ESTTA Tracking number: **ESTTA547017**
Filing date: **07/06/2013**

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

Proceeding	91203541
Party	Plaintiff Andre D. Rossouw
Correspondence Address	ANDRE ROSSOUW 7535 WHITSETT AVE APT 2 NORTH HOLLYWOOD, CA 91605 3054 UNITED STATES admin@googabox.com
Submission	Other Motions/Papers
Filer's Name	Andre D. Rossouw
Filer's e-mail	admin@googabox.com
Signature	/9047/
Date	07/06/2013
Attachments	Exhibit 1 to Opposers Motion To determine Sufficience Of Answers And Objections.pdf(127651 bytes) Exhibit 1.pdf(450724 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: GOOGLEPLUS (GOOGLE +)

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

Exhibit 1

Motion To Determine Sufficiency Of Applicant Google's Answers And Objections

The following Exhibit is attached to opposers Motion To Determine Sufficiency of applicant Google's Answers And Objections to opposers First Set Of Interrogatories.

EXHIBIT 1

Applicant Google's Objections and responses to opposers First set of Interrogatories.

So entered this day of July 5th 2013 by opposing party.

_____***(Pro Se)***

Andre Rossouw (Googabox) (Googabox.com) ***Opposition No. 91203541***

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" 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 July 5th 2013 by opposer for opposer

_____

Andre Rossouw (Googabox) (Googabox.com)

Opposition No. 91203541

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 OBJECTIONS AND RESPONSES TO OPPOSER ANDRE ROSSOUW'S FIRST SET OF INTERROGATORIES

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") hereby objects and responds to Opposer Andre Rossouw's ("Opposer") First Set of Interrogatories as provided below. Google's responses to these interrogatories are made subject to and without waiving, limiting or intending to waive any objections stated herein or hereafter raised.

GENERAL OBJECTIONS

1. Google objects to each interrogatory to the extent that it imposes upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, regulations or case law.

2. Google objects to each interrogatory to the extent that it seeks the disclosure of information protected from disclosure by the attorney-client privilege, the attorney work product doctrine or any other applicable privilege or protection as provided by law. Google will not produce such privileged or protected information, and any inadvertent disclosure of any privileged or protected information shall not be deemed a waiver of any privilege.

3. Google objects to each interrogatory to the extent that it is overbroad, vague and ambiguous, unduly burdensome and oppressive in requiring Google to search facilities and inquire of employees other than those facilities and employees that could reasonably be expected to have responsive information, or produce information outside a relevant time period or unrelated to the trademarks at issue. Google will not produce documents and information that are irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence.

4. Google objects to each interrogatory to the extent it seeks information already in Opposer's possession or equally available to Opposer from other sources that are more convenient, less burdensome and/or less expensive, including publicly available sources.

5. Google objects to each interrogatory to the extent that it seeks information or documents that are not within Google's possession, custody, or control.

6. Google objects to each interrogatory to the extent it seeks proprietary, trade secret or other confidential or commercially sensitive business information or information protected by the right to privacy of Google or any third parties. Google further objects to each interrogatory since Opposer, as a *pro se* party, may not have access to trade secret and commercially sensitive information.

7. Google objects to each interrogatory to the extent that it seeks information that is subject to any protective order, contractual obligation, or other confidentiality obligation owed by Google to any third party. Google further objects to each interrogatory since Opposer, as a *pro se* party, may not have access to trade secret and commercially sensitive information.

8. Google objects to each interrogatory to the extent it calls for a legal conclusion.

9. Google objects to each interrogatory to the extent that it is compound, complex, or unintelligible.

10. Google objects that, counting each interrogatory's discrete subparts, Opposer has propounded in excess of 75 interrogatories.

11. Google objects to the use of its responses in any other action. Google's responses are limited to the present action and its limited facts and circumstances.

