PARTY since "we remain convinced that the familiar is readily distinguishable from the unfamiliar") (citations and internal quotation marks omitted); *see also*, TBMP 309.03(c) (requiring an opposer to plead and prove priority and addressing the *du Pont* factors, such as the number and nature of similar marks in use on similar goods). Opposer cannot continue to ignore the relevancy of Google's GOOGLE-formative marks to Google's defenses and Opposer's claims.

Finally, Opposer has waived any objections to discovery regarding GOOGLE-formative marks by serving discovery targeted at the GOOGLE mark and other GOOGLE-formative variations. TBMP § 402.01 ("a party ordinarily will not be heard to contend that a request for discovery is proper when propounded by the party itself but improper when propounded by its adversary."); Ball Decl. Ex. 13, at RFA Nos. 1-12, 41-45, 61-63, 66-68.

Since Google's Discovery is relevant to the parties' claims and defenses, Opposer's objections should be overruled.

**B. Opposer's Objections as to Privacy, Secrecy and Invasiveness are Invalid**

Opposer frequently objects that an interrogatory or request violates his company's privacy, requires the disclosure of company secrets or is otherwise invasive.<sup>5</sup> These objections

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<sup>5</sup> Opposer asserts this objection to Interrogatory Nos. 2-4, 11, 14-15, 19, 29 and Requests for Production Nos. 7-9, 12-16, 25, 34-35, 40.

fail as the Board imposes a standard protective order with respect to discovery in all opposition proceedings. 37 CFR § 2.116(g). This standard protective order provides Opposer with adequate protection for the disclosure of private, secret or commercially sensitive information.

**C. Opposer’s Misuse of the “Equally Available” Objection**

Another frequent objection asserted by Opposer is that the discovery sought “is equally available to the propounding party. (See Code of Civ. Proc., § 2030.220 subd. (c) and *Alpine Mutual Water Co. v. Superior Court* (1968) 259 Cal.App.2d 45 [66 Cal.Rptr. 250].)”<sup>6</sup> As a preliminary matter, Opposer’s citation to California statutes and case law misses the mark. Board proceedings are controlled by the Federal Rules of Civil Procedure – not California law. See 37 C.F.R. § 2.116. In Board proceedings, Opposer must provide responsive information available through reasonable efforts and to produce responsive documents in his possession, custody or control. Fed. R. Civ. P. 34(a)(1)(A); Fed. R. Civ. P. 36(a)(4); *Martin v. Brown*, 151 F.R.D. 580, 593-94 (W.D.Pa. 1993).

Categories of documents and information that Opposer wrongly contends are equally available to Google include:

- Opposer’s current *and future* use of the GOOGABOX mark. Rog No. 7; RFP Nos. 3-5.
- The time period in which Opposer has used the GOOGABOX mark in connection with his services in the United States. Rog No. 8; RFP No. 2.
- The actual *or intended* price or fee for Opposer’s services. Rog. No. 13.
- Opposer’s customer segments. RFP No. 11.
- The number of users of Opposer’s social networking site. RFP No. 18.
- Documents relating to Opposer’s letter of protest filed in connection with U.S.

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<sup>6</sup> Opposer asserts his “equally available” objection to Interrogatory Nos. 5, 7-8, 13, Requests for Production Nos. 1-9, 11-20, 25-28, 29-39, 41 and Request for Admission Nos. 47-48, 62.

Trademark Application No. 58/358,119.<sup>7</sup> RFP No. 39.

Discovery relating to Opposer's business and use of its GOOGABOX mark are within Opposer's possession and are not equally available to Google through public means. Opposer should therefore disclose or produce the requested discovery. In particular, Opposer is the only possible source for information relating to his intended use of the GOOGABOX mark, as such information is non-public. To the extent that some of the information sought might be public, it is certainly not "equally available." For example, information relating to Opposer's customer base is readily available to him, even if, some information can be pieced together by visiting [www.googabox.com](http://www.googabox.com). Therefore, the Board should overrule Opposer's objection as to equal availability.

**D. Opposer's Objections to Burden and Other Unsupported Objections Are Improper**

When all else fails, Opposer resorts to an assortment of boilerplate objections that do not comply with the Federal Rules of Civil Procedure, including objections as to burden and over breadth,<sup>8</sup> futility,<sup>9</sup> "confusing statement[s]"<sup>10</sup>, repetitiveness<sup>11</sup> and various speaking objections that discuss the request but fail to state an actual objection or provide a response.<sup>12</sup> Boilerplate, generalized objections are inadequate and tantamount to not making any objection at all. *See Josephs v. Harris Corp.*, 677 F.2d 985, 992 (3d Cir.1982) ("mere statement by a party that the interrogatory was 'overly broad, burdensome, oppressive and irrelevant' is not adequate to voice

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<sup>7</sup> Opposer states that the "[l]etter of protest [is] missing" but nevertheless refuses to either produce any related documents or confirm that no such documents exist. Ball Decl. Ex. 10, at RFP Second Amended Resp. No. 39 (arguing that Google should serve discovery on the USPTO since "Document can be requested from Trademark Office").

<sup>8</sup> Rog Resp. Nos. 4, 11-12, 14-15, 19, 29; RFA Resp. Nos. 18-19, 21.

<sup>9</sup> RFA Resp. Nos. 18-19, 21-23.

<sup>10</sup> RFA Resp. Nos. 55-58.

<sup>11</sup> Rog Resp. Nos. 3, 18, 23, 25-26; RFA Resp. Nos. 11, 15, 20, 48.

<sup>12</sup> RFA Resp. Nos. 6, 47, 49, 52-54.

a successful objection”).

For example, in response to a trio of interrogatories targeted at Opposer’s marketing efforts, and Opposer’s development of the GOOGABOX mark, Opposer objects to the discovery as burdensome, oppressive and overbroad because “Opposer has satisfied the Trademark Office to it[s] ongoing operations to award opposer a Federal Trademark.” Ball Decl. Ex. 4, at Rog Resp. Nos. 14-15, 19. Opposer’s objection fails to explain why it is unduly burdensome for him to respond to interrogatories that seek discoverable information directly relevant to the likelihood of confusion analysis (*e.g.*, strength of the mark and channels of trade). And the fact that the PTO issued a federal registration does not foreclose the Board’s consideration of these issues or limit the scope of discoverable information in this proceeding.

Finally, in at least one case, Opposer refuses to produce relevant information that he knows to exist. Interrogatory No. 18 seeks the identity of “Persons involved in the selection and adoption of GOOGABOX.” Ball Decl. Ex. 1, Rog. No. 18. Opposer admits that such a person exists, but he refuses to identify the person. *See id.* at Ex. 11, at April 29, 2013, 8:28am. Instead, Opposer asserts the bare objection that the interrogatory is “repetitive” even though he has not previously identified the person. *Id.* Ex. 4, Rog. Resp. No. 18.

Because Opposer has not and cannot substantiate these objections, they should be overruled.

**E. Opposer Must Amend His Discovery Responses to Disclose Whether He is Withholding Responsive Documents**

Opposer has refused to amend his responses to state whether or not there are responsive documents and, if there are responsive documents, whether Opposer will produce or withhold

them on a claim of privilege, as required by TBMP 406.04(c).<sup>13</sup> Instead, he's left Google in a black box wondering both whether Opposer has any documents responsive to Google's Discovery and when Opposer will produce any responsive documents. Google respectfully requests that the Board order Opposer to serve amended responses confirming that either Opposer will produce responsive documents, or that no responsive documents exist.

#### **IV. CONCLUSION**

For the reasons set forth above, Google respectfully requests that the Board order Opposer to: (1) provide full and complete responses to Interrogatory Nos. 2-5, 7-8, 11-15, 18-19, 21-23, 25-27 and 29-30; (2) provide full and complete responses to Requests for Production Nos. 1-9 and 11-41 and produce responsive documents or confirm that no responsive documents exist; and (3) provide full and complete responses to Requests for Admission Nos. 1, 3-63, 65-81, 83-89 and 95, including specific admissions and denials.

Dated: July 2, 2013

By: /Eric J. Ball/

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<sup>13</sup> Opposer previously argued that providing basic information regarding the existence of documents is unduly burdensome. *See* Ball Decl. Ex. 12 (refusing to acknowledge whether or not Opposer possesses any surveys or studies relating to the GOOGABOX mark). But there is no burden to merely stating whether or not documents exist.

PROOF OF SERVICE

I declare that:

I am employed in the County of Santa Clara, California.

I am over the age of eighteen years and not a party to the within cause; my business address is Silicon Valley Center, 801 California Street, Mountain View, California 94041. On the date indicated below, I served **Applicant Google Inc.'s Motion to Compel Further Responses from Opposer Andre Rossouw and to Determine the Sufficiency of Objections** on the interested parties in said cause, by e-mailing a true copy thereof as indicated below, addressed as follows:

Andre Rossouw  
[andreross2000@yahoo.com](mailto:andreross2000@yahoo.com)  
[admin@gogobox.com](mailto:admin@gogobox.com)

- BY US MAIL:** by placing the document(s) listed above in a sealed envelope for collection and mailing following our ordinary business practices. I am readily familiar with our ordinary business practices for collecting and processing mail for the United States Postal Service, and mail that I place for collection and processing is regularly deposited with the United States Postal Service that same day with postage prepaid.
- BY E-MAIL:** by mutual agreement between the parties, causing to be transmitted via e-mail the document(s) listed above to the addressee(s) at the e-mail address(es) listed above.
- BY PERSONAL DELIVERY:** by causing to be personally delivered the document(s) listed above to the addressee(s) at the address(es) set forth above.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed at Mountain View, California, this 2nd day of July, 2013.

\_\_\_\_\_  
/Eric J. Ball/  
Eric J. Ball

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

In the matter of Trademark Application No. 85358119

Mark: GOOGLE+

Filed: June 28, 2011

ANDRE ROSSOUW,

Opposer,

v.

GOOGLE INC.,

Applicant

Opposition No. 91203541

**DECLARATION OF ERIC J. BALL IN SUPPORT OF APPLICANT GOOGLE INC.'S  
MOTION TO COMPEL FURTHER RESPONSES FROM OPPOSER ANDRE  
ROSSOUW AND TO DETERMINE THE SUFFICIENCY OF OBJECTIONS**

I, Eric J. Ball, declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am an attorney with the law firm of Fenwick & West LLP, counsel for Applicant Google Inc. I make this Declaration in support of Applicant Google Inc.'s Motion to Compel Further Responses from Opposer Andre Rossouw and to Determine the Sufficiency of Objections. I have personal knowledge of the facts stated in this Declaration and, if called as a witness, could and would testify competently thereto.

2. On January 25, 2013, I served Google's First Set of Interrogatories, First Set of Requests for Production of Documents and First Set of Requests for Admission on Opposer (collectively, the "Discovery"). Attached as **Exhibit 1** is a true and correct copy of Google's First Set of Interrogatories to Opposer Andre Rossouw. Attached as **Exhibit 2** is a true and correct copy of Google's First Set of Requests for Production of Documents to Opposer Andre Rossouw. Attached as **Exhibit 3** is a true and correct copy of Google's First Set of Requests for Admission to Opposer Andre Rossouw.

3. On February 26, 2013, Opposer served his objections and responses to the Discovery, the proofs of service attached thereto identified the date of service as February 25, 2013. Attached as **Exhibit 4** is a true and correct copy of Opposer's Response to Applicant's Interrogatories. Attached as **Exhibit 5** is a true and correct copy of Opposer's Response to Google Inc.'s First Set of Requests for Production of Documents. Attached as **Exhibit 6** is a true and correct copy of Opposer's Response to First Set of Requests for Admission by Applicant Google Inc.

4. On April 22, 2013, Opposer served a "Record of Discovery Conference" that purported to amend certain discovery responses. Attached as **Exhibit 7** is a true and correct copy of the Record of Discovery Conference.

5. On May 27, 2013, Opposer served "Opposer's Amended Response to Applicant's Initial Interrogatories and Request for Admissions Following Meet and Confer" and "Opposer's

Amended Response to Applicant’s Initial Request for Production of Documents Following Meet and Confer.” Although Opposer served these amended responses by email on May 27, 2013, he dated them May 28, 2013. Attached as **Exhibit 8** is a true and correct copy of “Opposer’s Amended Response to Applicant’s Initial Interrogatories and Request for Admissions Following Meet and Confer.” Attached as **Exhibit 9** is a true and correct copy of “Opposer’s Amended Response to Applicant’s Initial Request for Production of Documents following meet and Confer.”

6. On June 6, 2013, Opposer served a single document titled “Amended Revised Responses to Applicant’s Interrogatories and Admissions” that purported to amend or revise Opposer’s responses to the Discovery. Attached as **Exhibit 10** is a true and correct copy of Opposer’s Amended Revised Responses to Applicant’s Interrogatories and Admissions.

7. Beginning no later than April 17, 2013, the parties met and conferred regarding Opposer’s responses to the Discovery on a regular basis. These meet and confer efforts included no fewer than five telephone conferences in which the parties attempted to resolve the deficiencies in Opposer’s responses. Counsel for Google has made a good faith effort, through conference and correspondence with Opposer, to resolve the issues in Google’s Motion to Compel Further Responses from Opposer Andre Rossouw and to Determine the Sufficiency of Objections. Counsel for Google and Opposer have been unable to reach an agreement on Opposer’s discovery responses. Attached as **Exhibit 11** is a true and correct copy of an email string, dated April 22, 2013 to June 6, 2013, between the parties, summarizing the meet and confer efforts, including the various telephone conferences.

8. On June 12, 2013, Opposer sent me an email regarding, among other things, Google’s request that Opposer produce all documents relating to any surveys regarding the GOOGABOX mark. Therein, Opposer refused to confirm whether or not such documents existed. Attached as **Exhibit 12** is a true and correct copy of this email string.

9. On April 29, 2013, Opposer served Google with its First Set of Requests for

Admissions. Attached as **Exhibit 13** is a true and correct copy of these requests.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 2nd day of July, 2013, at Mountain View, California.

/Eric J. Ball/

Eric J. Ball

eball@fenwick.com

Fenwick & West LLP

Silicon Valley Center

801 California Street

Mountain View, CA 94041

trademarks@fenwick.com

Telephone: 650.988.8500

Facsimile: 650.938.5200

PROOF OF SERVICE

I declare that:

I am employed in the County of Santa Clara, California.

I am over the age of eighteen years and not a party to the within cause; my business address is Silicon Valley Center, 801 California Street, Mountain View, California 94041. On the date indicated below, I served the **DECLARATION OF ERIC J. BALL IN SUPPORT OF APPLICANT GOOGLE INC.'S MOTION TO COMPEL FURTHER RESPONSES FROM OPPOSER ANDRE ROSSOUW AND TO DETERMINE THE SUFFICIENCY OF OBJECTIONS** on the interested parties in said cause, by e-mailing a true copy thereof as indicated below, addressed as follows:

Andre Rossouw  
[andreross2000@yahoo.com](mailto:andreross2000@yahoo.com)  
[admin@gogabox.com](mailto:admin@gogabox.com)

- BY US MAIL:** by placing the document(s) listed above in a sealed envelope for collection and mailing following our ordinary business practices. I am readily familiar with our ordinary business practices for collecting and processing mail for the United States Postal Service, and mail that I place for collection and processing is regularly deposited with the United States Postal Service that same day with postage prepaid.
- BY E-MAIL:** by mutual agreement between the parties, causing to be transmitted via e-mail the document(s) listed above to the addressee(s) at the e-mail address(es) listed above.
- BY PERSONAL DELIVERY:** by causing to be personally delivered the document(s) listed above to the addressee(s) at the address(es) set forth above.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed at Mountain View, California, this 2nd day of July, 2013.

\_\_\_\_\_  
/Eric J. Ball/  
Eric J. Ball

# **EXHIBIT 1**

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

In the matter of Trademark Application No. 85358119  
Mark: GOOGLE+

ANDRE ROSSOUW,

Opposer,

v.

GOOGLE INC.,

Applicant

Opposition No. 91203541

**APPLICANT GOOGLE INC.'S FIRST SET OF INTERROGATORIES  
TO OPPOSER ANDRE ROSSOUW**

PROPOUNDING PARTY: APPLICANT, GOOGLE INC.  
RESPONDING PARTY: OPPOSER, ANDRE ROSSOUW  
SET NO.: ONE (1)

Pursuant to Federal Rule of Civil Procedure (FRCP) 33 and Rule 2.120 of the Trademark Rules of Practice, Google Inc. (“Google”) requests that Andre Rossouw (“You” or “Your”) answer separately and fully in writing, under oath, the following interrogatories within thirty (30) days of the date of service:

**DEFINITIONS AND INSTRUCTIONS**

The following terms, as used herein, have the following meanings:

1. “You” or “Your” means the named Opposer, Andre Rossouw, Googabox World, Inc., Googabox World International and/or any corporate name under which you are doing or have done business, and Andre Rossouw’s, Googabox World, Inc.’s, and Googabox World International’s predecessors, successors, affiliates, officers, employees, agents, and attorneys.
2. “Google” means Applicant, Google Inc.
3. “Person” or “Persons” includes, but is not limited to, any natural persons, companies, corporations, sole proprietorships, governmental entities, partnerships, associations, banks and other financial institutions, and all other entities similar to those listed above.
4. “Mark” means any word, name, symbol, design, shape, number, slogan, or device, or any combination thereof, that is used by a Person to identify and distinguish the Person’s services from the services of others.
5. “GOOGABOX” means Your Mark as used or intended to be used by You in connection with Your Services, including as set forth in U.S. Trademark Application Serial No. 77270033.
6. “Your Services” refers to any and all services that You have advertised, marketed, offered for sale, distributed, rendered, or otherwise caused to be provided or that You intend to

advertise, market, offer for sale, distribute, render, or otherwise cause to be provided in connection with GOOGABOX.

7. “GOOGLE” means Google’s Mark as used by Google or for which Google has publicly announced the intention to use in connection with Google’s Services, including as set forth in U.S. Trademark Registration Nos. 2,806,075; 2,884,502; 2,954,071; 3,140,793; 3,570,103; 4,016,470; 3,979,983; 3,962,604; 3,990,185; 4,058,966; 4,168,118; 4,123,471; 4,202,570; 4,120,012; 4,263,233; 4,115,005; 4,159,084; and 3,725,612 and U.S. Trademark Registration Application Nos. 78,698,285; 78,941,798; 85,475,520; and 85,463,547.

8. “GOOGLE+” means Google’s Mark as used by Google or for which Google has publicly announced the intention to use in connection with Google’s Services, including as set forth in U.S. Trademark Application No. 85358119.

9. “Google’s Services” refers to any and all services that Google has advertised, marketed, offered for sale, distributed, rendered, or otherwise caused to be provided or that Google has publicly announced the intention to advertise, market, offer for sale, distribute, render, or otherwise cause to be provided under or in connection with GOOGLE or GOOGLE+.

10. “Document” is defined to be synonymous in meaning and equal in scope to the usage of this term in FRCP 34(a). A draft or non-identical copy is a separate document within the meaning of this term.

