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

Proceeding	91203541
Party	Plaintiff Andre D. Rossouw
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Signature	/9047/
Date	07/06/2013
Attachments	Exhibits 2a to Opposers Motion To determine Sufficiency Of Answers And Objections.pdf(121262 bytes ) Exhibit 2(a).pdf(163626 bytes ) Exhibits 2b to Opposers Motion To determine Sufficiency Of Answers And Objections.pdf(121258 bytes ) Exhibit 2(b).pdf(127022 bytes ) Exhibit 3 to Opposers Motion To determine Sufficiency Of Answers And Objections.pdf(119745 bytes ) Exhibit 3.pdf(188127 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.

Google Incorporated (Applicant)

)  
)  
)  
)  
)

Opposition No. 91203541

**Exhibit 2(a) (Admissions)  
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.

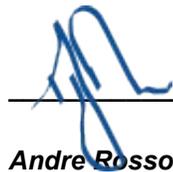
Please Note: Exhibit 2 has been divided into 2 parts due to file restriction size for uploading to TTAB.

**EXHIBIT 2 (a)**

**Applicant Google's Objections and responses to opposers**

**First set of Admissions Part (a).**

So entered this day of July 5<sup>th</sup> 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*

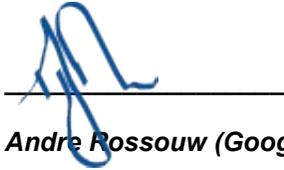
*by sending a copy to applicant's e-mail address of record at the TTAB*

*at e-mail address “[EBall@fenwick.com](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 July 5th 2013 by opposer for opposer*



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

**Opposition No. 91203541**

## **EXHIBIT 2(A)**

**PROPOUNDING PARTY: OPPOSER, ANDRE ROSSOUW**

**RESPONDING PARTY: APPLICANT, GOOGLE INC.**

**SET NO: ONE (1) (1-73)**

Pursuant to Federal Rule of Civil Procedure 36 and Rule 2.120 of the Trademark Rules of Practice, Applicant Google Inc. ("Google") hereby provides its objections and responses to Opposer Andre Rossouw's ("Opposer") Initial Set of Requests for Admission. Google's responses to these Requests for Admission 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 request as Opposer claims to serve the requests under Federal Rule of Civil Procedure 33 rather than Federal Rule of Civil Procedure 36.
2. Google objects to each request 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.
3. Google objects to each request 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.
4. Google objects to each request 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 information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence.
5. Google objects to each request 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.

6. Google objects to each request to the extent that it seeks information that is not within Google's possession, custody, or control.

7. Google objects to each request 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 request since Opposer, as a *pro se* party, may not have access to trade secret and commercially sensitive information.

8. Google objects to each request 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 request since Opposer, as a *pro se* party, may not have access to trade secret and commercially sensitive information.

9. Google objects to each request to the extent it calls for a legal conclusion.

10. Google objects to each request to the extent that it is compound, complex, or unintelligible.

11. Google objects to each request given Opposer's refusal to cooperate in the discovery process for these proceedings, including his refusal to respond to Google's Requests for Admission Nos. 1,3-60, 62, 63 and 65-97; Google's Interrogatory Nos. 5, 7, 8, 10-15, 19,21 , 22,25,26,29 and 30; and Google 's Request for Production of Documents Nos. 1-18,20-25,27, 28, 30-38 and 41.

12. 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.

13. These General Objections are incorporated below into Google's specific objections to each request.

14. Each of Google's responses to these requests 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 requests 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 requests, 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.

**GOOGLE'S SPECIFIC OBJECTIONS AND RESPONSES TO REQUESTS FOR ADMISSION  
REQUEST FOR ADMISSION NO.1:**

Admit that Google Inc. believes their mark "Google" resembles opposer's mark "Googabox"

**RESPONSE TO REQUEST FOR ADMISSION NO.1:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request in light of Opposer's refusal to answer Google's Requests for Admission Nos. 45-54, 59-89. Subject to the foregoing objections, in response to this request, Google responds that Opposer cannot plausibly claim that his GOOGABOX trademark is dissimilar to Google's preexisting 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 responds that to the extent there is any similarity between the GOOGABOX and GOOGLE+ marks, there is likewise similarity between the GOOGABOX mark and Google's family of famous GOOGLE and GOOGLE-formative marks. Google's rights in its family of GOOGLE and GOOGLE-formative marks predate any conceivable rights Opposer has in the GOOGABOX mark.

**REQUEST FOR ADMISSION NO.2:**

Admit that Google Inc. believes their mark "Google" resembles opposer's mark "Googabox" to the extent that they believe opposer's mark is subject to being canceled.

**RESPONSE TO REQUEST FOR ADMISSION NO.2:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this request in light of Opposer's refusal to answer Google's Requests for Admission Nos. 45-54, 59-89.

Subject to the foregoing objections, in response to this request, Google responds that Opposer cannot plausibly claim that his GOOGABOX trademark is dissimilar to Google's preexisting 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 responds that to the extent there is any similarity between the GOOGABOX and GOOGLE+ marks, there is likewise similarity between the GOO GAB OX mark and Google's family of famous GOOGLE and GOOGLE-formative marks. Google's rights in its family of GOOGLE and GO OGLE-formative marks predate any conceivable rights Opposer has in the GOOGABOX mark.