12. These General Objections are incorporated below into Google's specific objections to each interrogatory.

13. Each of Google's responses to these interrogatories is made subject to and without waiving, limiting, or intending to waive:

a. each of the above-stated general objections and reservations;

b. the right to object on the grounds of competency, privilege, relevancy, or materiality, or any other proper grounds, to the use of the documents or information, for any purpose, in whole or in part, in any subsequent step or proceeding in this action or any other action;

c. the right to object on any and all grounds, at any time, to other interrogatories involving or relating to the subject matter of the present dispute; and

d. the right at any time to revise, correct, and add to or clarify any of the responses herein.

By responding to these interrogatories, Google does not waive or intend to waive, but expressly reserves, all of its statements, reservations, and objections that might otherwise be available to Google, even though Google may in some instances disclose information over the statements, reservations, and objections contained herein.

SPECIFIC OBJECTIONS AND RESPONSES

INTERROGATORY NO. 1:

Admit that the Google mark originally was composed for the meaning of "search" and used by the public originally solely for this purpose.

RESPONSE TO INTERROGATORY NO. 1:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 2:

Admit that the mark "ORKUT" brand for a social network was never and never was presented to the public as a "connotation" to the mark Google.

RESPONSE TO INTERROGATORY NO. 2:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory as the phrase "connotation to the mark Google" is vague and ambiguous.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied. Google uses the ORKUT mark in connection with its GOOGLE-formative trade name and trademarks.

INTERROGATORY NO. 3:

Admit that the mark "ORKUT" was never intensely and obviously promoted alongside the mark "Google" as an extension OR "brand" per se of the mark "Google.

RESPONSE TO INTERROGATORY NO. 3:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory as the terms "intensely" and "obviously" are vague and ambiguous.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied. Google uses the ORKUT mark in connection with its GOOGLE-formative trade name and trademarks.

INTERROGATORY NO. 4:

Admit that the mark "ORKUT" was unsuccessful in the US and has primarily operated in South America since.

RESPONSE TO INTERROGATORY NO. 4:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory as the term "unsuccessful" is vague and ambiguous.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 5:

Admit that the mark "Google" was not literally associated with ANY social network by public perception until February 2009.

RESPONSE TO INTERROGATORY NO. 5:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied. Since at least as early as 2001, Google has provided social networking services in connection with GOOGLE-formative marks, including GOOGLE GROUPS. Google's use of a

GOOGLE-formative mark in connection with social networking services predates Opposer's claimed priority date.

INTERROGATORY NO. 6:

Admit to the term "google it" and it's very meaning in electronic dictionaries listed as "search" and nothing else and specifically not social networking.

RESPONSE TO INTERROGATORY NO. 6:

Google incorporates by refcrence each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory as overbroad to the extent it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 7:

Admit to the mark "google" in it's [sic] entirety accepted by public opinion as meaning "search" and "search" ONLY.

RESPONSE TO INTERROGATORY NO. 7:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 8:

Admit that public perception to the mark "Google" has after more than 12 years NOT changed as to it's [sic] meaning being "search" and "search" only.

RESPONSE TO INTERROGATORY NO. 8:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 9:

Admit that "ORKUT" was created as a whole new mark for a social network and NOT presented as annotation to the mark "Google" precisely because of this dilemma being the mark "Google" was imbedded in the public's mind as meaning "search" and would be hard to alter the mark as meaning "something else."

RESPONSE TO INTERROGATORY NO. 9:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 10:

Now, admit that you were AWARE of opposer's mark in application for Trademark in the social networking class IC45 in Aug 31st 2007 and/ or when it became published for

opposition in the Trademark Gazette as being applied for as "Googabox" in the social networking class and published in December 2nd 2008.

RESPONSE TO INTERROGATORY NO. 10:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory to the extent that it seeks disclosure of information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege. Google objects to this interrogatory to the extent that it seeks trade secret, confidential or commercially sensitive information.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 11:

Admit that shortly thereafter in and around Feb 4th 2009, the mark "Google Latitude" was introduced by you in social networking and the first time an annotation to the mark "Google" was used for social networking.

RESPONSE TO INTERROGATORY NO. 11:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied. Prior to February 4, 2009, Google used its GOOGLE-formative trade name and trademarks in connection with social networks, including marks such as GOOGLE and GOOGLE GROUPS.