11. “Identify,” “identification,” “describe,” or “description” means that:

(A) Where you are asked to identify or describe a natural person, you shall state his or her full name, age, present or last known home and business addresses and telephone numbers and email address, present or last known employer, position or title with his or her employer, his or her relationship with You, and any other available contact information;

(B) Where You are asked to identify or describe a corporation, company, business, joint venture, partnership, or other business entity, You are to state its name, its

relationship to You, its last known address, the nature of its business, the name of its last known chief executive officer, and whether or not it is still transacting business;

(C) Where You are asked to identify or describe an oral communication, You shall state the date of the communication, the type of communication (telephone conversation, meeting, etc.), whether any written documents were created during or as a result of the communication, the place where the communication took place, the identity of the person who made the communication, the identity of each person who received the communication, the identity of each person present when it was made, and the subject matter discussed;

(D) Where You are asked to identify or describe a document or written communication, You shall specifically designate the type of document (*e.g.*, letter, inter-office memorandum, report, drawing, technical report, proposal, etc.) and shall state information sufficient to enable Google to identify the document, such as its date, names of addressees, names of authors or signatories, title or heading, number of pages, the identities and addresses of any persons to whom copies were sent, and the present or last known possessor of the original of the document (or, if You are aware that the communication has been lost or destroyed, You shall so state and shall provide the names of the Persons who lost or destroyed the document and the reasons for and circumstances of such loss or destruction);

(E) Where You are asked to identify or describe a trademark or trademark application or registration, or a service mark or service mark application or registration, You shall state its country or state, application number and registration number, its date of first use in that country or state and the goods or services on or in connection with which it was first used and subsequently has been used, the identity of all past and present trademark or service mark owners, the identity of any United States counterpart application or registration and the date of first use in the United States and the goods on which or the services in connection with which it was first used and subsequently has been used in the United States;

(F) Where You are asked to identify or describe a service, You shall state the

nature of the service and the goods in connection with which it is to be provided, to whom and where it is to be provided, by whom it is to be provided, and the service mark or other designation used by the party to distinguish it from the services of others.

12. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the interrogatory all responses that might otherwise be construed to be outside of its scope.

13. The use of the singular form of any word includes the plural and vice versa.

14. If your response to a particular interrogatory is a statement that you lack the ability to understand a word or phrase in the interrogatory, please use the common and reasonable interpretation of the word or phrase and explain your interpretation of the word or phrase.

15. In answering the following interrogatories, You shall furnish all information which is available to You, after reasonable inquiry, including information in the custody, control, or possession of Your agents, employees, officers, directors, attorneys, investigators, consultants, experts, and all other persons acting on Your behalf, and not merely such information known of Your personal knowledge.

16. If any of the following Interrogatories cannot be answered fully and completely after You have made reasonable inquiries of Your agents, employees, officers, directors, attorneys, investigators, consultants, experts, and others acting on Your behalf, answer such Interrogatories to the fullest extent possible, specifying the reasons for Your inability to answer the remainder of such Interrogatories, and stating whatever information or knowledge You possess concerning the unanswered portions thereof. Also, where you cannot answer the Interrogatory fully, please provide Your best estimate, explain that it is an estimate, and describe the basis upon which the estimate is made.

17. To the extent permitted and authorized by law, these Interrogatories shall be deemed continuing so as to require further and supplemental responses and production if You

obtain additional documents between the time of initial production and the time of hearing or trial.

## **INTERROGATORIES**

### **INTERROGATORY NO. 1:**

Identify the location of each place of business owned or controlled in whole or in part by You, including without limitation Googabox World, Inc. and Googabox World International, and describe the nature of the business conducted, and the number of Persons employed at each location.

### **INTERROGATORY NO. 2:**

Describe in detail any ownership interest, including without limitation any license interest, that Googabox World, Inc. has or has had in GOOGABOX, including without limitation the time period of such ownership interest, how it arose, and when, if at all, the ownership interest ended.

### **INTERROGATORY NO. 3:**

Describe in detail any ownership interest, including without limitation any license interest, that Googabox World International has or has had in GOOGABOX, including without limitation the time period of such ownership interest, how it arose, and when, if at all, the ownership interest ended.

### **INTERROGATORY NO. 4:**

Identify all Persons who have ever been an owner, assignee, holder of a security interest in or licensee of GOOGABOX and, separately for each Person, describe in detail how and when such proprietary interest was acquired, transferred, or licensed; the consideration received or paid for such acquisition, transfer, or license; and identify each document related to such acquisition, transfer, or license.

**INTERROGATORY NO. 5:**

Describe in detail what a social networking service is, including all features comprising a social network.

**INTERROGATORY NO. 6:**

Identify and describe in detail Your Services, including without limitation each service You have used or intend to use with GOOGABOX.

**INTERROGATORY NO. 7:**

Describe in detail how GOOGABOX is or will be used in connection with, or in promotion of Your Services.

**INTERROGATORY NO. 8:**

State the time period, including the date of first use, that GOOGABOX has been used in connection with Your Services anywhere in the United States.

**INTERROGATORY NO. 9:**

Describe in detail, including the time period, any changes in Your Services that have occurred at any time since the You first provided Your Services.

**INTERROGATORY NO. 10:**

Describe in detail how, if at all, You comply with California Business and Professions Code §§ 225475-22579, including without limitation when Your privacy policy first complied with California Business and Professions Code §§ 225475-22579.

**INTERROGATORY NO. 11:**

Identify all current or prospective segments of customers of Your Services.

**INTERROGATORY NO. 12:**

Identify all services that compete or would compete with Your Services, including all providers of such services.

**INTERROGATORY NO. 13:**

Identify the exact or approximate fee or sales price, or the intended fee or sales price for Your Services.

**INTERROGATORY NO. 14:**

Identify and describe in detail all advertising, marketing, and promotional activities in which You have engaged for Your Services, including without limitation attendance at trade shows or seminars, print, radio or television advertising, or advertising or promotion on the Internet.

**INTERROGATORY NO. 15:**

Identify and describe in detail Your total expenditures on marketing, advertising, and promotion for Your Services.

**INTERROGATORY NO. 16:**

Identify and describe in detail the sales volume for Your Services, including without limitation the number of visitors to the [www.googabox.com](http://www.googabox.com) website, the number of active users of Your Services and the number of total users of Your Services.

**INTERROGATORY NO. 17:**

Describe in detail GOOGABOX, including the look, sound and meaning of the mark.

**INTERROGATORY NO. 18:**

Describe in detail the facts relating to Your selection and adoption of GOOGABOX, including without limitation the reason the mark was selected to identify Your Services (*e.g.*, the impression You sought to convey to consumers with GOOGABOX), the reason You selected the color and font of GOOGABOX, and the Persons involved in the selection and adoption of GOOGABOX.

**INTERROGATORY NO. 19:**

Identify and describe in detail the Persons involved in the “workforce” that developed GOOGABOX, as described in Your March 10, 2012 filing in this action, including without

limitation how each Person contributed to the development of GOOGABOX.

**INTERROGATORY NO. 20:**

Describe in detail all facts relating to the fame or strength of the GOOGABOX mark.

**INTERROGATORY NO. 21:**

Describe in detail when and under what circumstances You first learned of Google and Google's use or intended use of GOOGLE, GOOGLE+ and/or Google's Services.

**INTERROGATORY NO. 22:**

Describe in detail Your current, past or planned use of Google's Services, including without limitation "Google+", "Google Buzz", "Google Wave", "Google Latitude"; "Google Groups"; "Google's Orkut social network", "AdWords," "AdSense," "Gmail," "Google Maps" and "Google Search."

**INTERROGATORY NO. 23:**

Describe in detail any opinions, legal or otherwise, regarding the alleged likelihood of confusion between GOOGABOX and GOOGLE+, including without limitation the source of the opinion and all facts supporting the opinion.

**INTERROGATORY NO. 24:**

Describe in detail any survey, legal or otherwise, regarding the alleged likelihood of confusion between GOOGABOX and GOOGLE+, including without limitation all facts supporting the survey such as who conducted the survey, the location of the survey, how the survey questions were asked, and how the survey respondents were selected.

**INTERROGATORY NO. 25:**

Describe in detail each instance of actual or potential confusion, mistake, or deception of any Person(s) as to the source, origin, or sponsorship of GOOGABOX or Your Services, including without limitation any actual or potential confusion, mistake, or deception as to Your affiliation, connection, or association with Google, GOOGLE, GOOGLE+ and/or Google's Services.

**INTERROGATORY NO. 26:**

Describe in detail any basis for Your contention that the GOOGABOX and GOOGLE marks are not confusingly similar, including without limitation all legal theories and doctrines and all facts regarding Your contention.

**INTERROGATORY NO. 27:**

Describe each instance in which any Person has challenged, objected to, or questioned GOOGABOX and/or Your right or authority to use such mark, including without limitation the manner or forum in which the challenge, objection, or question was raised and/or resolved.

**INTERROGATORY NO. 28:**

Describe in detail any basis for Your denial of Google's Affirmative Defenses, including without limitation all legal theories and doctrines and all facts regarding Your denial.

**INTERROGATORY NO. 29:**

Identify each Person who supplied documents, assisted, provided information, or was consulted by You regarding Your answers to any of these Interrogatories, and, separately for each such person, specify the interrogatory number(s) for which assistance, information, or consultation was provided.

**INTERROGATORY NO. 30:**

If Your response to any of the Requests for Admissions contained in Google's First Set of Requests for Admission is anything other than an unqualified admission, for each such response, state all facts on which You base Your denial or the qualification of Your admission to the request.

Dated: January 25, 2013

By:   
Eric Ball  
eball@fenwick.com  
Fenwick & West LLP  
Silicon Valley Center  
801 California Street  
Mountain View, CA 94041  
trademarks@fenwick.com  
Telephone: 650.988.8500  
Facsimile: 650.938.5200

PROOF OF SERVICE

I declare that:

I am employed in the County of Santa Clara, California.

I am over the age of eighteen years and not a party to the within cause; my business address is Silicon Valley Center, 801 California Street, Mountain View, California 94041. On the date indicated below, I served **Applicant Google Inc.'s First Set of Interrogatories to Opposer Andre Rossouw** on the interested parties in said cause, by e-mailing a true copy thereof as indicated below, addressed as follows:

Andre Rossouw  
andross2000@yahoo.com

- BY US MAIL:** by placing the document(s) listed above in a sealed envelope for collection and mailing following our ordinary business practices. I am readily familiar with our ordinary business practices for collecting and processing mail for the United States Postal Service, and mail that I place for collection and processing is regularly deposited with the United States Postal Service that same day with postage prepaid.
- BY E-MAIL:** by mutual agreement between the parties, causing to be transmitted via e-mail the document(s) listed above to the addressee(s) at the e-mail address(es) listed above.
- BY PERSONAL DELIVERY:** by causing to be personally delivered the document(s) listed above to the addressee(s) at the address(es) set forth above.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed at Mountain View, California, this 25th day of January, 2013.



---

Eric Ball

# **EXHIBIT 2**

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

In the matter of Trademark Application No. 85358119  
Mark: GOOGLE+

ANDRE ROSSOUW,

Opposer,

v.

GOOGLE INC.,

Applicant

Opposition No. 91203541

**APPLICANT GOOGLE INC.'S FIRST SET OF REQUESTS FOR PRODUCTION  
OF DOCUMENTS TO OPPOSER ANDRE ROSSOUW**

PROPOUNDING PARTY: APPLICANT, GOOGLE INC.  
RESPONDING PARTY: OPPOSER, ANDRE ROSSOUW  
SET NO.: ONE (1)

Pursuant to Federal Rule of Civil Procedure (FRCP) 34 and Rule 2.120 of the Trademark Rules of Practice, Google Inc. (“Google”) requests that Andre Rossouw (“You” or “Your”) produce and permit the inspection and copying of the following documents and things at the offices of Fenwick & West LLP, Silicon Valley Center, 801 California Street, Mountain View, CA 94041, within thirty (30) days of the date of service:

**DEFINITIONS AND INSTRUCTIONS**

The following terms, as used herein, have the following meanings:

1. “You” or “Your” means the named Opposer, Andre Rossouw, Googabox World, Inc., Googabox World International and/or any corporate name under which you are doing or have done business, and Andre Rossouw’s, Googabox World, Inc.’s, and Googabox World International’s predecessors, successors, affiliates, officers, employees, agents, and attorneys.
2. “Google” means Applicant, Google Inc.
3. “Person” or “Persons” includes, but is not limited to, any natural persons, companies, corporations, sole proprietorships, governmental entities, partnerships, associations, banks and other financial institutions, and all other entities similar to those listed above.
4. “Mark” means any word, name, symbol, design, shape, number, slogan, or device, or any combination thereof, that is used by a Person to identify and distinguish the Person’s services from the services of others.
5. “GOOGABOX” means Your Mark as used or intended to be used by You in connection with Your Services, including as set forth in U.S. Trademark Application Serial No. 77270033.
6. “Your Services” refers to any and all services that You have advertised, marketed, offered for sale, distributed, rendered, or otherwise caused to be provided or that You intend to

advertise, market, offer for sale, distribute, render, or otherwise cause to be provided in connection with GOOGABOX.

7. “GOOGLE” means Google’s Mark as used by Google or for which Google has publicly announced the intention to use in connection with Google’s Services, including as set forth in U.S. Trademark Registration Nos. 2,806,075; 2,884,502; 2,954,071; 3,140,793; 3,570,103; 4,016,470; 3,979,983; 3,962,604; 3,990,185; 4,058,966; 4,168,118; 4,123,471; 4,202,570; 4,120,012; 4,263,233; 4,115,005; 4,159,084; and 3,725,612 and U.S. Trademark Registration Application Nos. 78,698,285; 78,941,798; 85,475,520; and 85,463,547.

8. “GOOGLE+” means Google’s Mark as used by Google or for which Google has publicly announced the intention to use in connection with Google’s Services, including as set forth in U.S. Trademark Application No. 85358119.

9. “Google’s Services” refers to any and all services that Google has advertised, marketed, offered for sale, distributed, rendered, or otherwise caused to be provided or that Google has publicly announced the intention to advertise, market, offer for sale, distribute, render, or otherwise cause to be provided under or in connection with GOOGLE or GOOGLE+.

10. “Document” is defined to be synonymous in meaning and equal in scope to the usage of this term in FRCP 34(a). A draft or non-identical copy is a separate document within the meaning of this term.

11. “All documents” shall be construed as any and all documents that might reasonably be located through a search of all locations reasonably likely to contain documents called for by these Requests.

12. “Relate to,” “relating to,” “refer to,” “referring to” and “regarding” any given subject matter shall mean, without limitation, any document that, in whole or in part, constitutes, comprises, contains, reflects, identifies, concerns, or is in any other way relevant to the particular subject matter identified.

13. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the document request all responses that might otherwise be construed to be outside of its scope.

14. The use of the singular form of any word includes the plural and vice versa.

15. If your response to a particular request is a statement that you lack the ability to understand a word or phrase in the request, please use the common and reasonable interpretation of the word or phrase and explain your interpretation of the word or phrase.

16. To the extent permitted and authorized by law, these Requests for Production shall be deemed continuing so as to require further and supplemental responses and production if You obtain additional documents between the time of initial production and the time of hearing or trial.

## **REQUESTS FOR PRODUCTION**

### **REQUEST FOR PRODUCTION NO. 1:**

All documents which refer or relate to U.S. Trademark Application Serial No. 77270033.

### **REQUEST FOR PRODUCTION NO. 2:**

Documents sufficient to show the first use of GOOGABOX in the United States on or in connection with the sale or provision of each of Your Services.

### **REQUEST FOR PRODUCTION NO. 3:**

Documents sufficient to identify each of Your Services offered or intended to be offered in connection with GOOGABOX.

### **REQUEST FOR PRODUCTION NO. 4:**

Documents sufficient to show the manner and extent of any actual or intended use by You of GOOGABOX.

### **REQUEST FOR PRODUCTION NO. 5:**

Documents sufficient to show all websites You own that reference GOOGABOX,

including without limitation screen shots, mock-ups or samples of any such websites, including any iterations or modifications of such websites.

**REQUEST FOR PRODUCTION NO. 6:**

Documents sufficient to show continued use of GOOABOX since 2007.

**REQUEST FOR PRODUCTION NO. 7:**

Documents sufficient to show any changes to Your use of GOOGABOX since 2007, including any changes to Your Services.

**REQUEST FOR PRODUCTION NO. 8:**

All documents relating to Your plans, if any, to expand, curtail, suspend or discontinue the use of GOOGABOX for Your Services.

**REQUEST FOR PRODUCTION NO. 9:**

Representative samples of marketing, promotional, or advertising materials displaying or referencing GOOGABOX.

**REQUEST FOR PRODUCTION NO. 10:**

Documents sufficient to show each version of any privacy policy used in connection with Your Services.

**REQUEST FOR PRODUCTION NO. 11:**

Documents sufficient to identify all segments of customers to which You have or intend to market, sell, offer to sell, or provide Your Services.

**REQUEST FOR PRODUCTION NO. 12:**

Documents sufficient to show communications or solicitations relating to Your offer for sale, distribution, or use of Your Services.

**REQUEST FOR PRODUCTION NO. 13:**

Documents sufficient to show the products, services or technologies that compete with Your Services.

**REQUEST FOR PRODUCTION NO. 14:**

All documents relating to the creation, selection, and adoption by You of GOOGABOX.

**REQUEST FOR PRODUCTION NO. 15:**

Documents sufficient to show the “workforce” that developed GOOGABOX, as described in Your March 10, 2012 filing in this action.

**REQUEST FOR PRODUCTION NO. 16:**

All documents relating to the “workforce’s” contribution to the development of GOOGABOX.

**REQUEST FOR PRODUCTION NO. 17:**

Documents sufficient to show the number of visitors to the [www.googabox.com](http://www.googabox.com) website by month since 2007.

**REQUEST FOR PRODUCTION NO. 18:**

Documents sufficient to show the number of active users and total users of Your Services.

**REQUEST FOR PRODUCTION NO. 19:**

All documents relating to surveys or studies relating to GOOGABOX, including without limitation, marketing, purchasing, and brand awareness studies, conducted by or on behalf of You to determine the familiarity of the public with Your Services.

**REQUEST FOR PRODUCTION NO. 20:**

If You contend that GOOGABOX has acquired fame, all documents relating to or reflecting the fame of GOOGABOX.

**REQUEST FOR PRODUCTION NO. 21:**

All documents that refer or relate to the formation and dissolution of Googabox World, Inc.

**REQUEST FOR PRODUCTION NO. 22:**

All documents that refer or relate Googabox World, Inc.’s ownership of or right to use

GOOGABOX.

**REQUEST FOR PRODUCTION NO. 23:**

All documents that refer or relate to the formation and dissolution of Googabox World International.

**REQUEST FOR PRODUCTION NO. 24:**

All documents that refer or relate Googabox World International's ownership of or right to use GOOGABOX.

**REQUEST FOR PRODUCTION NO. 25:**

All documents that refer or relate to the ownership interest, assignment interest, security interest, license or other interest held in GOOGABOX.

**REQUEST FOR PRODUCTION NO. 26:**

All documents that refer to or reflect consumer confusion between Your use of GOOGABOX and any other Person's use or intended use of any other mark or trade name, including without limitation Google's use or intended use of GOOGLE+.

**REQUEST FOR PRODUCTION NO. 27:**

All documents supporting or relating to Your contention that there is no likelihood of confusion between the GOOGLE and GOOGABOX marks.

**REQUEST FOR PRODUCTION NO. 28:**

All documents relating to any consumers or potential consumers traveling to the [www.googabox.com](http://www.googabox.com) website by mistake.

**REQUEST FOR PRODUCTION NO. 29:**

All documents relating to any studies, evaluations or surveys relating to the alleged likelihood of confusion between GOOGABOX and GOOGLE+.

**REQUEST FOR PRODUCTION NO. 30:**

All documents relating to any studies, evaluations or surveys relating to any likelihood of confusion between GOOGABOX and GOOGLE.

**REQUEST FOR PRODUCTION NO. 31:**

All documents that refer or relate to Google, GOOGLE, GOOGLE+ or Google's Services, including without limitation Your first awareness of Google, GOOGLE, GOOGLE+ or Google's Services.

**REQUEST FOR PRODUCTION NO. 32:**

All documents that refer or relate to Your knowledge of Google, GOOGLE, GOOGLE+ or Google's Services prior to Your adoption of GOOGABOX.

**REQUEST FOR PRODUCTION NO. 33:**

All documents that refer or relate to Your use or intent to use Google's Services, including without limitation "Google+", "Google Buzz", "Google Wave", "Google Latitude"; "Google Groups"; "Google's Orkut social network", "AdWords," "AdSense," "Gmail," "Google Maps" and "Google Search."