**REQUEST FOR ADMISSION NO.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"*

**RESPONSE TO REQUEST FOR ADMISSION NO.3:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request to the extent it purports to impose upon *Google obligations broader than, or*

*inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this request as it inaccurately quotes Google's motion to dismiss. Google objects to this request in light of Opposer's refusal to answer Google's Requests for Admission Nos. 45-54, 59-89.*

Subject to the foregoing objections, in response to this request, Google responds that Opposer cannot plausibly claim that his GOOGABOX trademark is dissimilar to Google's preexisting 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 responds that to the extent there is any similarity between the GOOGABOX and GOOGLE+ marks, there is likewise similarity between the GOOGABOX mark and Google's family of famous GOOGLE and GOOGLE-formative marks. Google's rights in its family of GOOGLE and GOOGLE-formative marks predate any conceivable rights Opposer has in the GOOGABOX mark.

**REQUEST FOR ADMISSION NO.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 "*

**RESPONSE TO REQUEST FOR ADMISSION NO.4:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this request 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 request to the extent it calls for a legal conclusion. Google objects to this request to the extent that the phrase "unbordered (Trademark) 'rights'" is vague and ambiguous. Google objects to this request as it inaccurately quotes Google's motion to dismiss.

**REQUEST FOR ADMISSION NO.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"

**RESPONSE TO REQUEST FOR ADMISSION NO.5:**

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

**REQUEST FOR ADMISSION NO.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.*

**RESPONSE TO REQUEST FOR ADMISSION NO.6:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this request as it inaccurately references Google's motion to dismiss. Google objects to this request 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 request to the extent it calls for a legal conclusion. Subject to the foregoing objections, in response to this request, Google responds: denied.

Google's motion to dismiss speaks for itself.

**REQUEST FOR ADMISSION NO.7:**

Admit that the words "Goo" and "Go" are "descriptive" of nature and are actual words.

**RESPONSE TO REQUEST FOR ADMISSION NO.7:**

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

Google objects to this request 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 request 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 request to the extent it calls for a legal conclusion.

Google objects to this request to the extent that the phrase "'descriptive' of nature" is vague and ambiguous. Subject to the foregoing objections, in response to this request, Google responds: denied, except Google admits that Google owns a trademark in the GOTM programming language.

**REQUEST FOR ADMISSION NO.8:**

Admit that the word "Goog" is "descriptive" of nature and a actual word. (see online meanings)

**RESPONSE TO REQUEST FOR ADMISSION NO.8:**

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

Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Order

of the Board, or any applicable regulations and case law. Google objects to this request 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 request to the extent it calls for a legal conclusion. Google

objects to this request to the extent that the phrase "'descriptive ' of nature" is vague and ambiguous. Google

objects to this request to the extent that Opposer does not identify the online dictionaries referenced in his

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

except Google admits that Google is listed on the Nasdaq stock market under the *GOOG* symbol.

**REQUEST FOR ADMISSION NO.9:**

Admit that the difference between Google Inc's admittedly famous GO OGLE mark and the GOOGLE+ mark is NOT just the + symbol but also a difference in pronunciation namely "Google" "Googleplus" respectively.

**RESPONSE TO REQUEST FOR ADMISSION NO.9:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request to the extent Opposer implies a singular pronunciation of the GOOGLE+ mark.

Subject to the foregoing objections, in response to this request, Google responds that the pronunciation of the GOOGLE+ mark is substantially similar and identical to the pronunciation of the famous GOOGLE mark with the addition of the "+" symbol. Google further responds that Google agrees with Opposer's admission that the GOOGLE mark is famous.

**REQUEST FOR ADMISSION NO. 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.

**RESPONSE TO REQUEST FOR ADMISSION NO. 10:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request to the extent Opposer implies a singular pronunciation of the GOOGLE+ mark.

Subject to the foregoing objections, in response to this request, Google responds: denied, except Google agrees with Opposer's admission that the GOOGLE mark is famous.

**REQUEST FOR ADMISSION NO. 11:**

Admit that the "Google+" mark is substantially different in meaning, spelling and appearance to the extent it was filed as a separate Trademark application.

**RESPONSE TO REQUEST FOR ADMISSION NO. 11:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request as vague and ambiguous to the extent it does not explain what the GOOGLE+ mark is allegedly substantially different from. Subject to the foregoing objections, in response to this request, Google responds: denied, except Google admits that there is no likelihood of confusion between the GOOGLE+ and GOOGABOX marks.

**REQUEST FOR ADMISSION NO. 12:**

Admit that the "Google" mark and "Google+" marks are promoted in different classes of goods/ services.

**RESPONSE TO REQUEST FOR ADMISSION NO. 12:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request, Google responds: denied.

**REQUEST FOR ADMISSION NO. 13:**

Admit that "Google+" is pronounced "Googleplus"

**RESPONSE TO REQUEST FOR ADMISSION NO. 13:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request to the extent Opposer implies that there is a singular pronunciation of the GOOGLE+ mark.

Subject to the foregoing objections, in response to this request, Google responds that the pronunciation of the GOOGLE+ mark is substantially similar and identical to the pronunciation of the famous GOOGLE mark with the addition of the "+" symbol.

**REQUEST FOR ADMISSION NO. 14:**

Admit that Trademark Rules specify specifically that ALL symbols , when part of a mark be treated as "pronounced" when compared to other marks.

**RESPONSE TO REQUEST FOR ADMISSION NO. 14:**

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

Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this request to extent it calls for a legal conclusion. Google objects to this request to the extent it is vague and ambiguous as to what "Trademark Rules" Opposer refers to in the request. Google objects to this request to the extent Opposer implies that there is a singular pronunciation of the GOOGLE+ mark.

**REQUEST FOR ADMISSION NO. 15:**

Admit that you are aware the mark "Google+ is presented online by different entities as either "Google+" "Googleplus" and "Google Plus"

**RESPONSE TO REQUEST FOR ADMISSION NO. 15:**

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

Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this request 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 request to the extent that it refers to third party

uses of marks other than the GOOGLE+ mark in Application No 85358119.