INTERROGATORY NO. 12:

Admit that in and around Feb 11th 2010, the mark "Googlebuzz" was introduced publicly as a yet another social network.

RESPONSE TO INTERROGATORY NO. 12:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law.

Subject to the foregoing objections, in response to this interrogatory, Google states that it launched the GOOGLE BUZZ service at least as early as February 9, 2010.

INTERROGATORY NO. 13:

Admit that this mark "Googlebuzz" ALSO had a distinct resemblance to applicant's mark "Googabox."

RESPONSE TO INTERROGATORY NO. 13:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory to the extent it calls for a legal conclusion. Google objects to this interrogatory as the term "resemblance" is vague and ambiguous.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 14:

Answer to "why" (if indeed so) the mark "Googlebuzz" was never applied for Trademark and "why" the mark "Googlebuzz" (if indeed so) was abandoned approximately one year later.

RESPONSE TO INTERROGATORY NO. 14:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory to the extent that it seeks disclosure of information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege. Google objects to this interrogatory to the extent it calls for a legal conclusion. Google objects to this interrogatory as overbroad, unduly burdensome and oppressive to the extent it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence. Google objects to this interrogatory to the extent that it seeks trade secret, confidential or commercially sensitive information.

INTERROGATORY NO. 15:

Admit that the mark "Googlebuzz" was never applied for Trademark (if indeed so) in fear of opposition from opposer's mark "Googabox" at the time.

RESPONSE TO INTERROGATORY NO. 15:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 16:

Admit that the mark "Googlebuzz" was ABANDONED after one year of it's creation.

RESPONSE TO INTERROGATORY NO. 16:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory to the extent it calls for a legal conclusion.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 17:

Admit that the mark "Googlewave" was introduced in or around July 22nd 2009 as yet another social network attempt.

RESPONSE TO INTERROGATORY NO. 17:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law.

Subject to the foregoing objections, in response to this interrogatory, Google states that it previewed the GOOGLE WAVE service at least as early as May 28, 2009.

INTERROGATORY NO. 18:

Admit that the mark "Googlewave" also in the least in punctuation is of the same likeness of opposers mark "Googabox."

RESPONSE TO INTERROGATORY NO. 18:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations

and case law. Google objects to this interrogatory to the extent the phrase "in the least in punctuation" is vague and ambiguous. Google objects to this interrogatory to the extent it calls for a legal conclusion.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 19:

Admit that "Google latitude" "Googlebuzz" "Googlewave" "Googleplus" are all annotation oriented and intended to represent social networking and came into existence AFTER opposers mark was filed for Trademark in Aug 31st 2007.

RESPONSE TO INTERROGATORY NO. 19:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory to the extent the phrase "annotation oriented" is vague and ambiguous.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 20:

Admit that you are indeed receiving the Trademark Gazette and/ or monitoring the filing of new marks closely resembling that of your own via other means in an aggressive manner, so as to be able to oppose quickly and swiftly those marks deemed as a threat by you.

RESPONSE TO INTERROGATORY NO. 20:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations

and case law. Google objects to this interrogatory to the extent the phrases "aggressive manner," "monitoring the filing of new marks closely" and "resembling" are vague and ambiguous. Google objects to this interrogatory to the extent that it seeks disclosure of information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege. Google objects to this interrogatory to the extent that it seeks trade secret, confidential or commercially sensitive information.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 21:

Admit that you opposed the mark "Googley faces" prior to completion of it Registering as well as other NON famous marks.

RESPONSE TO INTERROGATORY NO. 21:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory as overbroad to the extent it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence. Google objects to this interrogatory to the extent it calls for a legal conclusion.

Subject to the foregoing objections, in response to this interrogatory, Google states that it opposed the application for GOOGLEY FACE, Opposition No. 91201067. Google further states that it has opposed additional trademark applications.

INTERROGATORY NO. 22:

Admit that the mark "Googley faces" was NOT famous by ANY standard prior to, or at the time you filed opposition against it.