**REQUEST FOR PRODUCTION NO. 34:**

All proposals or communications to potential investors relating to the business conducted or intended to be conducted in connection with GOOGABOX.

**REQUEST FOR PRODUCTION NO. 35:**

Documents sufficient to show the pricing or price points of Your Services.

**REQUEST FOR PRODUCTION NO. 36:**

All documents relating to Your claim to the exclusive use of a GOOG-formative mark.

**REQUEST FOR PRODUCTION NO. 37:**

All documents relating to or reflecting the use or planned use by any third party of any mark or name incorporating the letters "GOOG" as a component thereof, including without limitation any claim, demand or objection You made against the use by the third party.

**REQUEST FOR PRODUCTION NO. 38:**

All documents relating to or reflecting Your policing of, monitoring of, or protecting Your alleged rights in GOOGABOX.

**REQUEST FOR PRODUCTION NO. 39:**

All documents which refer or relate to any letters of protest filed by You relating to any trademark applications, including U.S. Trademark Application No. 85358119.

**REQUEST FOR PRODUCTION NO. 40:**

All documents which refer or relate to the opinions, advice, reports, studies, facts, information, or the like of any Persons contacted by or on behalf of You as experts or advisors in any capacity in connection with this opposition.

**REQUEST FOR PRODUCTION NO. 41:**

All documents supporting or relating to Your denial of Google's Affirmative Defenses.

**REQUEST FOR PRODUCTION NO. 42:**

All documents identified, or asked to be identified in, or supporting Your answer to Google's First Set of Interrogatories.

**REQUEST FOR PRODUCTION NO. 43:**

All documents identified, or asked to be identified in, or supporting Your answer to Google's First Set of Requests for Admissions.

**REQUEST FOR PRODUCTION NO. 44:**

All documents upon which You intend to rely in this opposition.

Dated: January 25, 2013

By: \_\_\_\_\_

  
Eric Ball  
eball@fenwick.com  
Fenwick & West LLP  
Silicon Valley Center  
801 California Street  
Mountain View, CA 94041  
trademarks@fenwick.com  
Telephone: 650.988.8500  
Facsimile: 650.938.5200

PROOF OF SERVICE

I declare that:

I am employed in the County of Santa Clara, California.

I am over the age of eighteen years and not a party to the within cause; my business address is Silicon Valley Center, 801 California Street, Mountain View, California 94041. On the date indicated below, I served **Applicant Google Inc.'s First Set of Requests for Production of Documents to Opposer Andre Rossouw** on the interested parties in said cause, by e-mailing a true copy thereof as indicated below, addressed as follows:

Andre Rossouw  
andross2000@yahoo.com

- BY US MAIL:** by placing the document(s) listed above in a sealed envelope for collection and mailing following our ordinary business practices. I am readily familiar with our ordinary business practices for collecting and processing mail for the United States Postal Service, and mail that I place for collection and processing is regularly deposited with the United States Postal Service that same day with postage prepaid.
- BY E-MAIL:** by mutual agreement between the parties, causing to be transmitted via e-mail the document(s) listed above to the addressee(s) at the e-mail address(es) listed above.
- BY PERSONAL DELIVERY:** by causing to be personally delivered the document(s) listed above to the addressee(s) at the address(es) set forth above.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed at Mountain View, California, this 25th day of January, 2013.



\_\_\_\_\_  
Eric Ball

# **EXHIBIT 3**

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

In the matter of Trademark Application No. 85358119  
Mark: GOOGLE+

ANDRE ROSSOUW,

Opposer,

v.

GOOGLE INC.,

Applicant

Opposition No. 91203541

**APPLICANT GOOGLE INC.'S FIRST SET OF REQUESTS FOR ADMISSION  
TO OPPOSER ANDRE ROSSOUW**

PROPOUNDING PARTY: APPLICANT, GOOGLE INC.  
RESPONDING PARTY: OPPOSER, ANDRE ROSSOUW  
SET NO.: ONE (1)

Pursuant to Federal Rule of Civil Procedure (FRCP) 36 and Rule 2.120 of the Trademark Rules of Practice, Google Inc. (“Google”) requests that Andre Rossouw (“You” or “Your”) answer separately and fully in writing the following requests for admission within thirty (30) days of the date of service:

**DEFINITIONS AND INSTRUCTIONS**

The following terms, as used herein, have the following meanings:

1. “You” or “Your” means the named Opposer, Andre Rossouw, Googabox World, Inc., Googabox World International and/or any corporate name under which you are doing or have done business, and Andre Rossouw’s, Googabox World, Inc.’s, and Googabox World International’s predecessors, successors, affiliates, officers, employees, agents, and attorneys.
2. “Google” means Applicant, Google Inc.
3. “Person” or “Persons” includes, but is not limited to, any natural persons, companies, corporations, sole proprietorships, governmental entities, partnerships, associations, banks and other financial institutions, and all other entities similar to those listed above.
4. “Mark” means any word, name, symbol, design, shape, number, slogan, or device, or any combination thereof, that is used by a Person to identify and distinguish the Person’s services from the services of others.
5. “GOOGABOX” means Your Mark as used or intended to be used by You in connection with Your Services, including as set forth in U.S. Trademark Application Serial No. 77270033.
6. “Your Services” refers to any and all services that You have advertised, marketed, offered for sale, distributed, rendered, or otherwise caused to be provided or that You intend to

advertise, market, offer for sale, distribute, render, or otherwise cause to be provided in connection with GOOGABOX.

7. “GOOGLE” means Google’s Mark as used by Google or for which Google has publicly announced the intention to use in connection with Google’s Services, including as set forth in U.S. Trademark Registration Nos. 2,806,075; 2,884,502; 2,954,071; 3,140,793; 3,570,103; 4,016,470; 3,979,983; 3,962,604; 3,990,185; 4,058,966; 4,168,118; 4,123,471; 4,202,570; 4,120,012; 4,263,233; 4,115,005; 4,159,084; and 3,725,612 and U.S. Trademark Registration Application Nos. 78,698,285; 78,941,798; 85,475,520; and 85,463,547.

8. “GOOGLE+” means Google’s Mark as used by Google or for which Google has publicly announced the intention to use in connection with Google’s Services, including as set forth in U.S. Trademark Application No. 85358119.

9. “Google’s Services” refers to any and all services that Google has advertised, marketed, offered for sale, distributed, rendered, or otherwise caused to be provided or that Google has publicly announced the intention to advertise, market, offer for sale, distribute, render, or otherwise cause to be provided under or in connection with GOOGLE or GOOGLE+.

10. If your response to a particular request is a statement that you lack the ability to understand a word or phrase in the request, please use the common and reasonable interpretation of the word or phrase and explain your interpretation of the word or phrase.

11. To the extent permitted and authorized by law, these Requests for Admission shall be deemed continuing so as to require further and supplemental responses.

### **REQUESTS FOR ADMISSION**

#### **REQUEST FOR ADMISSION NO. 1:**

Admit that You did not create the GOOGLE mark.

**REQUEST FOR ADMISSION NO. 2:**

Admit that You did not create the GOOGLE+ mark.

**REQUEST FOR ADMISSION NO. 3:**

Admit that You were not the first to use a GOOG-formative mark.

**REQUEST FOR ADMISSION NO. 4:**

Admit that You do not have the exclusive right to use a GOOG-formative mark.

**REQUEST FOR ADMISSION NO. 5:**

Admit that You do not have the right to use a GOOGLE-formative mark.

**REQUEST FOR ADMISSION NO. 6:**

Admit that You do not have the right to use the GOOGLE+ mark.

**REQUEST FOR ADMISSION NO. 7:**

Admit that Google's use of the GOOGLE mark predates Your filing of U.S. Trademark Application Serial No. 77270033.

**REQUEST FOR ADMISSION NO. 8:**

Admit that Google's offering of social network services predates Your filing of U.S. Trademark Application Serial No. 77270033.

**REQUEST FOR ADMISSION NO. 9:**

Admit that Google's use of the GOOGLE mark predates Your use of the GOOGABOX mark.

**REQUEST FOR ADMISSION NO. 10:**

Admit that Google's rights in the GOOGLE mark predate Your claimed rights in the GOOGABOX mark.

**REQUEST FOR ADMISSION NO. 11:**

Admit that Google's offering of social network services predates Your use of the GOOGABOX mark.

**REQUEST FOR ADMISSION NO. 12:**

Admit that You were aware of Google before using the GOOGABOX mark.

**REQUEST FOR ADMISSION NO. 13:**

Admit that at the time You filed U.S. Trademark Application Serial No. 77270033, You were aware of Google.

**REQUEST FOR ADMISSION NO. 14:**

Admit that You were aware of the GOOGLE mark before using the GOOGABOX mark.

**REQUEST FOR ADMISSION NO. 15:**

Admit that at the time You filed U.S. Trademark Application Serial No. 77270033, You were aware of the GOOGLE mark.

**REQUEST FOR ADMISSION NO. 16:**

Admit that You were aware of Google's social network services before using GOOGABOX.

**REQUEST FOR ADMISSION NO. 17:**

Admit that at the time You filed U.S. Trademark Application Serial No. 77270033, You were aware of Google's social network services.

**REQUEST FOR ADMISSION NO. 18:**

Admit that You use Google's Services.

**REQUEST FOR ADMISSION NO. 19:**

Admit that You used Google's Services before filing U.S. Trademark Application Serial No. 77270033.

**REQUEST FOR ADMISSION NO. 20:**

Admit that You used Google's Services before using the GOOGABOX mark.

**REQUEST FOR ADMISSION NO. 21:**

Admit that You use Google's GOOGLE+ service.

**REQUEST FOR ADMISSION NO. 22:**

Admit that You use Google's GOOGLE+ service in connection with Your Services.

**REQUEST FOR ADMISSION NO. 23:**

Admit that You use Google's GOOGLE+ service in connection with Your Services on the following webpage: [www.googabox.com/index.php?do=/blog/19478/david-versus-goliath/](http://www.googabox.com/index.php?do=/blog/19478/david-versus-goliath/).

**REQUEST FOR ADMISSION NO. 24:**

Admit that Google offers a wide variety of goods and services.

**REQUEST FOR ADMISSION NO. 25:**

Admit that Google's Services can be used in connection with social networks.

**REQUEST FOR ADMISSION NO. 26:**

Admit that Google's Services were used in connection with social networks before 2007.

**REQUEST FOR ADMISSION NO. 27:**

Admit that Google Search can be used in connection with social networks.

**REQUEST FOR ADMISSION NO. 28:**

Admit that Google Search was used in connection with social networks before 2007.

**REQUEST FOR ADMISSION NO. 29:**

Admit that Google's Gmail service can be used in connection with social networks.

**REQUEST FOR ADMISSION NO. 30:**

Admit that Google Gmail service was used in connection with social networks before 2007.

**REQUEST FOR ADMISSION NO. 31:**

Admit that Google's Orkut service is a social network.

**REQUEST FOR ADMISSION NO. 32:**

Admit that Google offered its Orkut social network before 2007.

**REQUEST FOR ADMISSION NO. 33:**

Admit that blog posts are a form of social network services.

**REQUEST FOR ADMISSION NO. 34:**

Admit that Google offers services permitting a user to make a blog post.

**REQUEST FOR ADMISSION NO. 35:**

Admit that Google offered services permitting a user to make a blog post before 2007.

**REQUEST FOR ADMISSION NO. 36:**

Admit that video sharing is a form of social network services.

**REQUEST FOR ADMISSION NO. 37:**

Admit that Google offers video sharing services.

**REQUEST FOR ADMISSION NO. 38:**

Admit that Google offered video sharing services before 2007.

**REQUEST FOR ADMISSION NO. 39:**

Admit that online discussion groups are a form of social network services.

**REQUEST FOR ADMISSION NO. 40:**

Admit that Google offers online discussion groups.

**REQUEST FOR ADMISSION NO. 41:**

Admit that Google offered online discussion groups before 2007.

**REQUEST FOR ADMISSION NO. 42:**

Admit that Your Services are not sold or provided to the same customers as Google's Services.

**REQUEST FOR ADMISSION NO. 43:**

Admit that Your Services are sold or provided only to sophisticated customers.

**REQUEST FOR ADMISSION NO. 44:**

Admit that Your Services are not marketed to the same customers as Google's Services.

**REQUEST FOR ADMISSION NO. 45:**

Admit that the GOOGLE mark is famous.

**REQUEST FOR ADMISSION NO. 46:**

Admit that the GOOGLE mark is well-known.

**REQUEST FOR ADMISSION NO. 47:**

Admit that the GOOGABOX mark is not famous.

**REQUEST FOR ADMISSION NO. 48:**

Admit that the GOOGABOX mark is not well-known.

**REQUEST FOR ADMISSION NO. 49:**

Admit that the GOOGABOX mark contains only letters.

**REQUEST FOR ADMISSION NO. 50:**

Admit that the GOOGABOX mark does not contain symbols.

**REQUEST FOR ADMISSION NO. 51:**

Admit that the GOOGABOX mark does not contain the “+” symbol.

**REQUEST FOR ADMISSION NO. 52:**

Admit that the GOOGABOX mark does not contain the letter string P-L-U-S.

**REQUEST FOR ADMISSION NO. 53:**

Admit that the GOOGABOX mark does not contain the letter string LE.

**REQUEST FOR ADMISSION NO. 54:**

Admit that the GOOGABOX mark and the GOOGLE+ mark are not identical.

**REQUEST FOR ADMISSION NO. 55:**

Admit that Google has not used the GOOGLEPLUS mark.

**REQUEST FOR ADMISSION NO. 56:**

Admit that Google has not used the GOOGLE PLUS mark.

**REQUEST FOR ADMISSION NO. 57:**

Admit that Google has not marketed the GOOGLEPLUS mark.

**REQUEST FOR ADMISSION NO. 58:**

Admit that Google has not marketed the GOOGLE PLUS mark.

**REQUEST FOR ADMISSION NO. 59:**

Admit that the meaning of the GOOGABOX mark is different from the meaning of the GOOGLE mark.

**REQUEST FOR ADMISSION NO. 60:**

Admit that the look of the GOOGABOX mark is different from the look of the GOOGLE mark.

**REQUEST FOR ADMISSION NO. 61:**

Admit that the sound of the GOOGABOX mark is different from the sound of the GOOGLE mark.

**REQUEST FOR ADMISSION NO. 62:**

Admit that the meaning of the GOOGABOX mark is different from the meaning of the GOOGLE+ mark.

**REQUEST FOR ADMISSION NO. 63:**

Admit that the look of the GOOGABOX mark is different from the look of the GOOGLE+ mark.

**REQUEST FOR ADMISSION NO. 64:**

Admit that the sound of the GOOGABOX mark is different from the sound of the GOOGLE+ mark.

**REQUEST FOR ADMISSION NO. 65:**

Admit that the meaning of the GOOGABOX mark is different from the meaning of the GOOGLE LATITUDE mark.

**REQUEST FOR ADMISSION NO. 66:**

Admit that the look of the GOOGABOX mark is different from the look of the GOOGLE LATITUDE mark.

**REQUEST FOR ADMISSION NO. 67:**

Admit that the sound of the GOOGABOX mark is different from the sound of the GOOGLE LATITUDE mark.

**REQUEST FOR ADMISSION NO. 68:**

Admit that the meaning of the GOOGABOX mark is different from the meaning of the GOOGLE WAVE mark.

**REQUEST FOR ADMISSION NO. 69:**

Admit that the look of the GOOGABOX mark is different from the look of the GOOGLE WAVE mark.

**REQUEST FOR ADMISSION NO. 70:**

Admit that the sound of the GOOGABOX mark is different from the sound of the GOOGLE WAVE mark.

**REQUEST FOR ADMISSION NO. 71:**

Admit that the meaning of the GOOGABOX mark is different from the meaning of the GOOGLE BUZZ mark.

**REQUEST FOR ADMISSION NO. 72:**

Admit that the look of the GOOGABOX mark is different from the look of the GOOGLE BUZZ mark.

**REQUEST FOR ADMISSION NO. 73:**

Admit that the sound of the GOOGABOX mark is different from the sound of the GOOGLE BUZZ mark.

**REQUEST FOR ADMISSION NO. 74:**

Admit that the meaning of the GOOGABOX mark is different from the meaning of the GOOGLE GROUPS mark.

**REQUEST FOR ADMISSION NO. 75:**

Admit that the look of the GOOGABOX mark is different from the look of the GOOGLE GROUPS mark.

**REQUEST FOR ADMISSION NO. 76:**

Admit that the sound of the GOOGABOX mark is different from the sound of the GOOGLE GROUPS mark.

**REQUEST FOR ADMISSION NO. 77:**

Admit that the meaning of the GOOGABOX mark is different from the meaning of the GOOGLE SEARCH mark.

**REQUEST FOR ADMISSION NO. 78:**

Admit that the look of the GOOGABOX mark is different from the look of the GOOGLE SEARCH mark.

**REQUEST FOR ADMISSION NO. 79:**

Admit that the sound of the GOOGABOX mark is different from the sound of the GOOGLE SEARCH mark.

**REQUEST FOR ADMISSION NO. 80:**

Admit that the meaning of the word “plus” is different from the meaning of the word “box.”

**REQUEST FOR ADMISSION NO. 81:**

Admit that the look of the word “plus” is different from the look of the word “box.”

**REQUEST FOR ADMISSION NO. 82:**

Admit that the sound of the word “plus” is different from the sound of the word “box.”

**REQUEST FOR ADMISSION NO. 83:**

Admit that the GOOGLE mark is absent in the GOOGABOX mark.

**REQUEST FOR ADMISSION NO. 84:**

Admit that You contend that the GOOGLE mark does not create a likelihood of confusion, mistake, or deception as to source, origin, or sponsorship with the GOOGABOX mark or Your Services.

**REQUEST FOR ADMISSION NO. 85:**

Admit that You contend that the GOOGLE LATITUDE mark does not create a likelihood of confusion, mistake, or deception as to source, origin, or sponsorship with the GOOGABOX mark or Your Services.

**REQUEST FOR ADMISSION NO. 86:**

Admit that You contend that the GOOGLE BUZZ mark does not create a likelihood of confusion, mistake, or deception as to source, origin, or sponsorship with the GOOGABOX mark or Your Services.

**REQUEST FOR ADMISSION NO. 87:**

Admit that You contend that the GOOGLE WAVE mark does not create a likelihood of confusion, mistake, or deception as to source, origin, or sponsorship with the GOOGABOX mark or Your Services.

**REQUEST FOR ADMISSION NO. 88:**

Admit that You contend that the GOOGLE GROUPS mark does not create a likelihood of confusion, mistake, or deception as to source, origin, or sponsorship with the GOOGABOX mark or Your Services.

**REQUEST FOR ADMISSION NO. 89:**

Admit that You contend that the GOOGLE SEARCH mark does not create a likelihood of confusion, mistake, or deception as to source, origin, or sponsorship with the GOOGABOX mark or Your Services.

**REQUEST FOR ADMISSION NO. 90:**

Admit that You provide Your Services under the GOOGABOX mark in California.

**REQUEST FOR ADMISSION NO. 91:**

Admit that You do not maintain a privacy policy in compliance with California Business and Professions Code §§ 225475-22579.

**REQUEST FOR ADMISSION NO. 92:**

Admit that Your privacy policy does not identify the categories of personally identifiable information that You collect.

**REQUEST FOR ADMISSION NO. 93:**

Admit that Your privacy policy does not identify the privacy policy's effective date.

**REQUEST FOR ADMISSION NO. 94:**

Admit that Your privacy policy does not identify the categories of third-parties with whom You may share personally identifiable information.

**REQUEST FOR ADMISSION NO. 95:**

Admit Googabox World, Inc. is no longer incorporated in Nevada.

**REQUEST FOR ADMISSION NO. 96:**

Admit that the Nevada Secretary of State revoked Googabox World, Inc.'s incorporation status.