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

**REQUEST FOR ADMISSION NO. 16:**

Admit that you also promote the mark "Google+ online as "Google Plus"

**RESPONSE TO REQUEST FOR ADMISSION NO. 16:**

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

Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable

Order of the Board, or any applicable regulations and case law. Google objects to this request to the extent that it refers to marks other than the GOOGLE+ mark in Application No. 85358119.

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

**REQUEST FOR ADMISSION NO. 17:**

Admit that you have also listed the mark "Google+" in your search engine and! or other search engines as "Googleplus" and "Google Plus"

**RESPONSE TO REQUEST FOR ADMISSION NO. 17:**

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

Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable

Order of the Board, or any applicable regulations and case law. Google objects to this request to the extent that it refers to marks other than the GOOGLE+ mark in Application No. 85358119.

subject to the foregoing objections, in response to this request, Google responds: denied.

**REQUEST FOR ADMISSION NO. 18:**

Admit that the opposition argument in this case is in part "pronunciation" of the two marks (pronounced) "Googleplus! Googabox"

**RESPONSE TO REQUEST FOR ADMISSION NO. 18:**

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

Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the ITAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law, Google objects to this request 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 request, Google admits that Opposer's Request for Admission No. 18 purports to summarize Opposer's argument. As explained in Google's response to Opposer's Interrogatory No. 33, Google denies Opposer's allegations regarding a likelihood of confusion between the GOOGLE+ and GOOGAI30X marks.

**REQUEST FOR ADMISSION NO. 19:**

Admit that the mark "Google+" pronounced "Googleplus" is promoting the same service as "Googabox" namely "Social Networking" specifically.

**RESPONSE TO REQUEST FOR ADMISSION NO. 19:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request to the extent Opposer implies that there is a singular pronunciation of the GOOGLE+ mark.

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

**REQUEST FOR ADMISSION NO. 20:**

Admit that the opposition argument in this case is in part "overall impression" of the marks "Google+" pronounced "Googleplus" and "Googabox"

**RESPONSE TO REQUEST FOR ADMISSION NO. 20:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request 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 request to the extent Opposer implies that there is a singular pronunciation of the GOOGLE+ mark.

Subject to the foregoing objections, in response to this request, Google admits that Opposer's Request for Admission No. 20 purports to summarize Opposer's argument. As explained in Google's response to Opposer's Interrogatory No. 33, Google denies Opposer's allegations regarding a likelihood of confusion between the GOOGLE+ and GOOGABOX marks.

**REQUEST FOR ADMISSION NO. 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"

**RESPONSE TO REQUEST FOR ADMISSION NO. 21:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this request 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 request to the extent Opposer implies that there is a singular pronunciation of the GOOGLE+ mark.

Subject to the foregoing objections, in response to this request, Google admits that Opposer's Request for Admission No. 21 purports to summarize Opposer's argument. As explained in Google's response to Opposer's Interrogatory No. 33, Google denies Opposer's allegations regarding a likelihood of confusion between the GOOGLE+ and GOOGABOX marks.

**REQUEST FOR ADMISSION NO. 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"

**RESPONSE TO REOUEST FOR ADMISSION NO. 22:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request to the extent Opposer implies that there is a singular pronunciation ofthe GOOGLE+ mark. Subject to the foregoing objections, in response to this request, Google responds: denied.

**REQUEST FOR ADMISSION NO. 23:**

Admit that the BOARD agrees that the public views marks representing services or goods in it's entirety without dissecting a mark.

**RESPONSE TO REQUEST FOR ADMISSION NO. 23:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Oider of the Board, or any applicable regulations and case law. Google objects to this request 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 request to the extent it calls for a legal conclusion. Subject to the foregoing objections, in response to this request, Google responds: denied to the extent Opposer misstates the Board's analysis under the *du Pont* factors .

**REQUEST FOR ADMISSION NO. 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.

**RESPONSE TO REQUEST FOR ADMISSION NO. 24:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request 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 request to the extent it is vague and ambiguous as to what "Trademark law" Opposer refers to in the request. Google objects to this request to the extent it calls for a legal conclusion. Subject to the foregoing objections, in response to this request, Google responds: denied to the extent Opposer misstates the Board's analysis under the *du Pont* factors.

**REQUEST FOR ADMISSION NO. 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".

**RESPONSE TO REQUEST FOR ADMISSION NO. 25:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request 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 request to the extent that Opposer's use of the phrase "the mark 'Google Plus'" is vague and ambiguous as to who owns or uses the alleged mark. Google objects to this request to the extent Opposer implies that there is a singular pronunciation of the GOOGLE+ mark. Subject to the foregoing objections, in response to this request, Google responds: denied.

**REQUEST FOR ADMISSION NO. 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.

**RESPONSE TO REQUEST FOR ADMISSION NO. 26:**

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

Google objects to this request 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 request 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 request to the extent that Opposer's use of the

phrase "the mark ... 'Googleplus'" is vague and ambiguous as to who owns or uses the alleged mark.

Subject to the foregoing objections, in response to this request, Google responds denied, except Google

admits that consumers can search for goods and services offered in connection with the GOOGLE+ mark through the GOOGLE search engine.

**REQUEST FOR ADMISSION NO. 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.

**RESPONSE TO REQUEST FOR ADMISSION NO. 27:**

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

Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable

Order of the Board, or any applicable regulationsand case law. Google objects to this request 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 request to the extent that Opposer's use of the

phrase "the mark ... 'Google Plus'" is vague and ambiguous as to who owns or uses the alleged mark.