RESPONSE TO INTERROGATORY NO. 22:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory as overbroad to the extent it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence. Google objects to this interrogatory to the extent it calls for a legal conclusion.

INTERROGATORY NO. 23:

Admit that you indeed became aware of the mark "Googley faces when it was filed for Trademark and that you were alerted to it via the Trademark Gazette and / or other services and means used by you.

RESPONSE TO INTERROGATORY NO. 23:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory as overbroad to the extent it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence. Google objects to this interrogatory to the extent that it seeks disclosure of information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege. Google objects to this interrogatory to the extent that it seeks trade secret, confidential or commercially sensitive information.

INTERROGATORY NO. 24:

Admit there were OTHER marks you opposed in the same manner and became aware of in the same manner and NOT due to them being "famous."

RESPONSE TO INTERROGATORY NO. 24:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory as overbroad to the extent it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence. Google objects to this interrogatory as the phrase "in the same manner" is vague and ambiguous in that it does not explain what the "same" is in reference to. Google objects to this interrogatory to the extent it calls for a legal conclusion. Google objects to this interrogatory to the extent that it seeks trade secret, confidential or commercially sensitive information.

Subject to the foregoing objections, in response to this interrogatory, Google states that it has opposed trademark applications.

INTERROGATORY NO. 25:

Admit you saw opposer's mark at the time of filing with the Trademark Office yet did not deem it credible to file an opposition for lack of reason.

RESPONSE TO INTERROGATORY NO. 25:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 26:

Admit at the time of opposer's filing of the mark "Googabox" you had NO social networks with OR without annotation to the mark "Google" in the literal sense.

RESPONSE TO INTERROGATORY NO. 26:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 27:

Admit you were aware of the filing of opposer's mark "Googabox", came to like the concept of the one syllable annotation to the word"googa" and proceeded in ways to adopt the concept for your mark for the product social networking, without shame or regard to opposer.

RESPONSE TO INTERROGATORY NO. 27:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 28:

Admit that "Googabox" spawned your adaption of "annotations" to your own mark "Google" hence "Googlebuzz" Googlewave" "Google Latitude, and finally "Googleplus" as was composed by you for the product social networking. (a far cry from the mark "ORKUT" your social network) prior to the mark of opposer "Googabox."

RESPONSE TO INTERROGATORY NO. 28:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 29:

Admit that the mark "Googleplus" has rather a meaning of "search with a "plus" than social networking until you fiercely promoted it otherwise.

RESPONSE TO INTERROGATORY NO. 29:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 30:

Admit your creation of the mark "Googleplus" for a social network was without real meaning as applied to social networking, but rather to have a ANY one syllable annotation to the mark "Google" for this purpose, as you favored opposers idea of a "one syllable annotation" to the similar sounding "Googa" to the mark "Google".

RESPONSE TO INTERROGATORY NO. 30:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose

upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory as the phrase "real meaning" is vague and ambiguous.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 31:

Admit that the popularity for the services represented by the marks "Google latitude" Googlebuzz" "Googlewave" and "Googleplus is faded immensely in comparison to "facebook"

RESPONSE TO INTERROGATORY NO. 31:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory as the phrase "faded immensely" is vague and ambiguous. Google objects to this interrogatory as overbroad to the extent it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 32:

Explain why opposer as suggested by you, chose as a mark to resemble your mark "google" seeing ALL attempts by you for a social network has thus far failed? instead of opposer choosing a mark that rather resembles "Facebook" seeing it's the worlds MOST popular mark for social networking by FAR?

RESPONSE TO INTERROGATORY NO. 32:

Google incorporates by reference each of the General Objections set forth above as if

fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory as overbroad, unduly burdensome and oppressive to the extent it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the foregoing objections, in response to this interrogatory, Google states that it is currently unaware of Opposer's intent in selecting the GOOGABOX mark.

INTERROGATORY NO. 33:

Describe meticulously WHY and how you derive to the opinion that "Googleplus" in pronunciation and don't resemble "Googabox."