**REQUEST FOR ADMISSION NO. 97:**

Admit that [www.googabox.com](http://www.googabox.com) incorrectly states that Googabox World, Inc. is incorporated in Nevada.

**REQUEST FOR ADMISSION NO. 98:**

Admit Googabox World, Inc. owns the GOOGABOX mark.

**REQUEST FOR ADMISSION NO. 99:**

Admit Googabox World, Inc. owned the GOOGABOX mark.

**REQUEST FOR ADMISSION NO. 100:**

Admit Googabox World, Inc. licensed the GOOGABOX mark.

**REQUEST FOR ADMISSION NO. 101:**

Admit Googabox World, Inc. contributed to the development of the GOOGABOX mark.

**REQUEST FOR ADMISSION NO. 102:**

Admit Googabox World International owns the GOOGABOX mark.

**REQUEST FOR ADMISSION NO. 103:**

Admit Googabox World International owned the GOOGABOX mark.

**REQUEST FOR ADMISSION NO. 104:**

Admit Googabox World International licensed the GOOGABOX mark.

**REQUEST FOR ADMISSION NO. 105:**

Admit Googabox World International contributed to the development of the GOOGABOX mark.

Dated: January 25, 2013

By:



---

Eric Ball  
eball@fenwick.com  
Fenwick & West LLP  
Silicon Valley Center  
801 California Street  
Mountain View, CA 94041  
trademarks@fenwick.com  
Telephone: 650.988.8500  
Facsimile: 650.938.5200

PROOF OF SERVICE

I declare that:

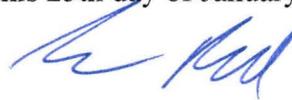
I am employed in the County of Santa Clara, California.

I am over the age of eighteen years and not a party to the within cause; my business address is Silicon Valley Center, 801 California Street, Mountain View, California 94041. On the date indicated below, I served **Applicant Google Inc.'s First Set of Requests for Admission to Opposer Andre Rossouw** on the interested parties in said cause, by e-mailing a true copy thereof as indicated below, addressed as follows:

Andre Rossouw  
andreross2000@yahoo.com

- BY US MAIL:** by placing the document(s) listed above in a sealed envelope for collection and mailing following our ordinary business practices. I am readily familiar with our ordinary business practices for collecting and processing mail for the United States Postal Service, and mail that I place for collection and processing is regularly deposited with the United States Postal Service that same day with postage prepaid.
- BY E-MAIL:** by mutual agreement between the parties, causing to be transmitted via e-mail the document(s) listed above to the addressee(s) at the e-mail address(es) listed above.
- BY PERSONAL DELIVERY:** by causing to be personally delivered the document(s) listed above to the addressee(s) at the address(es) set forth above.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed at Mountain View, California, this 25th day of January, 2013.



---

Eric Ball

# **EXHIBIT 4**

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

In the matter of Trademark Application No. 85358119

Mark: GOOGLEPLUS (GOOGLE +)

Andre Rossouw (Opposer)

vs.

Google Incorporated (Applicant)

)  
)  
)  
)  
)

) Opposition No. 91203541

**OPPOSER'S RESPONSE TO APPLICANT'S INTERRAGATORY (1)**

In General Opposer is OBJECTING to Applicant's "First set of Interrogatories" as being excessively "out of scope" of discovery that pertains to opposers complaint namely "too similar" in sound, connotation, and appearance of commercial impression, of the two marks in question, and thus places an unnecessary burden, and time delay on this proceeding.

Opposer's answers to "First set of Interrogatories from applicant as follows:

Answer to Interrogatory 1

Entities: Andre Rossouw (Individual) currently owner/ representative of project operations, (**Collateral source rule:** "Objection. All other information within this request is not relevant to the subject matter of this lawsuit and not calculated to lead to the discovery of admissible evidence in violation of the collateral source rule. answer reserved as relevance)

**Equally available:** "Objection. The information sought in this discovery request is equally available to the propounding party. (See Code of Civ. Proc., § 2030.220 subd. (c); and *Alpine Mutual Water Co. v. Superior Court* (1968) 259 Cal.App.2d 45 [66 Cal.Rptr. 250].)"

Answer to Interrogatory 2

(**Collateral source rule:** "Objection. All information within this request is not relevant to the subject matter of this lawsuit and not calculated to lead to the discovery of admissible evidence in violation of the collateral source rule. answer reserved as relevance)

Answer to Interrogatory 3

**Already asked, repetitive discovery:** "Objection. This discovery request has, in substance, been previously propounded and answered.

Answer to Interrogatory 4

**Burdensome, oppressive, overbroad:** "Objection. This discovery request is so broad and unlimited as to time and scope as to be an unwarranted annoyance, embarrassment, and is oppressive. To comply with the request would be an undue burden and expense on opposer. The request is calculated to annoy and harass opposer. (See Code of Civ. Proc., § 2030.090 subd. (b); and *Columbia Broadcasting System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 19 [69 Cal.Rptr. 348, 352].)"

Answer to Interrogatory 5

**Equally available:** "Objection. The information sought in this discovery request is equally available to the propounding party. (See Code of Civ. Proc., § 2030.220 subd. (c); and *Alpine Mutual Water Co. v. Superior Court* (1968) 259 Cal.App.2d 45 [66 Cal.Rptr. 250].)"

Answer to Interrogatory 6

(Current) Social Networking Services including but not limited to the following: File sharing, Chat

Rooms, Dating, Friend Finder, Self Promotion, Blogs, Polls, Member Interactive services, Classifieds

All services to be inspected freely by applicant at Googabox.com

**Equally available:** “Objection. The information sought in this discovery request is equally available to the propounding party. (See Code of Civ. Proc., § 2030.220 subd. (c); and *Alpine Mutual Water Co. v. Superior Court* (1968) 259 Cal.App.2d 45 [66 Cal.Rptr. 250].)”

#### Answer to Interrogatory 7

**Equally available:** “Objection. The information sought in this discovery request is equally available to the propounding party. (See Code of Civ. Proc., § 2030.220 subd. (c); and *Alpine Mutual Water Co. v. Superior Court* (1968) 259 Cal.App.2d 45 [66 Cal.Rptr. 250].)”

#### Answer to Interrogatory 8

**Equally available:** “Objection. The information sought in this discovery request is equally available to the propounding party. (See Code of Civ. Proc., § 2030.220 subd. (c); and *Alpine Mutual Water Co. v. Superior Court* (1968) 259 Cal.App.2d 45 [66 Cal.Rptr. 250].)”

#### Answer to Interrogatory 9

NONE

#### Answer to Interrogatory 10

**Irrelevant:** “Objection. Irrelevant. Opposer ’s “privacy policy” is irrelevant to the subject matter of this matter namely (Trademark dispute due to Similar Sounding MARK of applicant, and the information sought is not reasonably calculated to lead to the discovery of admissible evidence. (Code of Civ. Proc, § 2017.010.)”

#### Answer to Interrogatory 11

**Burdensome, oppressive, overbroad:** “Objection. This discovery request is so broad and unlimited as to time and scope as to be an unwarranted annoyance, embarrassment, and is oppressive. To comply with the request would be an undue burden and expense on the opposer. The request is calculated to annoy and harass opposer. (See Code of Civ. Proc., § 2030.090 subd. (b); and *Columbia Broadcasting System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 19 [69 Cal.Rptr. 348, 352].)”

#### Answer to Interrogatory 12

**Burdensome, oppressive, overbroad:** “Objection. This discovery request is so broad and unlimited as to time and scope as to be an unwarranted annoyance, and is oppressive. To comply with the request would be an undue burden and expense on opposer. The request is calculated to annoy and harass opposer. (See Code of Civ. Proc., § 2030.090 subd. (b); and *Columbia Broadcasting System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 19 [69 Cal.Rptr. 348, 352].)”

### Answer to Interrogatory 13

**Irrelevant:** “Objection. Irrelevant. Opposer's 's “prices for services” is irrelevant to the subject matter of this matter namely (Trademark dispute due to Similar Sounding MARK of applicant, and the information sought is not reasonably calculated to lead to the discovery of admissible evidence. (Code of Civ. Proc, § 2017.010.)”

**Equally available:** “Objection. The information sought in this discovery request is equally available to the propounding party. (See Code of Civ. Proc., § 2030.220 subd. (c); and *Alpine Mutual Water Co. v. Superior Court* (1968) 259 Cal.App.2d 45 [66 Cal.Rptr. 250].)”

### Answer to Interrogatory 14

**Burdensome, oppressive, overbroad:** “Objection. This discovery request is so broad and unlimited as to time and scope as to be unwarranted annoyance, and is oppressive. To comply with the request would be an undue burden and expense on opposer. Opposer has satisfied the Trademark Office to it's ongoing operations to award opposer a Federal Trademark and further it is plain for applicant to see the ongoing operations of opposer online at Googabox.com. How and when opposer promotes his operations is considered PRIVATE, Company SECRET and unnecessarily INVASIVE by applicant. (See Code of Civ. Proc., § 2030.090 subd. (b); and *Columbia Broadcasting System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 19 [69 Cal.Rptr. 348, 352].)”

### Answer to Interrogatory 15

**Burdensome, oppressive, overbroad:** “Objection. This discovery request is unnecessary as opposer's operations has satisfied the Trademark Office to it's ongoing operations to award opposer a Federal Trademark and further it is plain for applicant to see the ongoing operations of opposer online at Googabox.com. How and when and how MUCH funds opposer spends to promote his operations is considered PRIVATE, Company SECRET and unnecessarily INVASIVE by applicant. (See Code of Civ. Proc., § 2030.090 subd. (b); and *Columbia Broadcasting System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 19 [69 Cal.Rptr. 348, 352].)”

### Answer to Interrogatory 16

Googabox.com, though a fully operational SOCIAL NETWORK, such as comparable social networks in the past, including “Facebook” has not progressed to making “revenue” until such time to progress to such is seen fit by the site's proprietor/s however this is seen as a transitional period to such, and exactly what would be “jeopardized” by allowing applicant' to sustain a Registration and ongoing use of their Trademark “Googleplus” due to the original complaint of opposer namely “Trademark dilution” “Potency loss” Infringement” as well as due to “Redundancy” elements, and now “Confusion of the public of opposer's origin of the mark Googabox and

opposer's unwanted association with applicant due to applicant's continuous failures at Social networking services, and would ultimately prevent opposer's Company to progress to revenue.

**Equally available:** "Objection. The information sought in this discovery request is equally available to the propounding party. (See Code of Civ. Proc., § 2030.220 subd. (c); and *Alpine Mutual Water Co. v. Superior Court* (1968) 259 Cal.App.2d 45 [66 Cal.Rptr. 250].)"

#### Answer to Interrogatory 17

The mark was composed of two "pop bands" namely "Goo-goo dolls and "Matchbox 20" "Goo + Box, and led to "Goog A Box" ultimately due to the best sound comprising the two band names, and a separate meaning was realized (described below)...as the services originally planned for the mark was a social network for musicians only, however, before the site went into service it was decided to have the social network for ANYONE/ EVERYONE as the software did indeed allow for musicians/ artists of all genre's to have aside from their "Personal page", also a "Musicians page" where they could "switch" from one to the other and have separate "url's" for their "Musicians/ Artists pages.

*Goo= sticky, GA = General Assembly, Box = Container (" People" Sticking together in a General Assembly in one container) as in ONE box, and in this instance as in "site". Pronounced Goo-ga-box, where the "a" is pronounced as "a cat" a dog" "a box" and wholly pronounced as a continuous sound without any breaks namely "Googabox"*

The mark it was decided, was unique enough that a specific "design" would not be necessary however that it could later be changed to a "specific design" if so needed.

The mark was composed by proprietor.

#### Answer to Interrogatory 18

**Repetitive:** "Objection. The information sought in this discovery should be satisfied in "Answer to Interrogatory 17"

#### Answer to Interrogatory 19

**Burdensome, oppressive, overbroad:** "Objection. This discovery request is unnecessary as opposer's operations has satisfied the Trademark Office to it's ongoing operations to award opposer a Federal Trademark and further it is plain for applicant to see the ongoing operations of opposer online at Googabox.com. How and when and who has contributed to the development of operations is considered PRIVATE, Company SECRET and unnecessarily INVASIVE by applicant. (See Code of Civ. Proc., § 2030.090 subd. (b); and

*Columbia Broadcasting System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 19 [69 Cal.Rptr. 348, 352].”

#### Answer to Interrogatory 20

The strength of opposer's mark was based on ORIGINALITY for a social network, the meaning of the composition of the mark, as well as sound of the mark and the very relevance the mark has to “social networking” as described by opposer, as well as the elements of two famous pop bands within the meaning and sound of the mark, which is now jeopardized by the similar sounding “weak” mark of applicant (in opposer's view) and the fact that applicant is relying on their ORIGINAL mark “Google” which opposer can show has failed in social networking repeatedly. The process of 'faming" opposer's mark is an ongoing process as such is with most start-up social networks and evident in the business of social networking and even more harder now because of famous sites such as “facebook” and “my space”, and again opposer can not allow this “process” to be jeopardized by applicant's destructive conduct of applying a much too similar sounding mark, and be allowed so due to applicant's well known financial ability to excel opposer's mark, resulting in “unfair competition” and unethical business practices, especially in lieu of the fact that applicant was AWARE of opposer's mark BEFORE they commenced promoting their new mark.

#### Answer to Interrogatory 21

When opposer learned of the “google” mark is irrelevant as this aspect does not pertain to this opposition, however the “googleplus” mark is of relevance and opposer became aware of the mark around July of 2011, upon which opposer decided to wait for the application to be “published for opposition” to oppose against the mark and commenced immediately by sending a “letter of protest” to the trademark office” followed by a letter of “seize and desist” directly to applicant.

#### Answer to Interrogatory 22

**irrelevant:** “Objection. Irrelevant. Even if opposer used the “google services” for searching in the past the relevance hereto is obsolete. Opposer has already explained the “nature” and “composition” elements of

opposer's mark and deny definitively ANY reference to the mark "Google" as well as already explained that applicant has NO automatic claim to the words "goo" "Goog" "Googa" and "Googabox"

Answer to Interrogatory 23

**Repetitive:** "Objection. The reasons for the opposition has already been made CLEAR to applicant extensively as well as case citing of cases decided before the BOARD in opposer's "Initial Disclosure"

(Fits Corporation KK **Serial No. 76501790**) & (Wyeth vs Graham, Opposition # **91124967**)

(October24, 2005) Trademarks do NOT have to be identical for trademark rules to apply.

Answer to Interrogatory 24

Ongoing "Poll survey" is being conducted on opposer's site for public viewing and equally viewable by applicant at [ googabox.com ] and thus far overwhelmingly favorable to opposer's claims of "too similar" in sound, connotation and appearance of commercial impression, of the two marks, which will be presented at the appropriate time to applicant when completed.

Answer to Interrogatory 25

**Redundant:** "Objection. Redundancy, this topic has already been exhausted.

Answer to Interrogatory 26

**Redundant:** "Objection. Redundancy, this topic has already been exhausted.

Answer to Interrogatory 27

**Burdensome, oppressive, overbroad:** "Objection. This topic is covered in "Interrogatory 24"

Answer to Interrogatory 28

Opposer asserts No factual grounds and assumption to applicants "affirmative defenses", Opposer will leave it to the Board to dismiss or accept applicant's "affirmative defenses" based on the merits, as this is standard procedure adopted by the BOARD in recent years.

Answer to Interrogatory 29

**Burdensome, oppressive, overbroad:** "Objection. Privacy matters and unnecessary disclosure.

Answer to Interrogatory 30

Objection: Relevance, Confusing, This interrogatory is confusing as to it's nature and objective and burdensome to the attempt of Opposer to understand the relevance thereof.

Dated : February 25<sup>th</sup> 2013

By: Opposer: Andre D Rossouw (Pro Se)  
[admin@gogobox.com](mailto:admin@gogobox.com)  
301-481-5574  
1813 Cloverleaf Dr  
Nashville, TN, 37216

## *Proof Of Service*

*I declare that:*

I am over the age of eighteen years

I am the opposing party of Googabox (Googabox.com)

*That I have:*

*Served upon applicant by means of mutual agreement using "electronic" procedure  
by sending a copy to applicant's e-mail address of record at the TTAB  
at e-mail address "[EBall@fenwick.com](mailto:EBall@fenwick.com)" and specifically to the attention of  
Erik Ball (Counsel for applicant)*

*Executed in Nashville, Tn*

*So stated under perjury as true and correct this day Feb 25<sup>th</sup> 2013 by opposer for opposer*



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*Andre Rossouw (Googabox) (Googabox.com)*



# **EXHIBIT 5**

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

In the matter of Trademark Application No. 85358119  
Mark: GOOGLEPLUS (GOOGLE +)

Andre Rossouw (Opposer)	)	
	)	
vs.	)	Opposition No. 91203541
	)	
Google Incorporated (Applicant)	)	

**OPPOSER'S RESPONSE TO GOOGLE INC.'S FIRST SET OF REQUESTS FOR  
PRODUCTION OF DOCUMENTS)**

In General Opposer is OBJECTING to Applicant's "First set of Requests" as being excessively "out of scope" of discovery that pertains to opposers complaint namely "too similar" in sound, connotation, and appearance of commercial impression, of the two marks in question, and thus places an unnecessary burden, and time delay on this proceeding. As opposer is not requesting documents to "validity" of applicants operations being it plain to see online, so much so opposer is expecting the same due diligence from applicant to opposer's operations as this is all available and plain to see. It has become quite evident in applicant's requests and interrogatories that applicant has/ is not complying

with due diligence in obtaining the information to opposers opposition and claims on their own accord first as “equally available” before requesting the equally available information from opposer (See Code of Civ. Proc., § 2030.220 subd. (c); and *Alpine Mutual Water Co. v. Superior Court* (1968) 259 Cal.App.2d 45 [66 Cal.Rptr. This approach by applicant is placing unnecessary burdens of discovery on opposer. The scope of discovery requested by applicant in comparison to opposer is also non efficiently unbalanced and asserted as highly unnecessary. Again this approach by applicant is placing unnecessary burdens of discovery on opposer and so reflected in opposer's response.

*Opposer's response to “First set of Requests” from applicant as follows:*

**As to requests numbers 1 thru 5, 11, 18:**

**OBJECTION: Equally available:** “Objection. The information sought in this discovery request is equally available to the propounding party via ELECTRONIC MEANS directly online at opposers WEBSITE. (See Code of Civ. Proc., § 2030.220 subd. (c); and *Alpine Mutual Water Co. v. Superior Court* (1968) 259 Cal.App.2d 45 [66 Cal.Rptr. 250].)” All other requests outside of this scope regarding this subject matter is regarded burdensome by opposer.

**As to requests numbers 6, 17:**

**OBJECTION: (Collateral source rule:** “Objection. This request is not relevant to the subject matter of this opposition and not calculated to lead to the discovery of admissible evidence in violation of the collateral source rule. answer reserved as relevance) Opposer has previously stated to applicant that opposer had, at the time, SATISFIED the Trademark office of it's current and ONGOING operations and therefore was awarded a Registration. This should be sufficient evidence as to the validity of opposers claim of length of time in operation and development.