Subject to the foregoing objections, in response to this request, Google responds denied, except Google

admits that consumers can search for goods and services offered in connection with the GOOGLE+ mark through the GO OGLE search engine.

**REQUEST FOR ADMISSION NO. 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"

**RESPONSE TO REQUEST FOR ADMISSION NO. 28:**

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

Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this request to the extent it calls for a legal conclusion. Google objects to this request to the extent Opposer implies that there is a singular pronunciation of the GOOGLE+ mark.

Subject to the foregoing objections, in response to this request, Google responds that the GOOGLE+ mark and Opposer's alleged GOOGABOX mark share the same first four letters with Google's famous GOOGLE mark.

**REOUEST FOR ADMISSION NO. 29:**

Admit that if the above were true (28) opposer will more than likely sustain an adverse effect resulting in damages.

**RESPONSE TO REOUEST FOR ADMISSION NO. 29:**

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

Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this request to the extent it calls for a legal conclusion. Subject to the foregoing objections, in response to this request, Google responds: denied.

**REOUEST FOR ADMISSION NO. 30:**

Admit that any damage claimed by opposer is damage that would be sustained by opposer and not applicant.

**RESPONSE TO REOUEST FOR ADMISSION NO. 30:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this request to the extent it calls for a legal conclusion. Google objects to this request to the extent that Opposer's claimed damages are vague and ambiguous. Subject to the foregoing objections, in response to this request, Google responds: denied.

**REQUEST FOR ADMISSION NO. 31:**

Admit that opposer is opposing Registration of the mark "Google+ pronounced "Googleplus" specifically for the service of "Social Networking"

**RESPONSE TO REQUEST FOR ADMISSION NO. 31:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request to the extent Opposer implies that there is a singular pronunciation of the GOOGLE+ mark. Google objects to this request 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 request, Google admits that Opposer's Request for Admission No. 31 purports to summarize Opposer's argument.

**REQUEST FOR ADMISSION NO. 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".

**RESPONSE TO REQUEST FOR ADMISSION NO. 32:**

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

**REQUEST FOR ADMISSION NO. 33:**

Admit that the mark trying to Register "Google+" is also promoted in pronunciation "Googleplus" and written as "Google Plus" respectively by you.

**RESPONSE TO REQUEST FOR ADMISSION NO. 33:**

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

**REQUEST FOR ADMISSION NO. 34:**

Admit that the mark trying to Register "Google+" is also visibly seen on search pages as "Googleplus" and "Google Plus" respectively.

**RESPONSE TO REQUEST FOR ADMISSION NO. 34:**

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

**REQUEST FOR ADMISSION NO. 35:**

Admit that the mark trying to Register "Google+" is also understood by the general public as "Googleplus" and "Google Plus" respectively.

**RESPONSE TO REQUEST FOR ADMISSION NO. 35:**

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

**REQUEST FOR ADMISSION NO. 36:**

Admit that the mark trying to Register "Google+" is pronounced by the general public as "Googleplus" .

**RESPONSE TO REQUEST FOR ADMISSION NO. 36:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this request to the extent Opposer implies that there is a singular pronunciation of the GOOGLE+ mark. Google objects to this request to the extent it calls for a legal conclusion. Subject to the foregoing objections, in response to this request, Google responds that the pronunciation of the GOOGLE+ mark is substantially similar and identical to the pronunciation of the famous GO OGLE mark with the addition of the "+" symbol.

**REQUEST FOR ADMISSION NO. 37:**

Admit that the mark trying to Register "Google+" is pronounced by you as "Googleplus".

**RESPONSE TO REQUEST FOR ADMISSION NO. 37:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request to the extent it purports to impose upon Google obligations broader than, or

inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this request to the extent Opposer implies that there is a singular pronunciation of the GOOGLE+ mark.

Subject to the foregoing objections, in response to this request, Google responds that the pronunciation of the GOOGLE+ mark is substantially similar and identical to the sound of the famous GOOGLE mark with the addition of the "+" symbol.

**REQUEST FOR ADMISSION NO. 38:**

Admit that the pronunciation of the two marks "Google+" and "Googabox" is similar.

**RESPONSE TO REQUEST FOR ADMISSION NO. 38:**

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

**REQUEST FOR ADMISSION NO. 39:**

Admit that the pronunciation of the marks "Google+" and "Googabox" is too similar to offer the same service namely a "Social Network" specifically.

**RESPONSE TO REQUEST FOR ADMISSION NO. 39:**

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

**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

**Exhibit 2(b) (Admissions)  
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.

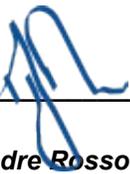
Please Note: Exhibit 2 has been divided into 2 parts due to file restriction size for uploading to TTAB.

**EXHIBIT 2 (b)**

**Applicant Google's Objections and responses to opposers**

**First set of Admissions Part (b).**

So entered this day of July 5<sup>th</sup> 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

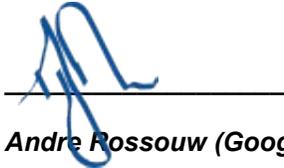
I am the opposing party of Googabox (Googabox.com)

*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](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 July 5th 2013 by opposer for opposer*



\_\_\_\_\_

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

**Opposition No. 91203541**

**REQUEST FOR ADMISSION NO. 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.

**RESPONSE TO REQUEST FOR ADMISSION NO. 40:**

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

**REQUEST FOR ADMISSION NO. 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..

**RESPONSE TO REQUEST FOR ADMISSION NO. 41:**

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

calls for a legal conclusion. Google objects to this request to the extent Opposer implies that there is a singular pronunciation of the GOOGLE+ mark.