RESPONSE TO INTERROGATORY NO. 33:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory to the extent that it seeks disclosure of information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege. Google objects to this interrogatory to the extent that it seeks trade secret, confidential or commercially sensitive information. Google objects to this interrogatory to the extent that it seeks information that is equally available to Opposer from other sources that are more convenient, less burdensome and/or less expensive, particularly to the extent the information sought is publicly available. Google objects to this interrogatory to the extent it is premature at the outset of discovery. Google expressly reserves the right to supplement its response to this interrogatory as needed.

Subject to the foregoing objections, in response to this interrogatory, Google states that Opposer cannot plausibly claim that his GOOGABOX trademark is dissimilar to Google's pre-

existing and famous GOOGLE and GOOGLE-formative trademarks, and yet somehow claim that the GOOGABOX trademark is confusingly similar to Google's closely derivative GOOGLE+ trademark.

Google further states that the famous GOOGLE mark is the domination portion of the GOOGLE+ trademark. Opposer seems to agree. *See* Opposition at p. 1 (alleging that with the + symbol, Google added an extension to their existing trademark); Opposition at p. 4 (admitting to the "established fame" of the GOOGLE trademark). The "+" symbol in the GOOGLE+ trademark is a common designation, which indicates an addition or enhancement to the original good or service. The "+" symbol does not fundamentally change a consumer's perception of the sight, sound or meaning of the dominant GOOGLE trademark. When consumers see or hear GOOGLE+ they will think of Google and the famous GOOGLE trademark; not some unknown GOOGABOX trademark.

Google further states that the GOOGABOX and GOOGLE+ trademarks, as alleged, are not similar enough in meaning, look or sound, to support a plausible likelihood of confusion claim. Opposer provides two meanings for the purported GOOGABOX trademark. GOOGABOX is either a combination of two third-parties' trademark – GOO GOO DOLLS and MATCHBOX 20. *See* Opposition at p. 2. Or it is the combination of the words "GOO = 'sticky', GA = 'general assembly', BOX = 'container.'" *See* Opposition at p. 1. Either way, Opposer makes no allegation that GOOGABOX and GOOGLE+ have a similar meaning. Where the dissimilarity of the meaning is high, this dissimilarity can outweigh any purported similarity in the look or sound of the trademark.

Google further states that since Opposer claims there is no confusion between GOOGABOX and the famous GOOGLE mark, he must think that there is some visual or aural similarity between GOOGABOX and the "+" symbol in the GOOGLE+ trademark. But there is no plausible basis for claiming that a "+" symbol looks or sounds anything like the GOOGABOX trademark.

Google further states that even in comparing the individual portions of the GOOGABOX

and GOOGLE+ trademarks there is no plausible argument that they are similar in look or sound. The "+" symbol does not look or sound like the word "box." For starters, it is a symbol, not a letter or word. The "+" symbol also has neither the strong "b" nor "x" sounds. Similarly, the alleged "le" syllable does not look or sound like Opposer's alleged "ga" syllable. That leaves Opposer with the alleged "Goo" similarity. But Opposer does not and cannot claim any ownership to the letters "G-O-O." *See* Opposition at p. 2 (alleging that no one owns the rights to the word "goo").

In sum, Google states that given the minor difference between Google's GOOGLE+ trademark and its famous GOOGLE and GOOGLE-formative trademarks, Opposer cannot allege that there is no similarity between Google's famous GOOGLE and GOOGLE-formative trademarks, while claiming some similarity between the GOOGABOX and GOOGLE+ trademarks. Such claims are implausible and contradictory.

INTERROGATORY NO. 34:

Admit you do not have exclusive or ANY right to the word "Goog" and even further the word "Googa" or "Googabox."

RESPONSE TO INTERROGATORY NO. 34:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory as overbroad to the extent it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence. Google objects to this interrogatory to the extent it calls for a legal conclusion.

INTERROGATORY NO. 35:

Admit that the strength of a marks appearance and sound could mean the difference between success and failure.

RESPONSE TO INTERROGATORY NO. 35:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory as overbroad to the extent it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence. Google objects to this interrogatory to the extent it calls for a legal conclusion.