**As to requests numbers 7, 8, 9, 10, 12, 13, 40:**

**OBJECTION: (Collateral source rule:** “Objection. This request is not relevant to the subject matter of this

opposition and not calculated to lead to the discovery of admissible evidence in violation of the collateral source rule. answer reserved as **relevance** as well as **Company privacy, Company SECRET** and unnecessarily INVASIVE by applicant. (See Code of Civ. Proc., § 2030.090 subd. (b); and *Columbia Broadcasting System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 19 [69 Cal.Rptr. 348, **352].)**”

**As to requests numbers 14, 15, 16, 25, 34, 35,:**

(*Collateral source rule*: “Objection. This request is not relevant to the subject matter of this opposition and not calculated to lead to the discovery of admissible evidence in violation of the collateral source rule. answer reserved as **relevance** as well as **Company privacy, Company SECRET** and unnecessarily INVASIVE by applicant. (See Code of Civ. Proc., § 2030.090 subd. (b); and *Columbia Broadcasting System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12, 19 [69 Cal.Rptr. 348, **352].)**”

**As to requests numbers 20:**

Opposer is not claiming “dilution” per se pertaining to “fame” but rather dilution in opposer's efforts to ACHIEVE the latter, as operations such as this runs it's course to achieve “fame”, however as opposer stated before, applicants previous failures at these same services has caused opposer to DISFAVOR any confusion to ties to applicant for specifically that reason, and applicant's ongoing promotion of their newly composed mark is causing just this. Further opposer asserts that applicant indeed WAS aware of opposers mark at the time they decided to introduce their newly created mark, thus ignoring the fact that a mark closely resembling their newly created mark already exist. Documentation to prove this is electronically available and also additional documents to this is REQUESTED from applicant.

**As to requests numbers 21, 22, 23 , 24:**

(*Collateral source rule*: “Objection. This request is not relevant to the subject matter of this opposition and not calculated to lead to the discovery of admissible evidence in violation of the collateral source rule.

Opposer has covered this issue already in that GWI did not claim ownership to the trademark Googabox and that  
**Opposition No. 91203541**

the owner indeed was of record as Andre D Rossouw, Individual and that GWI was simply intended to be Parent Company overseeing operations, and has since been erased, as of then all operations and development is/ was done by a selected few until such time that GWI would be introduced as Parent Company.

**As to requests numbers 26, 27, 29, 30:**

Already covered in “Interrogatory 24” and equally available to applicant for electronic viewing.

**As to requests numbers 28:**

None of Record as this was quite impossible to screen as each visitor to the site would have to be “interrogated” as to the nature and purpose of their visit to the Googabox site. This request is deemed an unintelligent request at best, due to the course of action opposer would have had to take to get the information thereof accurately if obtainable at all.

**As to requests numbers 31, 32, 33:**

*(Collateral source rule:* “Objection. This request is not relevant to the subject matter of this opposition and not calculated to lead to the discovery of admissible evidence in violation of the collateral source rule. Opposer is not the “opposed” in this matter and not accused of anything, the applicant is and if applicant has the intention to counter oppose this would be asserted now by opposer as a “only because opposer has opposed applicant” scenario. Only in lieu of this assumption would opposer understand this request.

**As to requests numbers 36:**

**Objection: [Relevance]** No claim is made to any such notion other than exclusive use to the whole mark “Googabox”

**As to requests numbers 37:**

**Objection: [Relevance]** Refer to response to request “36”.

**As to requests numbers 38:**

Opposer claims that he personally police the Tess trademark Database ONLINE on a weekly basis to ascertain if any similar marks to that of his own has been filed, this service is also available to applicant and the notion that applicant do not monitor the online Tess Database to protect their own

mark is not feasible in belief.

**As to requests numbers 39:**

**Objection: *Equally available:*** The letter of protest filed by opposer is also viewable as filed on the TTAB database site and equally viewable by applicant.

**As to requests numbers 41:**

Refer to Answer to Interrogatory "28"

**As to requests numbers 42:**

So noted

**As to requests numbers 43:**

So noted

**As to requests numbers 44:**

So Noted

Dated : February 25<sup>th</sup> 2013

By: Opposer: Andre D Rossouw (Pro Se)  
[admin@gogobox.com](mailto:admin@gogobox.com)  
301-481-5574  
1813 Cloverleaf Dr  
Nashville, TN, 37216

## *Proof Of Service*

*I declare that:*

I am over the age of eighteen years

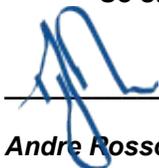
I am the opposing party of Googabox (Googabox.com)

*That I have:*

*Served upon applicant by means of mutual agreement using “electronic” procedure  
by sending a copy to applicant's e-mail address of record at the TTAB  
at e-mail address “[EBall@fenwick.com](mailto:EBall@fenwick.com)” and specifically to the attention of  
Erik Ball (Counsel for applicant)*

***Executed in Nashville, Tn***

***So stated under perjury as true and correct this day FEB 25th 2013 by opposer for opposer***



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***Andre Rossouw (Googabox) (Googabox.com)***

**Opposition No. 91203541**

# **EXHIBIT 6**

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

In the matter of Trademark Application No. 85358119

Mark: GOOGLEPLUS (GOOGLE +)

Andre Rossouw (Opposer)

vs.

Google Incorporated (Applicant)

)  
)  
)  
)  
)

) Opposition No. 91203541

**Opposer's response to First set of  
Requests for Admission by applicant  
Google Inc.**

In general opposer objects to the scope of applicants request for admission, as the scope is well beyond the case issue, namely the dispute between the newly created mark "Googleplus" and the mark "Googabox" and that NO indication from applicant was ever made in the past and at present that there was any dispute between the marks "Googabox" and "Google" and the fact that opposer will set out to prove that applicant indeed was fully aware of opposer's mark 4 years ago and before they commenced applying for their newly created mark "Googleplus"

thus the scope seems to be well beyond that of the issue at hand, thus opposer will address the request for admission with this belief in mind.

#### RESPONSE TO REQUEST FOR ADMISSION

**RESPONSE TO REQUEST 1: Objection:** Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 2:** Agreed

**RESPONSE TO REQUEST 3: Objection:** Relevance to the issue, the mark “Goog” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Goog”.

**RESPONSE TO REQUEST 4: Objection:** Relevance to the issue, the mark “Goog” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Goog”.

**RESPONSE TO REQUEST 5: Objection:** Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 6: Objection:** Opposer was not aware that he is being opposed as using or intent to use the mark “Googleplus”

**RESPONSE TO REQUEST 7: Objection:** Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 8: Objection:** Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 9: Objection:** Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 10: Objection:** Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 11: Objection: Repetitive**

**RESPONSE TO REQUEST 12: Objection:** Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 13: Objection:** Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 14: Objection:** Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 15: Objection: Repetitive**

**RESPONSE TO REQUEST 16: Objection:** Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 17: Objection:** Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 18: Objection:** Relevance to the issue, over broad, futile.

**RESPONSE TO REQUEST 19: Objection:** Relevance to the issue, over broad, futile.

**RESPONSE TO REQUEST 20: Objection:** Repetitive.

**RESPONSE TO REQUEST 21: Objection:** Relevance to the issue, over broad, futile.

**RESPONSE TO REQUEST 22: Objection:** Relevance to the issue, misleading, futile.

**RESPONSE TO REQUEST 23: Objection:** Relevance to the issue, misleading, futile.

**RESPONSE TO REQUEST 24: Objection:** Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 25: Objection:** Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 26: Objection:** Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 27: Objection:** Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 28: Objection:** Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well

as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 29: Objection:** Relevance to the issue, the mark “Google” and “Gmail” is not the marks in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google” or “Gmail”.

**RESPONSE TO REQUEST 30: Objection:** Relevance to the issue, the mark “Google” and “Gmail” is not the marks in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google” or “Gmail”.

**RESPONSE TO REQUEST 31: Objection:** Relevance to the issue, the mark “Orkut” is not the mark in question, however the mark “Googleplus” and “Googabox” is.

**RESPONSE TO REQUEST 32: Objection:** Relevance to the issue, the mark “Orkut” is not the mark in question, however the mark “Googleplus” and “Googabox” is.

**RESPONSE TO REQUEST 33: Objection:** Relevance: A “form” of social network services is not the issue here however the full scope of services namely “social networking” is and so dictating the issue with applicant by opposer pertaining to the marks “Googleplus” and “Googabox” sharing the same class of “social networking” and not a “form of social services” as such class do not exist.

**RESPONSE TO REQUEST 34: Objection:** Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**REQUEST FOR ADMISSION 35: Objection:** Relevance to the issue, the mark

“Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 36: Objection:** Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 37: Objection:** Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 38: Objection:** Relevance: A”form” of social network services is not the issue here however the full scope of services namely “social networking” is and so dictating the issue with applicant by opposer pertaining to the marks “Googleplus” and “Googabox” sharing the same class of “social networking” and not a “form of social services” as such class do not exist.

**RESPONSE TO REQUEST 39: Objection:**Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 40: Objection:**Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 41: Objection:**Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 42: Objection:**Relevance to the issue, unwarranted speculation.

**RESPONSE TO REQUEST 43: Objection:**Relevance to the issue, unwarranted speculation.

**RESPONSE TO REQUEST 44: Objection:**Relevance to the issue, unwarranted speculation.

**RESPONSE TO REQUEST 45: Objection:**Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 46: Objection:**Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 47: Objection:**The issue of “fame” should not be relevant here, for example, if Googabox was a Mom & Pop store in the neighborhood, it would have had the same rights and protection as any other entity under the law if indeed they could prove their marks use and even more so prove that the applicant KNEW of the existence of their mark Registered or not, and in this case opposers mark indeed is Registered and plain for applicant to see online 4 years prior to and just prior to file for application of their mark, yet decided to DISREGARD the fact of the issue now at hand.

**RESPONSE TO REQUEST 48: Objection:** Redundant

**RESPONSE TO REQUEST 49: Objection:** First, Under Trademark law symbols are treated as being “pronounced” and in this case applicants mark is not only pronounced “Googleplus” but also so searched for by their own search engine and referred to as “Googleplus” by them in written out form, as well as listed as “Googleplus.com” on their own search pages and others, further when the “Googabox” mark is pronounced it

sounds overwhelmingly similar to applicants mark and if all the aforesaid is true then the “symbol” used by applicant becomes irrelevant.

**RESPONSE TO REQUEST 50: Objection:** Refer to request “49”

**RESPONSE TO REQUEST 51: Objection:** Refer to request “49”

**RESPONSE TO REQUEST 52: Objection:** The complaint here is not the words P-L-U-S by itself but the mark as a whole in appearance, punctuation and pronunciation, pronounced and appearing simultaneously as Google+ AND Googleplus, and both so seen and pronounced by the consumer, so thus comparing Googleplus / Googabox in this sense the obvious can be seen as in validation of opposers complaint.

**RESPONSE TO REQUEST 53: Objection:** The complaint here is not the words L-E by itself but the mark as a whole in appearance and pronunciation, pronounced and appearing simultaneously as Google+ AND Googleplus, and both so seen and pronounced by the consumer, so thus comparing Googleplus / Googabox in this sense the obvious can be seen as in validation of opposers complaint.

**RESPONSE TO REQUEST 54:** Refer to response to Request “53”

**RESPONSE TO REQUEST 55: Objection:** Confusing statement

**RESPONSE TO REQUEST 56: Objection:** Repeating Confusing statement

**RESPONSE TO REQUEST 57: Objection:** Confusing statement

**RESPONSE TO REQUEST 58: Objection:** Repeating Confusing statement

**RESPONSE TO REQUEST 59: Objection:** Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 60: Objection:** Relevance to the issue, the mark “Google”

is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”.

**RESPONSE TO REQUEST 61: Objection:**Relevance to the issue, the mark “Google” is not the mark in question, however the mark “Googleplus” and “Googabox” is, as well as the class of services is not defined pertaining to the mark “Google”. Applicant seems to have a “double standard” when it comes to these different marks. In one instance applicant asserts the Google mark as used before the Googabox mark and in another instance the applicant asserts that the marks Google and Googabox do not sound alike, which ponders the question, what is the relevance on the Google mark in this scenario?

**RESPONSE TO REQUEST 62: Objection:** Relevance, The “meaning” of the perspective marks is not the issue here, the similarity of overall appearance and SOUND in particular however is.

**RESPONSE TO REQUEST 63: Objection:** Refer to response to request “62”

**RESPONSE TO REQUEST 64: Objection:** Refer to response to request “62”

**RESPONSE TO REQUEST 65: Objection:**Relevance to the issue, the mark “Google Lattitude” is not the mark in question, however the mark “Googleplus” and “Googabox” is.

**RESPONSE TO REQUEST 66: Objection:**Relevance to the issue, the mark “Google Lattitude” is not the mark in question, however the mark “Googleplus” and “Googabox” is.

**RESPONSE TO REQUEST 67: Objection:**Relevance to the issue, the mark “Google Lattitude” is not the mark in question, however the mark “Googleplus” and “Googabox” is.

**RESPONSE TO REQUEST 68: Objection:**Relevance to the issue, the mark “Google Wave” is not the mark in question, however the mark “Googleplus” and “Googabox” is.

**RESPONSE TO REQUEST 69: Objection:**Relevance to the issue, the mark “Google Wave” is not the mark in question, however the mark “Googleplus” and “Googabox” is.

**RESPONSE TO REQUEST 71: Objection:**Relevance to the issue, the mark “Google Wave” is not the mark in question, however the mark “Googleplus” and “Googabox” is.

**RESPONSE TO REQUEST 72: Objection:**Relevance to the issue, the mark “Google Buzz” is not the mark in question, however the mark “Googleplus” and “Googabox” is.

**RESPONSE TO REQUEST 73: Objection:**Relevance to the issue, the mark “Google Buzz” is not the mark in question, however the mark “Googleplus” and “Googabox” is.

**RESPONSE TO REQUEST 74: Objection:**Relevance to the issue, the mark “Google Groups” is not the mark in question, however the mark “Googleplus” and “Googabox” is.

**RESPONSE TO REQUEST 75: Objection:**Relevance to the issue, the mark “Google Groups” is not the mark in question, however the mark “Googleplus” and “Googabox” is.

**RESPONSE TO REQUEST 76: Objection:**Relevance to the issue, the mark “Google Groups” is not the mark in question, however the mark “Googleplus” and “Googabox” is.

**RESPONSE TO REQUEST 77: Objection:**Relevance to the issue, the mark “Google Search” is not the mark in question, however the mark “Googleplus” and “Googabox” is.

**RESPONSE TO REQUEST 78: Objection:**Relevance to the issue, the mark “Google

Search” is not the mark in question, however the mark “Googleplus” and “Googabox” is.

**RESPONSE TO REQUEST 79: Objection:**Relevance to the issue, the mark “Google Search” is not the mark in question, however the mark “Googleplus” and “Googabox” is.

**RESPONSE TO REQUEST 80: Objection:**Relevance to the issue, the “meaning” of the words “PLUS” and “BOX” is not the issue, however the marks “Googleplus” and “Googabox” as in overall appearance, punctuation and sound is.

**RESPONSE TO REQUEST 81: Objection:**Relevance to the issue, the “look” of the words “PLUS” and “BOX” is not the issue, however the marks “Googleplus” and “Googabox” as in overall appearance, punctuation and sound is.

**RESPONSE TO REQUEST 82: Objection:**Relevance to the issue, the “sound” of the words “PLUS” and “BOX” is not the issue, however the marks “Googleplus” and “Googabox” as in overall appearance, punctuation and sound is. Further if so must the words “plus” and “box” both are the same punctuation and both ends in the sound of “ss”

**RESPONSE TO REQUEST 83: Objection:** Relevance to the issue, the mark “Google ” is not the mark in question, however the mark “Googleplus” and “Googabox” is.

**RESPONSE TO REQUEST 84: Objection:** Relevance to the issue, the mark “Google ” is not the mark in question, however the mark “Googleplus” and “Googabox” is.

**RESPONSE TO REQUEST 85: Objection:** Relevance to the issue, the mark “Google Lattitude” is not the mark in question, however the mark “Googleplus” and “Googabox” is.

**RESPONSE TO REQUEST 86: Objection:** Relevance to the issue, the mark “Google Buzz” is not the mark in question, however the mark “Googleplus” and “Googabox” is.

**RESPONSE TO REQUEST 87:Objection:** Relevance to the issue, the mark “Google Wave” is not the mark in question, however the mark “Googleplus” and “Googabox” is.

**RESPONSE TO REQUEST 88: Objection:** Relevance to the issue, the mark “Google Groups” is not the mark in question, however the mark “Googleplus” and “Googabox” is.

**RESPONSE TO REQUEST 89: Objection:** Relevance to the issue, the mark “Google Search” is not the mark in question, however the mark “Googleplus” and “Googabox” is.

**RESPONSE TO REQUEST 90: Objection:** Applicant knows well the Googabox mark is used in conjunction with a domain namely “Googabox.com” and is a WORLDWIDE application and currently is operated out of Nashville, TN.

**RESPONSE TO REQUEST 91: Objection:** Relevance, Beyond the scope of the issue at hand.

**RESPONSE TO REQUEST 92: Objection:** Relevance, Beyond the scope of the issue at hand.

**RESPONSE TO REQUEST 93: Objection:** Relevance, Beyond the scope of the issue at hand.

**RESPONSE TO REQUEST 94: Objection:** Relevance, Beyond the scope of the issue at hand.

**RESPONSE TO REQUEST 95: Objection:** Relevance, Beyond the scope of the issue at hand.

**RESPONSE TO REQUEST 96: Objection:** Relevance, Beyond the scope of the issue at hand.

**RESPONSE TO REQUEST 97: Objection:** Relevance, Beyond the scope of the issue at hand.

**RESPONSE TO REQUEST 98: Objection:** Opposer has shown and asserted on more than one occasion that the owner of the mark is one Andre D Rossouw, the same individual as of record in the TESS Trademark Database, clear and plain to for applicant to see, yet applicant continues to imply otherwise. GWI was solely owned by the same individual Andre D Rossouw and was to serve as the Parent Company for many domains however this never came to pass and the Individual Andre D Rossouw has since changed from a Corporation to a LLC as investors to the site became in essence “Partners” however the Trademark “Googabox” still remains the sole property of Andre D Rossouw.

**RESPONSE TO REQUEST 99: Objection:** Refer to response to request “98”

**RESPONSE TO REQUEST 100: Objection:** Refer to response to request “98”

**RESPONSE TO REQUEST 101: Objection:** Refer to response to request “98”

**RESPONSE TO REQUEST 102: Objection:** Refer to response to request “98”

**RESPONSE TO REQUEST 103: Objection:** Refer to response to request “98”

**RESPONSE TO REQUEST 104: Objection:** Refer to response to request “98”

**RESPONSE TO REQUEST 105: Objection:** Refer to response to request “98”

*In Close:*

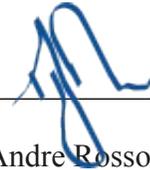
*It must be noted that all Google social networking services with annotations to the “Google” mark came WELL after the Registration of Googabox. These include the following: “Googlewave” ‘Googlebuzz” GoogleLatitude” Googlegroups” However*

*NONE of these marks were opposed by Opposer except opposer entertained on opposing "Googlebuzz" however this mark was abandoned after one year by applicant apparently and never applied for Trademark.*

*Entered by opposer this day of January 28<sup>th</sup> January 2013.*

*Opposer reserves the right for further Interrogatory of applicant and expect answers or refusal thereof due 30 (thirty) days from offset.*

Opposer



Andre Rossouw (Googabox) (Googabox.com)

## *Proof Of Service*

*I declare that:*

I am over the age of eighteen years

I am the opposing party of Googabox (Googabox.com)

*That I have:*

*Served upon applicant by means of mutual agreement using “electronic” procedure  
by sending a copy to applicant’s e-mail address of record at the TTAB  
at e-mail address “[EBall@fenwick.com](mailto:EBall@fenwick.com)” and specifically to the attention of  
Erik Ball (Counsel for applicant)*

*Executed in Nashville, Tn*

*So stated under perjury as true and correct this day Feb 25<sup>th</sup> 2013 by opposer for opposer*

  
\_\_\_\_\_  
*Andre Rossouw (Googabox) (Googabox.com)*

# **EXHIBIT 7**

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

In the matter of Trademark Application No. 85358119  
Mark: GOOGLEPLUS (GOOGLE +)

Andre Rossouw (Opposer)	)	
	)	
vs.	)	Opposition No. 91203541
	)	
Google Incorporated (Applicant)	)	

Record of Discovery Conference

In Response to email dated April 22<sup>nd</sup> 2013 regarding Discovery Confer on April 17 2013: the following:

Opposer reserves the right to “withdraw” any responses amended, agreed to or not pertaining to interrogatories and admissions based on the following: Relevance” “Out of scope” “Misconstrued” “Out of context” and “Information equally available to applicant” and Opposer deems all responses presented by applicant to the BOARD null and void if indeed those responses by opposer is not presented by applicant in it's FULL context with all response elements attached thereto, so as to carry the full understanding of opposer's responses and objections.