Subject to the foregoing objections, in response to this request, Google responds denied, except Google admits that the GOOGLE+ mark is substantially similar and identical to its famous GOOGLE and GOOGLE-formative marks.

**REQUEST FOR ADMISSION NO. 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.

**RESPONSE TO REQUEST FOR ADMISSION NO. 42:**

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

Subject to the foregoing objections, in response to this request, Google responds denied, except Google admits that the GOOGLE+ mark is substantially similar and identical to its famous GO OGLE and GOOGLE-formative marks.

**REQUEST FOR ADMISSION NO. 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.

**RESPONSE TO REQUEST FOR ADMISSION NO. 43:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this request to the extent it calls for a legal conclusion. Subject to the foregoing objections, in response to this request, Google responds denied, except Google admits that the GOOGLE+ mark is substantially similar and identical to its famous GOOGLE and GOOGLE-formative marks. Google further responds that it has offered social networking services in connection with its GOOGLE and GOOGLE-formative marks since at least 2001.

**REQUEST :FOR ADMISSION NO. 44:**

Admit that the mark you are trying to Register is an annotation/ connotation to your original mark "Google".

**RESPONSE TO REQUEST FOR ADMISSION NO. 44:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request to the extent that the phrase "annotation/connotation" is vague and ambiguous.

Subject to the foregoing objections, in response to this request, Google responds denied, except Google admits that the GOOGLE+ mark is substantially similar and identical to its famous GOOGLE and GOOGLE-formative marks.

**REQUEST FOR ADMISSION NO. 45:**

Admit that in the case of the mark "Google+" the annotation/ connotation in question here to the mark "Google" is "non-descriptive"

**RESPONSE TO REQUEST FOR ADMISSION NO. 45:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request to the extent that the phrase "annotation/connotation" is vague and ambiguous. Google objects to this request to the extent that it calls for a legal conclusion. Subject to the foregoing objections, in response to this request, Google responds denied, except Google admits that the GOOGLE+ mark is an arbitrary mark, which is substantially similar and identical to Google's famous GOOGLE and GOOGLE-formative marks

**REQUEST FOR ADMISSION NO. 46:**

Admit that the two marks in question shares the same first four letters.

**RESPONSE TO REQUEST FOR ADMISSION NO. 46:**

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

Order of the Board, or any applicable regulations and case law. Google objects to this request to the extent that the phrase "the two marks in question" is vague and ambiguous.

Subject to the foregoing objections, in response to this request, Google responds that the GOOGLE+ mark and Opposer's alleged GOOGABOX mark share the same first four letters with Google 's famous GOOGLE mark.

**REQUEST FOR ADMISSION NO. 47:**

Admit that the two marks in question shares the same amount of syllables in pronunciation.

**RESPONSE TO REQUEST FOR ADMISSION NO. 47:**

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

Google objects to this request to the extent it purports to impose upon Google obligations broader than , or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable

Order of the Board, or any applicable regulations and case law. Google objects to this request to the extent that the phrase "the two marks in question" is vague and ambiguous. Google objects to this request to the extent Opposer implies that there is a singular pronunciation of the GOOG LE + mark.

**REQUEST FOR ADMISSION NO. 48:**

Admit that the marks "Google+" also appears as "Googleplus" and "Google Plus" in online pages.

**RESPONSE TO REQUEST FOR ADMISSION NO. 48:**

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

Google objects to this request to the extent it purports to impose upon Google obligations broader than , or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable

Order of the Board, or any applicable regulations and case law. Google objects to this request to the extent that it refers to third party uses of marks other than the GOOGLE+ mark in Application No. 85358119.

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

Google has not listed the GOOGLE+ trademark at issue in this opposition as the trademarks

GOOGLEPLUS or GOOGLE PLUS.

**REQUEST FOR ADMISSION NO. 49:**

If (48) above is in fact true Admit that the two marks "Googleplus"/ "Googabox" shares the same amount of syllables in APPEARANCE.

**RESPONSE TO REQUEST FOR ADMISSION NO. 49:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this request to the extent that the phrase "same amount of syllables in APPERANCE" is vague and ambiguous. Google objects to this request 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 request to the extent that it refers to third party uses of marks other than the GOOGLE+ mark in Application No. 85358119.

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

**REQUEST FOR ADMISSION NO. 50:**

If (48) above is in fact true Admit that the two marks "Google Plus"/ "Googabox" shares the same amount of syllables in pronunciation.

**RESPONSE TO REQUEST FOR ADMISSION NO. 50:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this request 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 request to the extent that it refers to third party uses of marks other than the GOOGLE+ mark in Application No. 85358119.

**REQUEST FOR ADMISSION NO. 51:**

Admit that the two marks in question shares the same ending sound of "s".

**RESPONSE TO REQUEST FOR ADMISSION NO. 51:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this request to the extent, Opposer implies that there is a singular pronunciation of the GOOGLE+ mark. Google objects to this request to the extent that the phrase "the two marks in question" is vague and ambiguous.

**REOUEST FOR ADMISSION NO. 52:**

Admit that confusion between the marks in question is above "speculative" level when pronounced consecutively, "Google+" "Google Plus" "Googleplus" Googabox".

**RESPONSE TO REQUEST FOR ADMISSION NO. 52:**

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

**REQUEST FOR ADMISSION NO. 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"

**RESPONSE TQ REQUEST FOR ADMISSION NO. 53:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request to the extent that the phrase "the marks in question" is vague and ambiguous.

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

**REQUEST FOR ADMISSION NO. 54:**

Admit that a "redundancy" element to any mark for the same service could have an adverse effect on any mark.