INTERROGATORY NO. 36:

Explain why your first mark for a social network was NOT a annotation to your famous mark "Google"? Yet now AFTER opposer's mark suddenly FOUR marks composed by you containing "annotations" for social networking sprung up?

RESPONSE TO INTERROGATORY NO. 36:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory to the extent the term "annotation" is vague and ambiguous.

Subject to the foregoing objections, in response to this interrogatory, Google states that since at least as early as 2001, it has provided social networking services in connection with GOOGLE-formative marks, including GOOGLE GROUPS. Google's use of a GOOGLE-formative mark in connection with social networking services predates Opposer's claimed priority date.

INTERROGATORY NO. 37:

Admit that "redundancy" could have a adverse effect on any mark.

RESPONSE TO INTERROGATORY NO. 37:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory as overbroad to the extent it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence. Google objects to this interrogatory to the extent it calls for a legal conclusion. Google objects to this interrogatory to the extent that terms "redundancy" and "adverse effect" are vague and ambiguous.

INTERROGATORY NO. 38:

Deny the obvious of "initial assumption" of the "unwary" "uninformed" public that "Googabox" is a part of "Googleplus" and explain (if indeed so) your denial with reasonable prudence.

RESPONSE TO INTERROGATORY NO. 38:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory to the extent it calls for a legal conclusion.

Subject to the foregoing objections, in response to this interrogatory, Google states that it incorporates by reference its response to Interrogatory No. 33. Google further states that it cannot speak for unknown third parties. Google further states that consumers are not likely to believe that GOOGABOX is a part of Google's GOOGLE+ service.

INTERROGATORY NO. 39:

Admit to the following electronic article as to your knowledge thereof, and that this article spawned as a result of your doing and suggest.

http://www.valuewalk.com/2012/12/google-using-david-vs-goliath-tactics-to-down-apple-inc-aapl/

RESPONSE TO INTERROGATORY NO. 39:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory as overbroad to the extent it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence. Google objects to this interrogatory as vague and ambiguous in its current form.

INTERROGATORY NO. 40:

Admit that the mark "Google" do resemble the mark "Googa" by itself.

RESPONSE TO INTERROGATORY NO. 40:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory to the extent it calls for a legal conclusion. Google objects to this interrogatory to the extent that the term "resemble" is vague and ambiguous. Google objects to this interrogatory as overbroad to the extent it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the foregoing objections, in response to this interrogatory, Google responds that given Opposer's incomplete hypothetical, Google lacks knowledge or information sufficient to respond to this request.

INTERROGATORY NO. 41:

Admit that the mark "Google does NOT resemble the mark "Googabox" both in pronunciation and appearance as a whole.

RESPONSE TO INTERROGATORY NO. 41:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory to the extent it calls for a legal conclusion. Google objects to this interrogatory to the extent that the term "resemble" is vague and ambiguous.

Subject to the foregoing objections, in response to this interrogatory, Google states that Opposer has repeatedly admitted that the GOOGABOX and GOOGLE marks are dissimilar in pronunciation and appearance as a whole. In light of Opposer's admissions in this opposition, Google states that the GOOGLE mark is dissimilar to the Opposer's claimed GOOGABOX mark. Google further states that its response is limited to the facts and circumstances regarding Opposer's admissions and this opposition.

INTERROGATORY NO. 42:

Admit that the mark "Google" means by absolute measure "search" and the mark "Googabox" by absolute measure does NOT.

RESPONSE TO INTERROGATORY NO. 42:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory to the extent that the phrase "absolute measure" is vague and ambiguous.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 43:

Admit that the mark "Google" does NOT represent social networking.

RESPONSE TO INTERROGATORY NO. 43:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 44:

Admit that the newly created mark "Googleplus" DO resemble the mark "Googabox" in pronunciation by absolute measure.

RESPONSE TO INTERROGATORY NO. 44:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory to the extent that the terms "resemble" and "absolute measure" are vague and ambiguous. Google objects to this interrogatory to the extent it calls for a legal conclusion.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 45:

Admit the "redundancy" factor of SAME SOUNDING of the two marks used for the SAME SERVICES namely social networking/ filesharing/ friend/ contacts generator etc. would MORE THAN LIKELY cause "dilution" and "potency loss of opposer's mark, (pronounced) "Googleplus" "Googabox."