Applicant presented the following to be reflective of Discovery Confer:

*Issue (1) “You are considering amending or supplementing your responses to Google’s Requests for Admission Nos. 98-105”.*

As to Issue (1) Admission Request 98 thru 100:

Original response stands (amended) Never was it documented specifically that GWI was the “owner” of the Googabox mark, even though GWI was solely owned by Andre D. Rossouw (opposer), and if misunderstood by applicant in opposer's complaint, applicant was properly informed that Andre D. Rossouw was in fact the sole owner of GWI without any other parties amended to ownership, thus the proper sequence was as follows: Googabox mark owner (Andre D. Rossouw) so documented, GWI owner (Andre D.Rossouw) so documented. Even though GWI was owned solely by Andre D. Rossouw the mark Googabox was only owned and Registered to one Andre D Rossouw, and remain so to this day. No other “company” was or is established to date in owning the Googabox mark other than the individual Andre D Rossouw.

As to Issue (1) Admission Request 101: Original response stands (amended) GWI was solely owned by Andre D. Rossouw and any investors to the development of the Googabox mark is and was never part

of GWI and agreements between said investors and Andre D. Rossouw is regarded as confidential thereto, as well as unnecessary exposure and burden, and of no relevance to the dispute, if indeed the forgoing as to the actual and only owner of the Googabox mark is true, being it one of record Andre D. Rossouw.

As to issue (1) Admission Request 102- 105:

Original response stands (amended) Googabox World International is solely owned by Andre D. Rossouw and was created long AFTER the mark Googabox was Registered. The mark Googabox was never transferred to Googabox World International as Googabox World International is a Company in development aiming to operate the mechanics of the Googabox mark. Exposing this operation would impose upon privacy matters as well as unnecessary exposure and burden and of no relevance to the dispute, if indeed the forgoing as to the actual and only owner of the Googabox mark is true, being it one of record Andre D. Rossouw.

*Issue (2) "Google agreed to amend Request for Admission No. 31 as follows: "Admit that Orkut is a Social Network." You agreed, that you would admit to this request, but you refused to amend your response on the grounds that Orkut is irrelevant.*

As to Issue (2) Admission Request 31:

Original response stands (amended) Opposer has already admitted to the ORKUT mark as a social network operated by Google Inc. in the original complaint (opposition) however the context as to WHY opposer feels this admission to go to "relevancy" should be amended in this admittance as was explained to applicant in the Discovery conference. The relevancy goes to the fact that the mark ORKUT was never an annotation OR connotation to the mark Google, but was in fact a "stand-alone" mark mentioned in amended small caption as "by Google" a far cry from the newly created mark spoken "Googleplus" and presented both as "Google Plus" and "Google+" to the public on search pages and so able to search for as both representations. Further the mark ORKUT is not in conflict with

opposer's mark and the dispute is not about the right to “social networking” but in fact is about the two similar sounding marks “Googleplus (so spoken) and Googabox” both representing the same service namely “Social Networking”.

*Issue (3) “ You are not willing to amend or supplement your responses to Google’s Requests for Admission Nos. 1, 3-60, 62, 63 or 65-97”.*

As to Issue (3) Admission Request 1, 3-60, 62, 63 or 65-97”:

Original response stands (agree to amend) (amended) Applicant's arguments as to WHY the “Google” and “Goog” formative marks are irrelevant to this dispute are not satisfactory as the BOARD has ruled numerous times that the public's perception is one of “a mark as a whole” and do not generally “dissect” marks when observing them, and thus one can argue possible confusion and loss of mark potency comes from the public's perception of a mark as “a whole”. Applicant's possible argument to the relevancy of all admission requests pertaining to the mark “Google” and “Goog” formative marks, suggests the opposite thereof, that indeed the public DO dissect marks and that because of the prevalence of the mark “Google” ALL marks containing the words “Goo” or “Goog” WILL be associated with their mark “Google”. A rather ambitious claim seeing there are NUMEROUS marks on the roster and words in use containing the “Goo” and “Goog” elements. If opposer has to admit to applicant's request, opposer would have to admit the “relevance” of the marks “Google” and would have to admit the words “Goo” or “Goog” as inaccessible words to ever be used in any other Trademarks, and even to go as far as admitting that current marks using these words “goo” and “Goog” are in danger of being “canceled” by the BOARD” upon request of applicant stating the “prevalence” of their mark “Google” as sufficient reason. Opposer asserts that if indeed the BOARD agrees with applicant on this assumption that prevalence gives them the “sole” right or first right to the words “Goo” and “Goog” no matter what, it would be suggested by opposer that many marks currently in existence will be in danger and NOT just from this applicant. Further applicant's assertion that their

“Right to Register” the mark “Google+ (Googleplus) should be so purely because of their claim that the mark “Google+” (Googleplus) has that right because of the mark “Google” and should be so regardless of being too similar to another mark already in this class and representing the services of “Social Networking” containing the words “Goo” and “Goog” as well should be deemed baseless, because they should not have the right exclusively to these words and also goes back to the previous argument of “prevalence” to the mark “Google” should NOT allow them to dissect portions of that mark as also exclusively their right to use in ANY circumstance. In this instance opposer should have FIRST right of use of these words “Goo” and “Goog” and if so the two marks in question “Googleplus” (so spoken) and “Googabox” should be compared as a whole for adverse effects and opposer's relevance to the mark “Google”, “Goo” and “Goog” should be sustained.

*Issue (4) “ You are not willing to respond to any request relating to any marks other than GOOGLE+ and GOOGABOX”.*

As to Issue (4)

Original response stands except (amended) applicant constantly fails to address the mark in question as how it is presented in it's entirety which is the following: “Googleplus”(so spoken) “Google Plus” so presented in search pages including applicant's OWN search pages and that of other search pages and by public's rendition “Google+”

*Issue (5) “For GOOGLE+ and GOOGABOX you will not respond to any requests that do not directly relate to the alleged similarity of the overall appearance and sound of the marks in their entirety. For example, you will not respond to Request for Admission No. 62 regarding the differences in the meanings of the parties’ marks since “The meaning of the perspective marks is not issue here, the similarity of overall appearance and SOUND in particular however is.” Nor will you respond to Request for Admission Nos. 47 and 48 relating to the strength of the GOOGABOX mark”.*

As to Issue (5) Admission Request (62) (47) (48)

Original response stands (amended) Public perception to marks as a “whole” should be the issue. If the “meaning” of the marks in question is investigated it would be discovered that the mark “Google+” is NON-DESCRIPTIVE as a whole and depended on the meaning the applicant puts to it, this topic highly irrelevant as the meaning the applicant has forced upon the mark is one of “Social Networking” the very class being opposed by opposer and further strengthens the fact that if this meaning was not forced by applicant the mark “Google+” should rather have the meaning of “search with a plus” or “searching enhanced” however none of this takes away from the fact that these two marks are TOO similar in sound to both represent the same service as the adverse effect will be on opposer's mark, the issue should be irrespective of “meaning” what adverse effect would applicant's mark have on opposer's mark. If the strenght of opposer's mark has been diminished, it is clearly so because of the disregard conduct of applicant and thus the strength of opposer's mark is only relevant thereto.

*Issue (5) Based on your objections to Google's Requests for Admission, I presume that you will not amend or supplement your responses to Google's Interrogatory Nos. 5, 7, 8, 10-15, 19, 21, 22, 26, 29 and 30. If this is not the case, please let me know. Please also let me know if you are willing to meet and confer regarding your responses to Google's Interrogatory Nos. 1-4, 18, 23, 25 and 27.*

As to Issue (5) Interrogatory Request (5) (7) (8) (10-15) (19) (21) (22) (26) (29) (30)

Original response stands (amended) All these interrogatories goes to the same aforesaid argument as well as “Out of scope” “Misconstrued” “Out of context” and “Information equally available to applicant”.

*Issue (6) Based on your objections to Google's Requests for Admission, I presume that you will not amend or supplement your responses to Google's Request for Production of Documents Nos. 1-18, 20-25, 27, 28, 30-38 and 41. If this is not the case, please let me know. Please also let me know if you are willing to meet and confer regarding your responses to Google's Request for Production of Documents Nos. 19, 26, 29, 39, 40 and 42-44.*

As to Issue (6) Request for Production of Documents (1-18) (20) (25) (27) (28) (30-38) (41)

Original response stands (amended) All these Requests goes to the same aforesaid argument as well as “Out of scope” “Misconstrued” “Out of context” and “Information equally available to applicant”.

More Discovery conference is to follow on remaining issues to determine (if any) feasible amendments or eradication thereof

So entered in good faith this day of March 27<sup>th</sup> 2013 by opposing party.

  
\_\_\_\_\_ (Pro Se)  
**Andre Rossouw (Googabox) (Googabox.com)**

## *Proof Of Service*

*I declare that:*

I am over the age of eighteen years

I am the opposing party of Googabox (Googabox.com)

*That I have:*

*Served upon applicant by means of mutual agreement using "electronic" procedure  
by sending a copy to applicant's e-mail address of record at the TTAB  
at e-mail address "[EBall@fenwick.com](mailto:EBall@fenwick.com)" and specifically to the attention of  
Eric Ball (Counsel for applicant)*

*Executed in Nashville, Tn*

*So stated under perjury as true and correct this day April 22nd 2013 by opposer for opposer*



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*Andre Rossouw (Googabox) (Googabox.com)*

# **EXHIBIT 8**

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

In the matter of Trademark Application No. 85358119  
Mark: GOOGLEPLUS (GOOGLE +)

Andre Rossouw (Opposer)	)	
	)	
vs.	)	Opposition No. 91203541
	)	
Google Incorporated (Applicant)	)	

**OPPOSER'S AMENDED RESPONSE TO APPLICANT'S INITIAL INTERROGATORIES  
AND REQUEST FOR ADMISSIONS FOLLOWING MEET AND CONFER.**

Opposer Andre Rossouw hereby responds to Discovery conferences without waiver of, or prejudice to, any objection opposer may have to the use at trial of any elements partially or in whole within this document, including the document itself or any part thereof pursuant to rule 26.

Opposer hereby reserves the right to revert back to original answers prior to compromise of original answers and see this document simply as a means to narrow the scope on articles discussed during Discovery Conferences. Due to ongoing investigation into this matter opposer reserves the right to add or “take away” any disclosures made within this document.

**As to Applicant's Interrogatories 1,2,3,4,11,14,15,16,19 and Request for Admissions (95-105)**  
**( Revised and Amended to opposer's ORIGINAL responses)**

Opposer objects as to "Privacy" of opposer's past and ongoing efforts/ operations to develop the mark "Googabox". (*Argument*) As Companies "grow" in general, changes are made on an ongoing basis as part of such development, whether it pertains to (broadly) Operations, Trademarks, Products etc. in the scheme of things ALL Companies or Companies in development (start-ups) or Companies intended, go through these phases in the hope to eventually find a successful recipe to make such Company successful. Should a Company relay "Trade Secrets" or "intended operations" including "testing" "ideas" and/ or area's of research including history of tests, trial and error, such revealing may harm or hinder Companies or individuals attempting to establish a Company to the extend of irreversible adverse effects. Unless applicant charges intentional wrongdoing suggesting criminal activity with proper evidence thereto, the Court should not either consider forcing opposer to reveal such "private" operations. In such event opposer will rely on the Court to establish the validity of such evidence, what it's purpose is, and if appropriately within the scope of opposer's complaint and whether it's true purpose goes to proper "affirmative defense" of applicant. Merely suggesting "possible wrong doing" that may or may not be true, should not be sufficient to allow such suggested evidence, as the harm it may cause opposer's ongoing operations far outweighs such "speculative" charges. Further it also takes up unnecessary time of this proceeding as to being "out of scope".

Opposer has proven satisfactorily to the Trademark office AND applicant to, whom the owner of the mark Googabox is being it one individual Andre Rossouw, as well as the ongoing operations of said Trademark Googabox , and should be also so satisfactory to applicant, that this is a mark in development and therefore the mark is entitled to protection whilst "in development" It goes without saying, monies and effort spent, including design, research, trial and error and development would be lost if a Company's Trademark in development is suddenly jeopardized, especially if all the above was focused around the said Trademark. Often ideas starts with a "name" that becomes a Trademark, Then is Trademarked,

such as in this case the development as a whole surrounds opposer's Trademark.

If a Company or individual developing a Company for a considerable amount of time has to suddenly “change” the theme of the Company in development or mark in development, all past efforts and research of development is lost as the “theme” is definitively based around the “mark” As long as the Company in development can prove “ongoing operations” and proper and clear efforts to develop, the mark should be protected for such ongoing development. Opposer's mark is also clearly not a “descriptive” mark and researched and chosen so specifically.

As to all Conference discussions regarding applicant's Requests for Admissions..

**As to Admissions: 1, 3-20, 24-32, 34,35, 37, 38, 40, 41, 42, 44, 45, 46, 49-53, 59-89**

***( Revised and Amended to opposer's ORIGINAL responses)***

Opposer has adopted the general rule of thumb implemented by the BOARD which is to compare conflicted marks against each other as a “whole”, and further to this opposer suggests amendment to this rule of thumb to include that, “dissecting” of conflicted marks be limited to demonstrate comparison of the conflicted marks as a “whole” only. Applicant is persistent in “dissecting” the conflicted marks in a way that is NOT consistent to comparison as a “whole” whilst opposer is rather applying the rule of thumb adopted by the BOARD. For instance, applicant is “dissecting” the conflicted marks into individual “parts” and compares the dissected “parts” in a standalone manner against each other, rather than comparing the “dissected” parts all together as a “whole” *example:* Applicant “dissects” “plus” and “box” and compares the two words without the rest of the conflicted marks as a whole, and failing to do so misconstrues the fact that the marks as a “whole” is too similar in sound (and appearance if we are to count the various ways applicant's mark in question is presented to the public) Opposer perceives the conflicted marks as a “whole” thus when opposer “dissects” the conflicted marks, it's “dissected” against each other as a “whole” for comparison purposes. Unlike applicant opposer is not comparing part by part ie: “plus/ box” or “Google” Googa” or “gle” ga” but rather as a “whole” (pronounced) “Goo-ple-plus and Goo-ga-box” to demonstrate the strong resemblance between the two marks, ie: same first four letters, same syllables

***Opposition No. 91203541***

and same “s” sound at the end. Furthermore, the aah sound of “plus and “box are also very similar and combined with all the rest of the two marks as a whole becomes “too similar” for comfort of “no adverse effects” on opposer's mark. The matter of “as a whole” is easily misconstrued by demonstrating “dissected” parts singularly against each other. The public perceives marks as a “whole” and so agreed by opposer and so applied by opposer as demonstrated, whereas applicant insists on “dissecting” in a manner that is NOT perceived by the public and so agreed to by the BOARD. Further, opposer is only interested in comparing the marks in question and as a “whole” and not as “dissected” against other or previous marks owned by applicant. Applicant's previous marks are not, and should not be the issue here as their new mark is filed for application for a Trademark precisely because that is what it is, a NEW mark, a new composition and so should be compared against other marks already in the class they're trying to Register for. This is further strengthened by the fact that their original mark ALSO contains words that were already famous and used in the English language to which they have no exclusive right to (if we were to dissect) such as Goo= sticky, Goog= egg (Australian) Googa-mooga (1970'S slang) Whether or not their NEW mark contains a part or parts of their PREVIOUS mark should be irrelevant for comparison of the newly created mark against opposer's mark. If their newly composed mark was simply a “descriptive” annotation to their previous mark, their grounds for “Trademark Rights” using their already existing mark would have been justified, however the annotation (+) “plus” is non-descriptive. “Plus” in the very least should mean in this sense “search with a plus” “extra search” “enhanced search” if applied to their already existing mark “Google” (which is proved to mean search “google it”) and (+) “plus” does not describe a “Social Network” by any means, which should render their suggestion of “Trademark rights” moot.

**(Revised on Request for Admissions) (2, 21, 22, 23, 33, 36, 39, 43, 47, 48, 54, 90-94)**

Original response stands.

**(Revised on Request for Admissions) (95-105)**

Refer to page one(1) of this amendment.

**(Revised on Request for Admissions) (55-58)**

The mark Google+ is observed on many search pages AND applicant's OWN search pages in various forms. These forms are also included in various search engines as well as their own as indeed "search-able" and will either directly or indirectly direct the user to the site bearing their application mark "Google+" (Opposer will provide documentation thereto). This HAS to be seen as "willingly" inserted in their search engine as "search-able" thus being promoted as such alongside the mark "Google+" the very mark they're applying Registration for. These adopted and promoted marks by applicant is as follows: **"Google+" - "Googleplus" - "Google Plus" - "GooglePLUS"**

This proves that the public's perception in "pronunciation" is that of the fully spelled mark "Googleplus" This is further cause for not only the overwhelmingly similar "pronunciation of "Googleplus/ Googabox but also the very similar "appearance" of the 2 marks in question which strengthens the claim of opposer that goes to "confusion". For example: if one person should say to another, "hey check me out on Googabox" a few days after the fact the person who was TOLD this, may well be confused as to the person who told him said "check me out on Googleplus" and vice verse. This can most likely prove to be damaging to both parties, and if applicant is content with this scenario, it clearly shows their reliance on prevalence of their existing mark "Google", however opposer should not be made to suffer such adverse effect. If these marks prove to be too similar opposer should retain "first right of use" For ALL the above reasons opposer has to stay with opposers original assesment as to objections to applicant's Interrogatories and Requests for Admissions to include but not limited to as "out of scope" "relevance" relevance suggested without merit" "inflammatory" "speculative " attempt to misconstrue" "denying the obvious" and "biased judgment" of the obvious problematic marks in question.

So entered by opposer (pro-se)

Dated: May 28th 2013

Opposer

By: Opposer: Andre D Rossouw (Pro Se)  
[admin@googabox.com](mailto:admin@googabox.com)  
 301-481-5574  
 1813 Cloverleaf Dr  
 Nashville, TN, 37216

## *Proof Of Service*

*I declare that:*

I am over the age of eighteen years

I am the opposing party of Googabox (Googabox.com)

*That I have:*

*Served upon applicant by means of mutual agreement using “electronic” procedure  
by sending a copy to applicant's e-mail address of record at the TTAB  
at e-mail address “[EBall@fenwick.com](mailto:EBall@fenwick.com)” and specifically to the attention of  
Erik Ball (Counsel for applicant)*

*Executed in Nashville, Tn*

*So stated under perjury as true and correct this day May 28th 2013 by opposer for opposer*



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*Andre Rossouw (Googabox) (Googabox.com)*

**Opposition No. 91203541**

# **EXHIBIT 9**

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

In the matter of Trademark Application No. 85358119  
Mark: GOOGLEPLUS (GOOGLE +)

Andre Rossouw (Opposer)	)	
	)	
vs.	)	Opposition No. 91203541
	)	
Google Incorporated (Applicant)	)	

**OPPOSER'S AMENDED RESPONSE TO APPLICANT'S INITIAL REQUEST FOR  
PRODUCTION OF DOCUMENTS FOLLOWING MEET AND CONFER.**

Opposer Andre Rossouw hereby responds to Discovery conferences without waiver of, or prejudice to, any objection opposer may have to the use at trial of any elements partially or in whole within this document, including the document itself or any part thereof pursuant to rule 26.

Opposer hereby reserves the right to revert back to original answers prior to compromise of original answers and see this document simply as a means to narrow the scope on articles discussed during Discovery Conferences. Due to ongoing investigation into this matter opposer reserves the right to add or “take away” any disclosures made within this document.