**RESPONSE TO REQUEST FOR ADMISSION NO. 54:**

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

Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable

Order of the Board, or any applicable regulations and case law. Google objects to this request to the extent

that the phrases "' redundancy' element" and "adverse effect" are vague and ambiguous. Google objects to

this request 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 request to the extent that it

calls for a legal conclusion.

**REQUEST FOR ADMISSION NO. 55:**

Admit that a "redundancy" element will be evident if the marks in question represent the same service.

**RESPONSE TO REQUEST FOR ADMISSION NO. 55:**

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

Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable

Order of the Board, or any applicable regulations and case law. Google objects to this request to the extent

that the phrases "' redundancy' element" and "marks in question" are vague and ambiguous. Google objects

to this request 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 request to the extent that it

calls for a legal conclusion.

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

**REQUEST FOR ADMISSION NO. 56:**

Admit that the BOARD judge marks as a "whole" to determine their overall impression to the likely hood of confusion.

**RESPONSE TO REQUEST FOR ADMISSION NO. 56:**

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

Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable

Order of the Board, or any applicable regulations and case law. Google objects to this request to the extent it calls for a legal conclusion. Google objects to this request 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 request to the extent it is vague and ambiguous.

Subject to the foregoing objections, in response to this request, Google responds: denied to the extent Opposer misstates the Board's analysis under the *du Pont* factors.

**REQUEST FOR ADMISSION NO. 57:**

Admit that the BOARD judge marks as a "whole" to determine the overall impression to the likely hood of Trademark "potency loss"

**RESPONSE TO REQUEST FOR ADMISSION NO. 57:**

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

Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable

Order of the Board, or any applicable regulations and case law. Google objects to this request to the extent it calls for a legal conclusion. Google objects to this request 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 request to the extent it is vague and ambiguous.

Subject to the foregoing objections, in response to this request, Google responds: denied to the extent

Opposer misstates the Board's analysis under the *du Pont* factors. Google further responds that Opposer has not pled a dilution claim.

**REQUEST FOR ADMISSION NO. 58:**

Admit that the BOARD judge marks as a "whole" to determine their overall impression to the likely hood of adverse effects.

**RESPONSE TO REQUEST FOR ADMISSION NO. 58:**

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

Subject to the foregoing objections, in response to this request, Google responds: denied to the extent

Opposer misstates the Board's analysis under the *du Pont* factors.

**REQUEST FOR ADMISSION NO. 59:**

Admit that the BOARD judge marks as a "whole" to determine their overall impression to the likely hood of damage of a mark.

**RESPONSE TO REQUEST FOR ADMISSION NO. 59:**

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

vague and ambiguous. Subject to the foregoing objections, in response to this request, Google responds: denied to the extent Opposer misstates the Board's analysis under the *du Pont* factors.

**REQUEST FOR ADMISSION NO. 60:**

Admit that NO Company should retain automatic Trademark rights in other classes specifically when adding non-descriptive annotations/connotations to their existing mark.

**RESPONSE TO REQUEST FOR ADMISSION NO. 60:**

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

**REQUEST FOR ADMISSION NO. 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.

**RESPONSE TO REQUEST FOR ADMISSION NO. 61:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this request to the extent Opposer implies that there is a singular pronunciation of the GOOGLE+ mark. Google objects to this request to the extent it calls for a legal conclusion.

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

**REQUEST FOR ADMISSION NO. 62:**

Admit you your stance is the rule of pronunciation does not apply to Google Inc. in this instance.

**RESPONSE TO REQUEST FOR ADMISSION NO. 62:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request to the extent, Opposer implies that there is a singular pronunciation of the GOOGLE+ mark. Google objects to this request to the extent it calls for a legal conclusion. Google objects to this request to the extent the phrase "rule of pronunciation" is vague and ambiguous. Google objects to this request as overbroad to the extent it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR ADMISSION NO. 63:**

Admit you your stance is the rule of pronunciation does not apply to Google Inc. when it comes to ANY Google formative mark.

**RESPONSE TO REQUEST FOR ADMISSION NO. 63:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this request to the extent, Opposer implies that there is a singular pronunciation of the GOOGLE+ mark. Google obj ects to this request to the extent it calls for a legal conclusion. Google objects to this request to the extent the phrase "rule of pronunciation" is vague and ambiguous. Google objects to this request as overbroad to the extent it seeks information that is irrelevant, immaterial or not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR ADMISSION NO. 64:**

Admit that you have received a letter of "Seize and Desist"

**RESPONSE TO REQUEST FOR ADMISSION NO. 64:**

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

Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' 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 request, Google admits that it received an undated letter from Opposer, which Opposer has referred to as a "seize and desist" letter.

**REQUEST FOR ADMISSION NO. 65:**

Admit that you were/ are aware of a "letter of protest" that was sent to the "Trademark Office" around November 7th of 20 11 by opposer stating "complaint" to you' re attempt to Register the mark "Google+" pronounced "Googleplus"

**RESPONSE TO REQUEST FOR ADMISSION NO. 65:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this request to the extent, Opposer implies that there is a singular pronunciation of the GOOGLE+ mark.

Subject to the foregoing objections, in response to this request, Google responds: denied, except Google admits that it became aware of the Trademark Office's receipt of a Letter of Protest around November 10,2011.

**REQUEST FOR ADMISSION NO. 66:**

Admit that your attempt to undermine this opposition is purely reliant on the prevalence of the mark "Google"

**RESPONSE TO REQUEST FOR ADMISSION NO. 66:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request to the extent it purports to impose upon Google obligations broader than, or

inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this request 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 request to the extent that it mischaracterizes Google 's defenses.