RESPONSE TO INTERROGATORY NO. 45:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory as vague and ambiguous in its current form. Google objects to this interrogatory to the extent it calls for a legal conclusion. Google objects to this interrogatory as overbroad to the extent it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence. Opposer has not pled a claim for dilution of its alleged trademark.

INTERROGATORY NO. 46:

Admit that by trademark rules the "+" symbol next to your mark "Google" will be 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.

RESPONSE TO INTERROGATORY NO. 46:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory to the extent it calls for a legal conclusion.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 47:

Admit you were aware of opposer's mark at the time when it was filed for Trademark application for social networking class IC45 in Aug 31st 2007.

RESPONSE TO INTERROGATORY NO. 47:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 48:

Explain your need for MULTIPLE social networks operating simultaneously online with different annotations to the mark Google.

RESPONSE TO INTERROGATORY NO. 48:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory as overbroad to the extent it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence. Google objects to this interrogatory to the extent that it seeks trade secret, confidential or commercially sensitive information. Google objects to this interrogatory to the extent the term "annotations" is vague and ambiguous.

INTERROGATORY NO. 49:

Admit that "Google" is continuously and ONLY referred to as "a search giant" instead of a "social network" and that "Googleplus" is now promoted by you as a "social network".

RESPONSE TO INTERROGATORY NO. 49:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 50:

Admit that "Googleplus" is an entirely NEW mark intended by you to represent "social networking" as your mark "Google" in itself has the unequivocal meaning of "search" ONLY embedded in the perception of the public mind.

RESPONSE TO INTERROGATORY NO. 50:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 51:

Admit that "Trademark Rights" is claimed by you solely for the mark "Google" and not any "annotations" thereof NOW and in the past.

RESPONSE TO INTERROGATORY NO. 51:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory to the extent it calls for a legal conclusion. Google objects to this interrogatory to the extent the terms "Trademark Rights" and "annotations" are vague and ambiguous.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 52:

Admit you have NO exclusive rights to the words "Goo", "Goog" or "Googa" respectively.

RESPONSE TO INTERROGATORY NO. 52:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory as overbroad to the extent it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence. Google objects to this interrogatory to the extent it calls for a legal conclusion.

INTERROGATORY NO. 53:

Admit you have no exclusive rights to the words "buzz" "wave" or "plus" in order to claim uniqueness or "Trademark rights" thereto.

RESPONSE TO INTERROGATORY NO. 53:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose

upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory as overbroad to the extent it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence. Google objects to this interrogatory to the extent it calls for a legal conclusion. Google objects to this interrogatory to the extent the term "Trademark Rights" is vague and ambiguous.

INTERROGATORY NO. 54:

Admit that you have no exclusive rights to the words "buzz" "wave" or "plus" as annotations to your mark "Google" in order to still claim uniqueness or "Trademark rights" thereto.

RESPONSE TO INTERROGATORY NO. 54:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory as overbroad to the extent it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence. Google objects to this interrogatory to the extent it calls for a legal conclusion. Google objects to this interrogatory to the extent the terms "Trademark Rights" and "annotations" are vague and ambiguous.

INTERROGATORY NO. 55:

Admit your disregard to opposers mark.

RESPONSE TO INTERROGATORY NO. 55:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure,

the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory to the extent the term "disregard" is vague and ambiguous.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 56:

Admit to visiting opposer's site online and finding it to be "operating" and "membership occupied" and used satisfactorily as required by the BOARD for ongoing RIGHTS to use and protection of Trademarks.

RESPONSE TO INTERROGATORY NO. 56:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory to the extent it calls for a legal conclusion. Google objects to this interrogatory to the extent the terms "operating" and "used satisfactorily" are vague and ambiguous.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 57:

Admit that Trademarks do not have to be "identical" for Trademark rules to apply.