**As to Applicant's Request for Production Of Documents (19)(26)(28)(29)****( Revised and Amended to opposer's ORIGINAL responses)**

In general opposer is continuously in process of marketing and development of his mark. These ongoing promotions and marketing is also conducted through OTHER social networks such as "facebook" and "twitter", the very market online that applicant is using the newly created "Google+" (Googleplus) mark for, and one in the same mark being opposed by opposer. This further enhances strongly the fact that opposer and applicant will indeed be compared online sharing a market in such close quarters, being ONLINE and ONLINE only. It is procedurally common to market new social networks through other social networks as this is the clientele a newly developed social network entity is after, as well as NEW internet users. These social networks commonly share links and traffic and is in constant competition to generate the adequate traffic needed for profitable revenue. There should not be a question as to a time limit on ongoing marketing and development of opposers mark that indeed represents a Social network competing for traffic. Allowing applicant to confuse opposers mark with that of their own newly created mark would be "unfair business" and the confusion would have a considerable adverse effect on opposers mark. Further opposer in this sense also claims "dilution" of his mark which is in this closely knitted field of service. Opposer validates the uniqueness of his mark as being NON-DESCRIPTIVE. Opposer further views consumer recognition of his mark and ultimate consumer recognition of his mark as pointing uniquely to opposer due to the marks uniqueness. Opposer has thus far around 11000 (eleven thousand) members and users that fluctuates around 2000 (two thousand) in traffic daily. These numbers are too be expected to rise significantly as the market proves that Social network services entertain members in the billions. Opposers mark is also operating internationally online and has members from different countries including the United States. Competing for traffic online in these services of Social networking leaves no margin for error to confusion as the user's are in the billions and even a very "marginal" error of confusion could mean losing millions in traffic count. Opposer reminds that pronounced Googleplus/ Googabox shares the

same first letters, the same 3 syllables, the almost similar “ah” sound of “plus” and “box” and the “s” sound on the end. *ex. If a user states to another verbally or non-verbally, I joined “Googabox” the receiver of the statement could well a day or 2 later be confused whether the statement was “Googleplus or Googabox (pronounced) Users also prove to write applicant's mark in various ways “Google+” Googleplus”, Google PLUS” and “Google Plus” which in writing could also proof to have a strong resemblance to opposers mark Googabox. This could prove disastrous for opposer in lieu of traffic competition online, if a consumer can not remember whether he/ she observed Googleplus or Googabox.* So as to prove the public's familiarity opposer states that it has a following of almost 11000 members currently and is expecting millions more. Current traffic can be seen by applicant as well as member count on opposers site. Applicant also can join the site in order to see opposers current mechanics and memberships. The Board has left room to make decisions based on the specific facts of a case. Opposer will present any relevant documents/ surveys related to the above.

***As to Applicant's Request for Production Of Documents (39)***

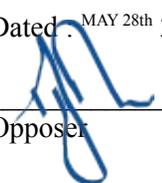
Pertaining to the “contents of the letter of protest” opposer will produce this document if available, however applicant knows that when an interlocutory attorney overseeing an application is alerted by the Trademark's Commissioners office to a letter of protest, the contents of the letter is not presented to the interlocutory attorney overseeing the application. He is simply made “aware” of the fact that there is a complaint and possible conflict of marks. It should with reasonable prudence be understood that an interlocutory attorney is NOT presented with ALL the facts of the complaint and the extent thereto, and therefore can not be expected to make a proper informative decision on the matter. Applicant must accept that the letter of protest was adequate to the extent that the Commissioner found it credible enough to raise the alarm with the attorney overseeing the application. Any speculations to as “why” the overseeing attorney of record did not “act” on the alarm raised by the Trademark Commissioner should be moot unless the applicant is planning to present said attorney as witness. The fact remains, the Trademark Commissioner labeled the letter of protest “credible” to the

extent of raising the matter with the overseeing attorney of record to investigate. Whether or not a proper investigation was conducted and to what extent is only speculative. The fact remains applicant was made aware of the complaint as well as later on a letter of "seize and desist"

The letter will be presented if found, however if nor opposer will present the Trademark Commissioners response and action to the letter of protest as evidence, which is also equally available for applicant to see online posted with opposers opposition.

So entered by opposer (pro-se)

Dated <sup>MAY 28th</sup> 2013

  
\_\_\_\_\_  
Opposer

By: Opposer: Andre D Rossouw (Pro Se)  
[admin@gogobox.com](mailto:admin@gogobox.com)  
301-481-5574  
1813 Cloverleaf Dr  
Nashville, TN, 37216

## *Proof Of Service*

*I declare that:*

I am over the age of eighteen years

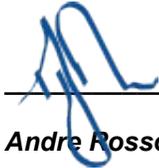
I am the opposing party of Googabox (Googabox.com)

*That I have:*

*Served upon applicant by means of mutual agreement using "electronic" procedure  
by sending a copy to applicant's e-mail address of record at the TTAB  
at e-mail address "[EBall@fenwick.com](mailto:EBall@fenwick.com)" and specifically to the attention of  
Erik Ball (Counsel for applicant)*

*Executed in Nashville, Tn*

*So stated under perjury as true and correct this day MAY 28th 2013 by opposer for opposer*



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*Andre Rossouw (Googabox) (Googabox.com)*

# **EXHIBIT 10**

Opposers Amended revised responses to applicant's Interrogatories and Admissions

**As per interrogatories 1-3** (No revised amendments)

**As per interrogatory 4** (Andre D Rossouw)

**As per interrogatory 18** (interrogatory 17 explains it all)

**As per interrogatory 23** (stands, amended would be the surveys conducted by opposer )

**As per interrogatory 27** (Stays, amended would be the surveys which is sufficient to the claim of confusion)

**Admissions 95** (irrelevant as Googabox World Inc. was intended to be a parent Company to Googabox.com however this never came to pass, as no licenses to Googabox.com was ever granted,/ issued or agreed to GWI or ANY other entities. also ALL GWI “intended to be a Companies” (Googabox World Inc. and Googabox World International) was solely owned by Andre D.

Rossouw in this instance, and seeing there was no other individuals involved in the makeup of these “intended to be Companies”, there was NO need to transfer ANY trademark ownership OR operations license to ANY of these two intended to be Companies, as also for the reason they never came to pass. Opposers answer (not relevant)

**Admissions 96** (irrelevant) (see Admissions 95) The license was pure “revoked” because opposer decided not to pursue GWI as a Company and not because of ANY other reason as obviously being implied by applicant. Opposer is NOT being sought after by the state of Nevada for any “wrong doing” if this is what applicant indeed is implying, and should opposer decide to re-instate GWI in the State of Nevada there would be NO problem in doing so.

**Admissions 96** (irrelevant) GWI indeed was Incorporated in Nevada at the time when this was added on the website and simply left on there as opposer was in the process of deciding whether or not to further pursue GWI as a company. This has been removed since opposer decided affirmatively not to pursue GWI as a Company any further. Opposers answer (denied)

**Admissions 97-105** (Irrelevant) Opposer's answer (denied)

**Production of documents 19** (Currently almost 11 thousand members, not counting thousands deleted because of “spamming”, this is evident on the site and equally accessible to applicant and should be sufficient to show use of the Googabox site ) Opposer disposition (denied)

**Production of documents 26** (Survey in progress, may need more time to Discovery to wait for surveys being returned to show the results)

**Production of documents 28** (Objection to Unfair and out of scope as site has NO means of determining this accurately by any means, if applicant can show such a report for their site, opposer would be happy to see it and ask “how such a report can be achieved without a “survey” opposer disposition (denied)

**Production of documents 29** (Objection: Repetitive) (Survey in progress, may need more time to Discovery to wait for surveys being returned to show the results)

**Production of documents 39** (Letter of protest missing) It is opposers stance that the Trademark Commissioner studied the merits of the “letter of protest” filed by opposer and deemed the merits thereof credible to the point of alerting the attorney processing applicant's application of the mark “Google+” (Googleplus) The contents of the letter as applicant well know, is not presented to the said attorney other than being made aware of a conflict protest, therefore the contents thereof being entered into evidence is burdensome, unless applicant is of the intent to dispute the Trademark Commissioners decision of alerting the said attorney processing applicant's application. (The decision of the Trademark Commissioner regarding the letter of protest is on record online for applicant to see. The record opposer entered as evidence is merely to proof such letter was indeed filed and the contents thereof goes to nothing different than what is before the Board now, and if the contents thereof was inappropriate or “questionable” the Trademark Commissioners expertise and experience would have alerted him/ her to such, however it did not. (Document can be requested from Trademark Office)

**Production of documents 40** (Non presented, other than research by opposer to substantiate and warrant the credibility of opposition)

**Production of documents 42** (Objection) “all documents identified” is vague and not specific.

**Production of documents 44** (All documents will be provided in support of this opposition) (more time may be requested for such particularly referring to surveys)

# **EXHIBIT 11**

**From:** Eric Ball  
**Sent:** Thursday, June 06, 2013 3:58 PM  
**To:** 'Admin'  
**Cc:** 'Andre'  
**Subject:** RE: GOOGLE+ Opposition Meet and Confer

Andre,

Thank you for your supplemental responses to Google's discovery requests, provided on June 6. I was hoping you could clarify your responses by answering the questions below.

1. What are you denying in response to Request for Production of Documents No. 19? Do you have any documents relating to surveys or studies to determine the familiarity of the public with your services? If yes, please let us know when we will receive these documents. If no, please confirm that you do not have any requested documents.
2. What is unclear about the phrase "all documents identified" in Request for Production No. 42? Google is seeking all documents that you identified in your discovery responses.
3. Your June 6 response did not respond to Request for Production No. 43. When will Google receive your document production in response to Request for Production of Documents No. 43?



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**From:** Eric Ball  
**Sent:** Wednesday, June 05, 2013 4:14 PM  
**To:** 'Admin'  
**Cc:** 'Andre'  
**Subject:** RE: GOOGLE+ Opposition Meet and Confer

Andre,

We are receipt of your revised responses to Google's discovery requests, dated May 28.

Please let us know when we will receive your document production in response to Request for Production of Documents Nos. 19, 26, 28, 29, 39, 40 and 42-44. Please also let us know if you intend to further supplement your responses to Interrogatory Nos. 1-4 as discussed in my April 29 email. Please also let us know when we will receive your supplemental responses to Interrogatory Nos. 18, 23 and 27. Finally, please let us know if you intend to provide direct admissions or denials to Requests for Admission Nos. 95-105. Your May 28 revisions do not directly admit or deny Request for Admissions Nos. 95-105.

If, however, you do not intend to further supplement your discovery responses, please let us know.



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**From:** Eric Ball  
**Sent:** Saturday, May 11, 2013 2:46 PM  
**To:** 'Admin'  
**Cc:** 'Andre'  
**Subject:** RE: GOOGLE+ Opposition Meet and Confer

Andre,

Thank you for your time yesterday. Our next call is scheduled for May 15 from 11-12 pacific.

Below is a summary of our meet and confer discussions on April 29 and May 10. Please let me know if anything below is incorrect.

- You again agreed that you would consent to Google's request to extend the discovery period if Google decides that additional time was needed to review your document production and discovery responses.
- In response to Request for Production of Document No. 19, you stated that you will produce all responsive documents in a matter of weeks. You also stated that you do not have any documents responsive to this request, which existed before you applied for a registration of the GOOGABOX trademark. You further stated that you did not search for marks similar to the GOOGABOX mark before applying for a registration. You did not think searching for other marks similar to the GOOGABOX mark was necessary. One reason you stated for why you did not think it was necessary, is because you believe that the GOOGABOX mark is not descriptive. Finally, you explained that you were concerned that registration of the GOOGLE+ mark would lead to derogatory statements regarding your GOOGABOX mark and website. You stated, however, that you did not have any evidence of derogatory statements regarding the GOOGABOX mark or website because of the GOOGLE+ mark.
- In response to Request for Production of Documents No. 26, you stated that you are working on producing documents in response to this request and that you will produce all responsive documents in a matter of weeks.
- In response to Request for Production of Documents No. 28, you confirmed that you do not have any records of consumers or potential consumers traveling to the [www.googabox.com](http://www.googabox.com) website by mistake since you do not collect, track or record information responsive to Request for Production of Documents No. 28. You also stated that no one has contacted you or emailed you stating that they traveled to the [www.googabox.com](http://www.googabox.com) website by mistake. You do not believe that consumers will take the time to

contact you if they traveled to [www.googabox.com](http://www.googabox.com) by mistake. Finally, you stated that you understood the request.

- In response to Request for Production of Documents No. 29, you stated that you will produce all responsive documents in a matter of weeks.
- In response to Request for Production of Documents No. 39, you stated that you have not located your letter of protest. You agreed that if you locate the letter of protest, you will produce the letter of protest. You also stated that you do not have any correspondence relating to the letter of protest or any drafts of the letter of protest.
- In response to Request for Production of Documents Nos. 40 and 42-44 you stated that if you have anything responsive to these requests, then you will produce all responsive documents.



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**From:** Eric Ball  
**Sent:** Monday, April 29, 2013 3:37 PM  
**To:** 'Andre'  
**Cc:** 'A.Rossouw'  
**Subject:** RE: GOOGLE+ Opposition Meet and Confer

Andre,

Thank you for your time today. I look forward to our next meet and confer conference on April 30 between 2:00 p.m. and 3:00 p.m. pacific.

Have a nice evening.



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**From:** Eric Ball  
**Sent:** Monday, April 29, 2013 8:28 AM

**To:** 'Andre'  
**Cc:** 'A.Rossouw'; 'LAW OFFICES OF LENNY BUSH'  
**Subject:** RE: GOOGLE+ Opposition Meet and Confer

Andre,

Below is a summary of our meet and confer on April 24. Please let me know if anything below is incorrect. Specifically, please let me know if you plan to amend or supplement any of your responses to Google's discovery requests.

- You stated that based on your objections to Google's Requests for Admission, that you will not amend or supplement your responses to Google's Interrogatory Nos. 5, 7, 8, 10-15, 19, 21, 22, 26, 29 and 30. And given your objection to amending or supplementing your responses, any further meet and confer of these interrogatories was unnecessary.
- In response to Interrogatory Nos. 1-4, you stated that you would consider supplementing your Interrogatory responses to explicitly state that information responsive to these interrogatories was previously provided by you in your Amended Notice of Opposition and responses to Google's motion to dismiss the Notice of Opposition. You further stated that you would consider supplementing Interrogatory Nos. 1-4 to clarify the ownership interest, including any license interest in the GOOGABOX mark.
- In response to Interrogatory No. 1, you stated that you were the sole owner of Googabox World, Inc.
- In response to Interrogatory No. 1, you stated that there are investors in Googabox World International other than yourself. But Googabox World International is not currently functioning or operating as a legal entity. Googabox World International is only the name of a company that you would like to create in the future.
- In response to Interrogatory Nos. 1 and 3, you would not identify the investors in Googabox World International. Nor would you supplement your initial disclosures to specifically identify the investors described in your initial disclosures as "Three Investors Whom Invested in Googabox."
  - Please let me know if you will specifically identify the individual listed in your initial disclosures as "Ex-partner of Andre Rossouw to the business of Googabox (Googabox.com)."
- In response to Interrogatory Nos. 2-4, you stated that other than yourself no person or company has had an ownership or proprietary interest of any kind, including without limitation, a license, assignment, or security interest in the GOOGABOX mark. You further stated that the investors in Googabox World International did not have any interest, including a security interest, in the GOOGABOX mark.
- In response to Interrogatory No. 2, you stated that Googabox World Inc. never had an interest of any kind in the GOOGABOX mark, including a license interest.
- In response to Interrogatory No. 2, you stated that Googabox World Inc. never used the GOOGABOX mark or operated [www.googabox.com](http://www.googabox.com). Rather only you used the GOOGABOX mark and operated [www.googabox.com](http://www.googabox.com).
- In response to Interrogatory No. 2, you stated that [www.googabox.com](http://www.googabox.com) pre-existed Googabox World, Inc.

- In response to Interrogatory No. 3, you stated that Googabox World International never had an interest of any kind in the GOOGABOX mark since it does not exist as a legal entity. It is only the name of a company that you would like to create in the future.
- In response to Interrogatory No. 3, you stated that since Googabox World International does not exist as a legal entity, it has never used the GOOGABOX mark and never operated [www.googabox.com](http://www.googabox.com). Rather only you used the GOOGABOX mark and operated [www.googabox.com](http://www.googabox.com).
- In response to Interrogatory No. 18, you stated that you would consider supplementing your Interrogatory response to explicitly state that information responsive to this interrogatory was previously provided by you in your Notice of Opposition, Amended Notice of Opposition and responses to Google's motion to dismiss the Notice of Opposition.
- In response to Interrogatory No. 18, you stated that there was an individual involved in the selection of the GOOGABOX mark who you claim will support your statement that the GOOGABOX mark was originally intended to mean a social network for musicians. You stated, however, that you would not provide the individual's name until the Board overrules your objections.
- In response to Interrogatory No. 18, you stated that before you selected the GOOGABOX mark, another mark was created and under consideration.
- In response to Interrogatory No. 23, you stated that you would consider supplementing your Interrogatory response to explicitly state that information responsive to this interrogatory was previously provided by you in your Notice of Opposition, Amended Notice of Opposition and responses to Google's motion to dismiss the Notice of Opposition.
- In response to Interrogatory No. 23, please confirm that you do not have expert opinion testimony at this time.
- In response to Interrogatory No. 25, you stated that you would not amend or supplement your Interrogatory response to provide any information.
- In response to Interrogatory No. 25, you stated that you are running a questionnaire, designed and operated by you, which seeks information allegedly responsive to Interrogatory No. 25. During our meet and confer, we discussed how your design and operation of the questionnaire is biased, contains improper questions and is inadmissible evidence.
- In response to Interrogatory No. 27, you stated that you would not amend or supplement your Interrogatory response, except that, you would provide contact information, including names, phone numbers and email addresses, for the respondents to your questionnaire. Please confirm when you will provide this information.
- In response to Interrogatory No. 27, you agreed to consent to an extension of the discovery period so that Google could investigate or depose the respondents to your questionnaire.
- In response to Interrogatory No. 27, you stated that you do not recall anyone coming to you personally and challenging, objecting to, or questioning GOOGABOX and/or your right or authority to use such mark.

Finally you stated that you would review your files to see if you had a copy of your letter of protest. If you found a copy of the letter of protest, you would produce it to Google. You also stated that you would review

your original Interrogatory requests to identify which Interrogatories you consider to be Requests for Admission.

I look forward to our next meet and confer conference on April 29 at 3:00 p.m. pacific.



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**From:** Eric Ball  
**Sent:** Monday, April 22, 2013 1:02 PM  
**To:** 'Andre'  
**Cc:** 'A.Rossouw'  
**Subject:** GOOGLE+ Opposition Meet and Confer

Andre,

Below is a summary of our meet and confer on April 17. Please let me know if anything below is incorrect. Specifically, please let me know if you plan to amend or supplement any of your responses to Google's discovery requests.

- You are considering amending or supplementing your responses to Google's Requests for Admission Nos. 98-105.
- Google agreed to amend Request for Admission No. 31 as follows: "Admit that Orkut is a Social Network." You agreed, that you would admit to this request, but you refused to amend your response on the grounds that Orkut is irrelevant.
- You are not willing to amend or supplement your responses to Google's Requests for Admission Nos. 1, 3-60, 62, 63 or 65-97.
- You are not willing to respond to any request relating to any marks other than GOOGLE+ and GOOGABOX.
- For GOOGLE+ and GOOGABOX you will not respond to any requests that do not directly relate to the alleged similarity of the overall appearance and sound of the marks in their entirety. For example, you will not respond to Request for Admission No. 62 regarding the differences in the meanings of the parties' marks since "The meaning of the perspective marks is not issue here, the similarity of overall appearance and SOUND in particular however is." Nor will you respond to Request for Admission Nos. 47 and 48 relating to the strength of the GOOGABOX mark.