**REQUEST FOR ADMISSION NO. 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.

**RESPONSE TO REQUEST FOR ADMISSION NO. 67:**

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

**REQUEST FOR ADMISSION NO. 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"

**RESPONSE TO REQUEST FOR ADMISSION NO. 68:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request 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 request to the extent the phrases "prevalence of the mark 'Google,' " "the two marks in question" and "first right of use" are vague and ambiguous.

Google objects to this request to the extent it calls for a legal conclusion. Google objects to this request 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 request to the extent that it mischaracterizes Google's defenses.

**REQUEST FOR ADMISSION NO. 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.

**RESPONSE TO REQUEST FOR ADMISSION NO. 69:**

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

Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' 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 request, Google responds: denied.

**REQUEST FOR ADMISSION NO. 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.

**RESPONSE TO REQUEST FOR ADMISSION NO. 70:**

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

Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the IIAB's rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this request in light of Opposer's refusal to fully answer Google's Requests for Admission Nos. 95-105 ; Google's Interrogatory Nos. 1-4; and Google 's Request for Production of Documents Nos. 21-25.

Subject to the foregoing objections, in response to this request, Google responds: denied, except Google admits that Opposer's alleges ownership of the GOOGABOX mark.

**REQUEST FOR ADMISSION NO. 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.

**RESPONSE TO REQUEST FOR ADMISSION NO. 71:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this request in light of Opposer's refusal to fully answer Google's Requests for Admission Nos. 95-105; Google's Interrogatory Nos. 1-4; and Google's Request for Production of Documents Nos. 21-25. Subject to the foregoing objections, in response to this request, Google responds: denied, except Google admits that Opposer's alleges ownership of the GOOGABOX mark.

**REQUEST FOR ADMISSION NO. 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"

**RESPONSE TO REQUEST FOR ADMISSION NO. 72:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable Order of the Board, or any applicable regulations and case law. Google objects to this request in light of Opposer's refusal to fully answer Google's Requests for Admission Nos. 95-105; Google's Interrogatory

Nos. 1-4; and Google's Request for Production of Documents Nos. 21-25.

Subject to the foregoing objections, in response to this request, Google responds: denied, except Google admits that Opposer's Request for Admission No. 72 summarizes Opposer's argument.

**REQUEST FOR ADMISSION NO. 73:**

Admit that the sole owner of the mark "Googabox" is one Andre D Rossouw (individual).

**RESPONSE TO REQUEST FOR ADMISSION NO. 73:**

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

Google objects to this request to the extent it purports to impose upon Google obligations broader than, or inconsistent with, the Federal Rules of Civil Procedure, the TT AB' s rules or procedures, any applicable

Order of the Board, or any applicable regulations and case law. Google objects to this request in light of

Opposer's refusal to fully answer Google's Requests for Admission Nos. 95-105; Google's Interrogatory

Nos. 1-4; and Google's Request for Production of Documents Nos. 21-25.

Subject to the foregoing objections, in response to this request, Google lacks knowledge or information sufficient to respond to this request.

Dated: May 29, 2013

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

**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

**Exhibit 3  
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 Production

**EXHIBIT 3**

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

So entered this day of July 5<sup>th</sup> 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](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 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,	)	Opposition No. 91203541
	)	
Opposer,	)	
	)	
v.	)	
	)	
GOOGLE INC.,	)	
	)	
Applicant	)	
_____	)	

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

PROPOUNDING PARTY: OPPOSER, ANDRE ROSSOUW  
RESPONDING PARTY: APPLICANT, GOOGLE INC.  
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”) hereby objects and responds to Andre Rossouw’s (“Opposer”) First Set of Requests for Production of Documents as provided below. Google’s responses to these requests 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 request 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 Opposer’s document requests as they fail to provide a time to respond to the requests.

3. Google objects to each request 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.

4. Google objects to each request 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.

5. Google objects to each request 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.

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

7. Google objects to each request 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 request since Opposer, as a *pro se* party, may not have access to trade secret and commercially sensitive information.

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

9. Google objects to each request to the extent it is vague, ambiguous, or fails to describe the requested documents with reasonable particularity.

10. 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.

11. These General Objections are incorporated below into Google's specific objections to each request.

12. Each of Google's responses to these requests 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 discovery requests 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 requests, 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**

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

Documents proving release dates and services pertaining to applicant's previous and current operations to the following Marks/ Applications, plus any other that may apply:

- (a) Google Buzz,
- (b) Google Latitude
- (c) Google Wave
- (d) Orkut
- (e) Googleplus

Opposer indeed do have limited information on the above Marks/ Applications however would need actual documentation/ digital placement dates/ records etc. to validate/ determine the information thereof accurately.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request 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 request to the extent that it seeks trade secret, confidential or commercially sensitive information. Google objects to this request 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.

Subject to the foregoing objections, in response to this request, Google will produce relevant, non-privileged, and non-confidential documents sufficient to show its use of the GOOGLE, GOOGLE BUZZ, GOOGLE LATITUDE, GOOGLE WAVE, ORKUT and GOOGLE+ trademarks and the services offered in connection with these trademarks.

**REQUEST FOR PRODUCTION NO. 2:**

Documentation to Trademark applications or Registrations pertaining to the above Marks/Applications, and if whichever none, an explanation thereof, as well as...

**RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request 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 request to the extent that it seeks trade secret, confidential or commercially sensitive information. Google objects to this request 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 request to the extent that it seeks a written statement or requests that Google create any document.

Subject to the foregoing objections, in response to this request, Google will produce relevant, non-privileged, and non-confidential documents sufficient to show its publicly available U.S. trademark applications for GOOGLE, GOOGLE LATITUDE, GOOGLE WAVE, ORKUT and GOOGLE+.