RESPONSE TO INTERROGATORY NO. 57:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory to the extent it calls for a legal conclusion.

Subject to the foregoing objections, in response to this interrogatory, Google responds: admit. Google further states that the GOOGABOX mark, as alleged, and the GOOGLE+ mark are neither identical nor confusingly similar.

INTERROGATORY NO. 58:

Admit that your newly created mark "Googleplus" does not qualify for "Trademark rights" depending on the mark "Google" as it is an entirely NEW mark intended for an entirely new meaning altogether.

RESPONSE TO INTERROGATORY NO. 58:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory to the extent it calls for a legal conclusion. Google objects to this interrogatory to the extent the term "Trademark rights" is vague and ambiguous.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 59:

Admit that the newly created mark "Googleplus" is too Similar in pronunciation for the same class of goods as the mark "Googabox" and a cause for the failure of the mark "Googabox" and it's services now and services ongoing in development.

RESPONSE TO INTERROGATORY NO. 59:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory to the extent it calls for a legal conclusion.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 60:

Admit that the mark "Googabox" do not have to be "famous" for infringement to apply as you were AWARE of the mark the moment it was applied for Trademark Protection due to the following:

(a) The information of the application almost immediately available online for you to see

(b) Your subscription (if indeed so) to the "Trademark Gazette" where opposer's Trademark was published for opposition.

(c) Your unrivaled access to the internet and internet services relating to "new applications" of Trademarks, especially to those you think may resemble yours *(as per your claim in your first response that "Googabox resembles "Google" and further stated that "Googabox" is facing possible "cancellation" because of your mark "Google").*

(d) The vast, speedy, and extreme easy access online to allow for "Trademark searches" prior to your choosing of a specific mark (Googleplus) to establish possible opposition to infringement, ESPECIALLY the Trademark roster available from the Trademark office online, and seeing that you claim your business in fact is the world's biggest "SEARCH engine".

(e) The fact that your searches for possible infringement SHOULD have included and most likely did, for any similar SOUNDING mark prior to choosing your new mark "Googleplus."

(f) The indisputable vast financial and work force ability of "Google" to absolutely secure their new "Googleplus" application to be not infringing on other marks by applying this ability to do a diligent search thereof, especially since the information is extremely easy accessible on the government roster as well as "Google's" OWN search capabilities for similar operating marks ONLINE.

RESPONSE TO INTERROGATORY NO. 60:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory as vague and ambiguous in its current form. Google objects to this interrogatory to the extent it calls for a legal conclusion. Google objects to this interrogatory as overbroad to the extent it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence. Opposer has not pled a claim for dilution of its alleged trademark.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 61:

Admit because of the above charges your total knowledge of the mark "Googabox" it's [sic] existence, the services it represented and it's [sic] ongoing operation, and that you have NO excuse as to NOT have known about it PRIOR to your use of the mark "Googleplus."

RESPONSE TO INTERROGATORY NO. 61:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 62:

Admit your knowledge of opposer's mark and the services it represented ongoing and the fact that it was too similar in sound to your newly created mark "Googleplus" was intentionally

and with willful conduct, DISREGARDED and IGNORED by you for self rewarding reasons, whatever those reasons may be.

RESPONSE TO INTERROGATORY NO. 62:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 63:

Admit finally that your disregarded conduct in this instance will MORE THAN LIKELY be the cause for the failure of opposer's mark in it's current operations and ongoing development efforts.

RESPONSE TO INTERROGATORY NO. 63:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory as overbroad to the extent it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

INTERROGATORY NO. 64 [SIC]:

Admit that Googleplus and Googabox SOUNDS and looks overall CONFUSINGLY similar.

RESPONSE TO INTERROGATORY NO. 64:

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this interrogatory to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TTAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this interrogatory to the extent it calls for a legal conclusion.

Subject to the foregoing objections, in response to this interrogatory, Google responds: denied.

Dated: February 27, 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 Objections and Responses to Opposer Andre Rossouw's First Set of Interrogatories** 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 27th day of February, 2013.

Eric Ball