Based on your objections to Google's Requests for Admission, I presume that you will not amend or supplement your responses to Google's Interrogatory Nos. 5, 7, 8, 10-15, 19, 21, 22, 26, 29 and 30. If this is not

the case, please let me know. Please also let me know if you are willing to meet and confer regarding your responses to Google's Interrogatory Nos. 1-4, 18, 23, 25 and 27.

Based on your objections to Google's Requests for Admission, I presume that you will not amend or supplement your responses to Google's Request for Production of Documents Nos. 1-18, 20-25, 27, 28, 30-38 and 41. If this is not the case, please let me know. Please also let me know if you are willing to meet and confer regarding your responses to Google's Request for Production of Documents Nos. 19, 26, 29, 39, 40 and 42-44.

I'm next available to meet and confer on Wednesday or Thursday at 2:00 p.m. pacific.



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# **EXHIBIT 12**

**From:** Eric Ball  
**Sent:** Friday, June 28, 2013 3:49 PM  
**To:** Eric Ball  
**Subject:** FW: GOOGLE+ Opposition Meet and Confer

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

From: Admin [<mailto:admin@gogobox.com>]  
Sent: Wednesday, June 12, 2013 10:26 AM  
To: Eric Ball  
Subject: RE: GOOGLE+ Opposition Meet and Confer

Eric,

AS to your No. 19 request...it's an unnecessary and burdensome request that first of was not and IS not necessary for Googabox to conduct, as the site clearly states it's a SOCIAL NETWORK that provides "services" all related to a Social network FIRST AND FORMOST and automatically MUST be so understood by it's members.

To request a survey on whether or not the public understands the Googabox services that is not familiar with the Googabox mark is equal to asking the public that is not aware with the Google+ (Googleplus) mark to what IT means. Both these marks are not "descriptive" Googabox should NOT have to be "famous" for it to demand protection as a developing mark. The problem occurs asking the public about the Google+ mark (Googleplus) is that Google has the funds to virtually make the mark "famous" overnight and that is "unfair business practices" especially since they were served with a cease and desist" and chose

to ignore it. To now want to claim right of use because of due process due to this unfair and ignorant business practices of Google AFTER receiving a cease and desist AND knowing of the existence of my mark is shameless. Now you want to show that Googabox is not as famous as Google+? (Googleplus) when it was promoted furiously AFTER the fact in an attempt to gain advantage is again shameless. I would think you would withdraw such request with obvious intent.  
(Objection:

burdensome, self explanatory, attempt to oppress and misconstrue with requests of information that's equally available to Google)

As to 42 and 43, All documents relating to answers to Google interrogatories and documents to opposition will be produced where applicable and where no objections are evident. This we have already discussed, that I would like to send you ALL documents at once, however if you need these separately I will commence in doing so...

2013-06-10 23:51, Eric Ball wrote:

> Andre,  
>  
> In the latest version of your revised discovery responses you stated  
> "Opposer disposition (denied)" in response to Request for Production  
> of Documents No. 19. Google's question below sought to understand what  
> you meant by this response. Generally, a party does not deny a Request  
> for Production of Documents. A party either produces documents, states  
> that it has no responsive documents or objects to the request.  
>  
> To further clarify Request for Production of Documents No. 19, this  
> particular request is not seeking information regarding the number of  
> Googabox's members, or their activities in an attempt to undermine  
> Googabox. Request for Production of Documents seeks documents relating  
> to any surveys or studies regarding the public's familiarity with your  
> services. For example, a brand awareness or marketing study. This  
> request is relevant to understanding consumers' perception of the  
> GOOGABOX mark. With this additional clarification, please let me know  
> if you plan to: (1) produce documents; (2) confirm that you have no  
> responsive documents; or (3) stand on your objections.  
>  
> Separately, Requests for Production of Documents Nos. 42 and 43  
> intends to seek distinct sets of documents. Requests No. 42 seeks  
> documents relating to your Interrogatory responses. Request No. 43  
> seeks documents relating to your Requests for Admission responses. We  
> now understand your position to be that the documents responsive to  
> these requests completely overlap each other. If this is not your  
> position, please let me know.  
>  
> Finally, on Request for Production of Documents No. 42, you stated  
> that the phrase "all documents identified" was vague and not specific.  
> Please let us know whether you are refusing to produce documents based  
> on your objection that the request is "vague and not specific." If you  
> are, please explain any remaining confusion. Google is willing to  
> further clarify the phrase.  
>  
> If there are no other objections, please let us know when you will  
> produce documents in response to Request for Production of Documents  
> Nos. 42 and 43.  
>  
> I've responded separately regarding your request for an extension of  
> the discovery period and further questioning of Google.  
>  
> [1]  
>  
> ERIC BALL  
>  
> Fenwick & West LLP [1]  
>  
> Associate, Litigation Group

>  
> (650) 335-7635  
>  
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# **EXHIBIT 13**

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

In the matter of Trademark Application No. 85358119

Mark: GOOGLEPLUS (GOOGLE +)

Andre Rossouw (Opposer)

vs.

Google Incorporated (Applicant)

)  
)  
)  
)  
)

) Opposition No. 91203541

**Opposer's initial set of  
Requests for Admission to applicant  
Google Inc.**

### Synoptic view of Definitions and Instructions

Opposer assumes Counsel is familiar with DEFINITIONS and INSTRUCTIONS as to what elements all falls under opposer and applicant respectively, as is circumspectly in detail composed and explained by applicant's COUNSEL himself in applicant's "First Set Of Interrogatories" presented to opposer to which opposer hereby announce the elements described by applicant (1) thru (17) under this topic thereof to be requested from opposer as being tantamount.

**Pursuant to Federal Rule of Civil Procedure (FRCP) 33 and Rule 2.120 of the Trademark Rules of Practice**, Andre Rossouw requests that Google Inc. ("Google") and/or via COUNSEL, answer separately and fully in writing, under oath, and supply to opposer the answers to the following within the period of no more than thirty (30) days.

#### REQUEST FOR ADMISSION

**REQUEST FOR ADMISSION 1:** Admit that Google Inc. believes their mark "Google" resembles opposer's mark "Googabox"

**REQUEST FOR ADMISSION 2:** Admit that Google Inc. believes their mark "Google" resembles opposer's mark "Googabox" to the extend that they believe opposer's mark is subject to being canceled.

**REQUEST FOR ADMISSION 3:** Admit Google Inc. has expressed their believe that opposer's mark resembles their mark "Google" and other formative "Google marks to the extend of opposer's mark being subject to "cancellation" (C)(5) *"Applicant's Google Inc. motion to dismiss"*

**REQUEST FOR ADMISSION 4:** Admit Google Inc. alleged that they should have unbordered (Trademark) "rights" because of "Google's rights in its family of

GOOGLE and other GOOGLE formative marks” (C)(5) “*Applicant's Google Inc. motion to dismiss*”

**REQUEST FOR ADMISSION 5:** Admit that Google Inc. is of the belief they should have Automatic Trademark “rights” in ANY class of goods and services because of “Google’s alleged rights in its family of GOOGLE and GOOGLE formative marks”

**REQUEST FOR ADMISSION 6:** Admit that Google Inc. is suggesting the words “Goo” “Goog” “Goo goo” “ogle” and even the word “Go” either is, or SHOULD be exclusive to Google Inc. when it comes to their alleged Trademark “rights”. *pg. 6 suggested table of marks/ words applicant's motion for dismissal.*

**REQUEST FOR ADMISSION 7:** Admit that the words “Goo” and “Go” are “descriptive” of nature and are actual words.

**REQUEST FOR ADMISSION 8:** Admit that the word “Goog” is “descriptive” of nature and a actual word. (see online meanings)

**REQUEST FOR ADMISSION 9:** Admit that the difference between Google Inc's admittedly famous GOOGLE mark and the GOOGLE+ mark is NOT just the + symbol but also a difference in pronunciation namely “Google” “Googleplus” respectively.

**REQUEST FOR ADMISSION 10:** Admit that the difference between Google Inc's admittedly famous GOOGLE mark and the GOOGLE+ mark (keeping pronunciation in mind as well) is NOT a “minor” difference.

**REQUEST FOR ADMISSION 11:** Admit that the “Google+” mark is substantially different in meaning, spelling and appearance to the extend it was filed as a separate Trademark application.

**REQUEST FOR ADMISSION 12:** Admit that the ”Google” mark and “Google+” marks are promoted in different classes of goods/ services.

**REQUEST FOR ADMISSION 13:** Admit that “Google+” is pronounced “Googleplus”

**REQUEST FOR ADMISSION 14:** Admit that Trademark Rules specify specifically that ALL symbols , when part of a mark be treated as “pronounced” when compared to other marks.

**REQUEST FOR ADMISSION 15:** Admit that you are aware the mark“Google+ is presented online by different entities as either “Google+” “Googleplus” and “Google Plus”

**REQUEST FOR ADMISSION 16:** Admit that you also promote the mark“Google+ online as “Google Plus”

**REQUEST FOR ADMISSION 17:** Admit that you have also listed the mark“Google+” in your search engine and/ or other search engines as “Googleplus” and “Google Plus”

**REQUEST FOR ADMISSION 18:** Admit that the opposition argument in this case is in part “pronunciation” of the two marks (pronounced)“Googleplus/ Googabox”

**REQUEST FOR ADMISSION 19:** Admit that the mark “Google+” pronounced “Googleplus” is promoting the same service as “Googabox” namely “Social Networking” specifically.

**REQUEST FOR ADMISSION 20:** Admit that the opposition argument in this case is in part “overall impression” of the marks “Google+” pronounced “Googleplus” and “Googabox”

**REQUEST FOR ADMISSION 21:** Admit that the opposition complaint in this case is that “pronunciation” and overall “impression” of the two marks Google+ pronounced “Googleplus” and Googabox” both representing a social network will cause a severe adverse effect on opposers mark “Googabox”

**REQUEST FOR ADMISSION 22:** Admit that if “pronunciation” and overall

“impression” of the two marks “Google+” pronounced “Googleplus and Googabox” can be proven to be “too similar” it will in fact cause a severe adverse effect on opposers mark “Googabox”

**REQUEST FOR ADMISSION 23:** Admit that the BOARD agrees that the public views marks representing services or goods in it's entirety without dissecting a mark.

**REQUEST FOR ADMISSION 24:** Admit that the “conclusion” of Trademark law is that if a mark trying to Register, is too similar in overall impression (ie: sound/ spelling/ same amount of syllables” etc.) to another mark already Registered and active in the specific goods/ service it's trying to Register for, such mark should be denied Registration.

**REQUEST FOR ADMISSION 25:** Admit that the mark Google+ pronounced “Googleplus” and the mark “Google Plus” is in fact all representations of the mark “Google+” directing the user (public) online to the same website promoting “social networking”.

**REQUEST FOR ADMISSION 26:** Admit that the public is allowed to enter the mark “Google+” or “Googleplus” into your search engine to get to the same website promoting Social Networking.

**REQUEST FOR ADMISSION 27:** Admit that the public is allowed to enter the mark “Google+” or “Google Plus” into your search engine to get to the same website promoting Social Networking.

**REQUEST FOR ADMISSION 28:** Admit that the mark “Google+” pronounced “Googleplus” shares the same first four letters, same syllables and same ending sound of “s” as opposer's mark “Googabox”

**REQUEST FOR ADMISSION 29:** Admit that if the above were true (28) opposer will more than likely sustain an adverse effect resulting in damages. Opposition No. 91203541

**REQUEST FOR ADMISSION 30:** Admit that any damage claimed by opposer is damage that would be sustained by opposer and not applicant.

**REQUEST FOR ADMISSION 31:** Admit that opposer is opposing Registration of the mark “Google+ pronounced “Googleplus” specifically for the service of “Social Networking”

**REQUEST FOR ADMISSION 32:** Admit that a Registered mark should get protection from the BOARD against similar sounding marks trying to Register even if the Registered mark is still growing and in the process of ongoing “development”.

**REQUEST FOR ADMISSION 33:** Admit that the mark trying to Register “Google+” is also promoted in pronunciation “Googleplus” and written as “Google Plus” respectively by you.

**REQUEST FOR ADMISSION 34:** Admit that the mark trying to Register “Google+” is also visibly seen on search pages as “Googleplus” and “Google Plus” respectively.

**REQUEST FOR ADMISSION 35:** Admit that the mark trying to Register “Google+” is also understood by the general public as “Googleplus” and “Google Plus” respectively.

**REQUEST FOR ADMISSION 36:** Admit that the mark trying to Register “Google+” is pronounced by the general public as “Googleplus”.

**REQUEST FOR ADMISSION 37:** Admit that the mark trying to Register “Google+” is pronounced by you as “Googleplus”.

**REQUEST FOR ADMISSION 38:** Admit that the pronunciation of the two marks “Google+” and “Googabox” is similar.

**REQUEST FOR ADMISSION 39:** Admit that the pronunciation of the marks “Google+” and “Googabox” is too similar to offer the same service namely a “Social Network” specifically.

**REQUEST FOR ADMISSION 40:** Admit that that the primary similarity between the two marks in question is NOT their suffixes, but in fact the “overall impression” in similarity and pronunciation.

**REQUEST FOR ADMISSION 41:** Admit that the mark “Google+” is NOT “identical to the famous and longstanding GOOGLE mark except for the use of the “+” symbol” [*pg. (11) Applicant's motion to dismiss*], because it's pronounced ”Googleplus” and thus in pronunciation substantially different..

**REQUEST FOR ADMISSION 42:** Admit that the mark you are trying to Register is an entirely NEWLY created mark with an entirely DIFFERENT meaning than the “Google” mark, hence the need to Register the newly created mark as a Trademark.

**REQUEST FOR ADMISSION 43:** Admit that the mark you are trying to Register is an entirely NEWLY created mark for a DIFFERENT service than the “Google” mark, hence the need to Register the newly created mark as a Trademark.

**REQUEST FOR ADMISSION 44:** Admit that the mark you are trying to Register is an annotation/ connotation to your original mark “Google”.

**REQUEST FOR ADMISSION 45:** Admit that in the case of the mark “Google+” the annotation/ connotation in question here to the mark “Google” is “non-descriptive”

**REQUEST FOR ADMISSION 46:** Admit that the two marks in question shares the same first four letters.

**REQUEST FOR ADMISSION 47:** Admit that the two marks in question shares the same amount of syllables in pronunciation.

**REQUEST FOR ADMISSION 48:** Admit that the marks “Google+” also appears as “Googleplus” and “Google Plus” in online pages.

**REQUEST FOR ADMISSION 49:** If (48) above is in fact true Admit that the two marks

“Googleplus”/ “Googabox” shares the same amount of syllables in APPEARANCE.

**REQUEST FOR ADMISSION 50:** If (48) above is in fact true Admit that the two marks

“Google Plus”/ “Googabox” shares the same amount of syllables in pronunciation.

**REQUEST FOR ADMISSION 51:** Admit that the two marks in question shares the same ending sound of “s”.

**REQUEST FOR ADMISSION 52:** Admit that confusion between the marks in question is above “speculative” level when pronounced consecutively, “Google+” “Google Plus” “Googleplus” “Googabox”.

**REQUEST FOR ADMISSION 53:** Admit that “redundancy” in pronunciation of the marks in question would “more than likely be observed by the public exposed to the marks representing the same exact service namely “Social Networking”

**REQUEST FOR ADMISSION 54:** Admit that a “redundancy” element to any mark for the same service could have an adverse effect on any mark.

**REQUEST FOR ADMISSION 55:** Admit that a “redundancy” element will be evident if the marks in question represent the same service.

**REQUEST FOR ADMISSION 56:** Admit that the BOARD judge marks as a “whole” to determine their overall impression to the likely hood of confusion.

**REQUEST FOR ADMISSION 57:** Admit that the BOARD judge marks as a “whole” to determine the overall impression to the likely hood of Trademark “potency loss”

**REQUEST FOR ADMISSION 58:** Admit that the BOARD judge marks as a “whole” to determine their overall impression to the likely hood of adverse effects.

**REQUEST FOR ADMISSION 59:** Admit that the BOARD judge marks as a “whole” to determine their overall impression to the likely hood of damage of a mark.

**REQUEST FOR ADMISSION 60:** Admit that NO Company should retain automatic

Trademark rights in other classes specifically when adding non-descriptive annotations/ connotations to their existing mark.

**REQUEST FOR ADMISSION 61:** Admit that by trademark rules the “+” symbol next to your mark “Google” is without a doubt “pronounced” by any consumer as “plus” and therefore MUST be considered in it's “pronounced” form when comparing it against opposer's mark. Google+ = Googleplus vs Googabox.

**REQUEST FOR ADMISSION 62:** Admit you your stance is the rule of pronunciation does not apply to Google Inc. in this instance.

**REQUEST FOR ADMISSION 63:** Admit you your stance is the rule of pronunciation does not apply to Google Inc. when it comes to ANY Google formative mark.

**REQUEST FOR ADMISSION 64:** Admit that you have received a letter of “Seize and Desist”

**REQUEST FOR ADMISSION 65:** Admit that you were/ are aware of a “letter of protest” that was sent to the “Trademark Office” around November 7th of 2011 by opposer stating “complaint” to you're attempt to Register the mark “Google+” pronounced “Googleplus”

**REQUEST FOR ADMISSION 66:** Admit that your attempt to undermine this opposition is purely reliant on the prevalence of the mark “Google”

**REQUEST FOR ADMISSION 67:** Admit that your attempt to undermine this opposition is purely reliant on the prevalence of the mark “Google” and not whether or not there is a similarity aspect between the two marks in question.

**REQUEST FOR ADMISSION 68:** Admit that even if it was realized the two marks in question are too similar to represent the same service, your defense would still present that, because of the prevalence of the mark “Google”, opposer should not have first right of use”

**REQUEST FOR ADMISSION 69:** Admit that opposer's mark “Googabox” was filed for application of Trademark three years and ten months before the mark “Google+” was filed for Trademark application.

**REQUEST FOR ADMISSION 70:** Admit that you were made aware by stipulation from opposer in response to your “motion to dismiss” that the sole owner of the mark “Googabox” is one Andre D Rossouw (individual) and so as of record.

**REQUEST FOR ADMISSION 71:** Admit that you were made aware by stipulation from opposer in response to your “motion to dismiss” that the owner of the mark “Googabox” is not “Googabox World Incorporated” and never was “Googabox World Incorporated” and neither so stipulated ANYWHERE.

**REQUEST FOR ADMISSION 72:** Admit that you were made aware by stipulation from opposer in “Discovery Conference” that “Googabox World International” is a recently created name by opposer well after the opposition was filed and “Googabox World International” is being considered as a future representative of the business aspects of “Googabox”

**REQUEST FOR ADMISSION 73:** Admit that the sole owner of the mark “Googabox” is one Andre D Rossouw (individual).

*So presented by opposer this day of April 29th 2013.*

*Opposer reserves the right for further admissions of applicant and expect answers or refusal thereof due 30 (thirty) days from offset.*

Opposer

  
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Andre Rossouw (Googabox) (Googabox.com)

## *Proof Of Service*

*I declare that:*

I am over the age of eighteen years

I am the opposing party of Googabox (Googabox.com)

*That I have:*

*Served upon applicant by means of mutual agreement using “electronic” procedure  
by sending a copy to applicant’s e-mail address of record at the TTAB  
at e-mail address “[EBall@fenwick.com](mailto:EBall@fenwick.com)” and specifically to the attention of  
Erik Ball (Counsel for applicant)*

*Executed in Nashville, Tn*

*So stated under perjury as true and correct this day April 29<sup>th</sup> 2013 by opposer for opposer*

  
\_\_\_\_\_  
*Andre Rossouw (Googabox) (Googabox.com)*