**REQUEST FOR PRODUCTION NO. 3:**

ABANDONED dates of any (if any) of the above Marks/ Applications where applicable, and explanations for abandonment thereof.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request 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 request to the extent that it seeks trade secret, confidential or commercially sensitive information.

Subject to the foregoing objections, in response to this request, Google states that after a reasonable search, it has identified no relevant, non-privileged, and non-confidential responsive documents in its possession, custody or control.

**REQUEST FOR PRODUCTION NO. 4:**

Documentation to reveal any subscriptions to the Trademark GAZZETTE (ESPECIALLY DURING THE PERIOD OF FEB/ MARCH 2008) as well as...

**RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request 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 request to the extent that it seeks trade secret, confidential or commercially sensitive information. Google objects to this request as overbroad, unduly burdensome and oppressive as it is not limited to the relevant time frame and 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 request, Google states that after a reasonable search, it has identified no relevant, non-privileged, and non-confidential responsive documents in its possession, custody or control.

**REQUEST FOR PRODUCTION NO. 5:**

Documentation to any ADDITIONAL SERVICES used by applicant at said date, to the effect of Trademark application Monitoring, then and now, either by a PRIVATE entity or INTERNAL entity for enhanced operations of monitoring Trademark applications for Trademark protection, on a daily or periodically basis.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request 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 request to the extent that it seeks trade secret, confidential or commercially sensitive information. Google objects to the extent that this request is vague and ambiguous. Google interprets this request as seeking documentation regarding trademark monitoring other than the "Trademark GAZETTE." Google objects to this request as overbroad, unduly burdensome and oppressive as it is not limited to the relevant time frame and 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 request, Google states that after a reasonable search, it has identified no relevant, non-privileged, and non-confidential responsive documents in its possession, custody or control.

**REQUEST FOR PRODUCTION NO. 6:**

Documented proof of any Trademark/s that was opposed by applicant to date, pertaining to the Google mark in particular, as well as the basis and outcome for/ of any disputes.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request 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 request 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 request to the extent that it seeks trade secret, confidential or commercially sensitive information or information protected by the right to privacy of Google or any third parties. Google objects to this request 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.

Subject to the foregoing objections, in response to this request, Google states that information responsive to this request is publicly available at: <http://ttabvue.uspto.gov/ttabvue/>.

**REQUEST FOR PRODUCTION NO. 7:**

Documented proof of actual release date as well as development start date for the following Trademark/ Application: GOOGLEPLUS, including...

**RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request to the extent that it seeks trade secret, confidential or commercially sensitive information. Google objects to this request 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.

Subject to the foregoing objections, in response to this request, Google will produce relevant, non-privileged, and non-confidential documents sufficient to show its use of the GOOGLE+ mark.

**REQUEST FOR PRODUCTION NO. 8:**

Documented proof or Affidavit of Budget made available by applicant for promotion/ development/marketing, AND budget spend thus far on the following Trademark/ Application: GOOGLEPLUS, since it's launch.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request 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 request to the extent that it seeks trade secret, confidential or commercially sensitive information or information protected by the right to privacy of Google or any third parties. Google objects to this request 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 request to the extent that it seeks a written statement or requests that Google create any document.

**REQUEST FOR PRODUCTION NO. 9:**

A STATEMENT from applicant outlining a definite refusal of a possible "Settlement for damages" for ACR as was suggested by opposer.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request 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 request as the term ACR is vague and ambiguous. Google objects to this request to the extent that it seeks a written statement from Google or requests that Google create any document.

Subject to the foregoing objections, in response to this request, Google states that it previously responded to Opposer's settlement demand.

**REQUEST FOR PRODUCTION NO. 10:**

AFFIDAVIT from applicant to specifically when, applicant was made aware of opposer's complaint (Date)

**RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request 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 request 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 request to the extent that it seeks an affidavit or requests that Google create any document.

Subject to the foregoing objections, in response to this request, Google will produce relevant, non-privileged, non-confidential, documents sufficient to show knowledge of Opposer's Opposition.

**REQUEST FOR PRODUCTION NO. 11:**

Admittance of knowledge of "Letter Of Protest" letter send to Trademark Office by opposer, protesting against applicant's application of mark "Googleplus" (Date)

**RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request 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 request 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 request to the extent that it seeks a written statement or requests that Google create any document.

Subject to the foregoing objections, in response to this request, Google will produce relevant, non-privileged, and non-confidential documents sufficient to show knowledge of Opposer's "Letter of Protest."

**REQUEST FOR PRODUCTION NO. 12:**

Applicant's Admittance of receipt of "Seize and Desist" letter sent by opposer (Date)

**RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request 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 request to the extent that it seeks a written statement or requests that Google create any document. Google objects to this request 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 request, Google will produce relevant, non-privileged, and non-confidential documents sufficient to show knowledge of Opposer's "Seize and Desist."

**REQUEST FOR PRODUCTION NO. 13:**

A BRIEF from applicant stating any opinions/ strategy of defense, from applicant as to the SPECIFIC allegation/s thus far to allow for a narrower scope of discovery.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 13:**

Google incorporates by reference each of the General Objections set forth above as if fully set forth herein. Google objects to this request 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 request 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 request 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 request to the extent that it seeks trade secret, confidential or commercially sensitive information or information protected by the right to privacy of Google or any third parties. Google objects to this request 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 request to the extent it is premature at the outset of discovery. Google objects to this request to the extent that it seeks a written statement or requests that Google create any document.

Dated: February 27, 2013

By:



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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 Requests for Production of Documents** 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 27<sup>th</sup> day of February, 2013.



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