

ESTTA Tracking number: **ESTTA667765**

Filing date: **04/20/2015**

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

Proceeding	92056816
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Date	04/20/2015
Attachments	P's Opp to Motion to Amend Part 1.pdf(75738 bytes) P's Opp to Motion to Amend Part 2.pdf(4076991 bytes) P's Opp to Motion to Amend Part 3.pdf(2023530 bytes)

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

Google Inc.,	)	Cancellation No.: 92056816
)	
Petitioner,	)	Registration No.: 3,360,331
	)	Mark: CHROME
v.	)	Issued: December 25, 2007
)	
VIA Technologies, Inc.,	)	Registration No.: 3,951,287
	)	Mark: CHROME
Registrant.	)	Issued: April 26, 2011
_____)	

OPPOSITION TO MOTION TO AMEND

Google hereby opposes the motion of Registrant VIA Technologies, Inc. (“Registrant” or “VIA”) to amend the dates of first use identified in Registration No. 3,360,331 (the “Class 9 Registration”) and to delete certain services from the recitation of services in Registration No. 3,951,287 (the “Class 42 Registration”) (collectively, the “Subject Registrations”).

I. INTRODUCTION

In a thinly veiled attempt to deflect allegations of fraud on the U.S. Patent and Trademark Office (“PTO”) in procuring and maintaining the Subject Registrations, Registrant requests the amendment of the Subject Registrations in the midst of this Cancellation Action in order to correct alleged “good faith mistakes.” Concurrently herewith, Google has filed a motion seeking leave to amend its Petition to Cancel to include a claim of fraud that will expose the extent of VIA’s efforts to mislead the PTO and result in the complete cancellation of the Subject Registrations.

Registrant spins a story in its motion that centers on Registrant’s complete reliance on the advice of a former trademark paralegal, Ms. Donna Lee, whose misinterpretations of Registrant’s legal obligations are allegedly responsible for Registrant’s “genuine misunderstandings about the

use and services requirements of United States trademark law....” These “genuine misunderstandings” included believing that (a) services provided under Registrant’s VIA mark could be identified in its application for the CHROME mark as services provided under the CHROME mark and (b) the date of first use identified in Registrant’s ALPHACHROME registration could apply as the date of first use in its CHROME application. Ms. Lee passed away in 2010 and thus cannot defend herself against Registrant’s attempt to lay blame at her feet. Tellingly, Registrant has produced no documents or communications that support its claims regarding Ms. Lee’s role.

Even if amended, the Subject Registrations would remain grossly inaccurate. Registrant has sought to change as little as possible while advancing its story of “good faith” mistakes. Registrant has not deleted many goods and services which, as indicated by documents and information obtained in discovery, have never traveled in U.S. commerce in connection with the CHROME mark. Registrant has not even requested deletion of several services which it has already admitted, in sworn and verified responses to Google’s Interrogatories, were never offered in connection with the CHROME mark. Despite this obvious discrepancy, Registrant has boldly asserted that its proposed amendments would render the Subject Registrations accurate.

The timing of Registrant’s motion also reveals the true motivations behind it. Registrant had ample opportunity to review and correct any errors in the Subject Registrations during the parties’ lengthy discovery period, but did not do so until informed of Google’s intent to allege fraud. By seeking to amend the Subject Registrations now, Registrant is trying to undermine Google’s request for leave to allege fraud by laying a foundation for its defense on the merits.

Registrant’s motion also improperly asks the Board to make premature determinations regarding Registrant’s procurement of the Subject Registrations. Registrant proposes its

amendments pursuant to Trademark Rule 2.175, permitting the correction of mistakes made in good faith. Thus, to approve the proposed amendments, the Board must credit Registrant's proffered explanations regarding the facts and circumstances surrounding its registration of the CHROME mark. The proper time for such determinations is during trial, when the parties will have had the opportunity to conduct discovery and put forth evidence regarding asserted facts.

For the foregoing reasons, the Board should either deny Registrant's motion outright or defer its decision until the appropriate time for a final determination on the merits of the claims at issue.

II. FACTS AND BACKGROUND

A. The Subject Registrations and Cancellation Proceeding

Registrant is a publicly-traded Taiwanese corporation that offers computing components and related products and services. Registrant owns several U.S. applications and registrations for various trademarks, including registrations for ALPHACHROME (U.S. Reg. No. 3,206,650), DELTACHROME (U.S. Reg. No. 3,139,509), and GAMMA CHROME (U.S. Reg. No. 3,252,281). Documents produced by Registrant during discovery and available on the PTO website support that Registrant's applications and registrations are primarily procured and maintained from Fremont, California, where its affiliate S3 Graphics, Inc. is located.¹

On February 22, 2007, Registrant applied to register the CHROME mark in connection with a laundry list of computers and other electronic goods in Class 9.² Jonathan Chang,

¹ See, e.g., Prosecution File for U.S. Registration No. 3,206,650 (ALPHACHROME), Doc. No. 25 (July 30, 2013) (Section 8 Declaration Signed by Jonathan Chang, listing correspondent address as "Jonathan Chang, VIA Technologies, Inc. Attn: Legal Affairs, 940 Mission Ct., Fremont, California, 94539"); Prosecution File for U.S. Registration No. 3,252,281 (GAMMA CHROME), Doc. No. 16 (Oct. 24, 2006) (Statement of Use signed by Jonathan Chang, Director of U.S. Operations); Prosecution File for U.S. Registration No. 3,173,119 (VIA), Doc. No. 8 (May 4, 2006) (Response to Office Action signed by Jonathan Chang, Director of U.S. Operations).

² In particular, Registrant's Class 9 application originally covered the following goods: "Computers, namely, personal computers, portable computers, handheld computers, notebook computers, microcomputers, desktop

Registrant's Director of U.S. Operations in Fremont, California, signed the application and attested to Registrant's *bona fide* intention to use the mark in connection with all of the identified goods. (Prosecution File of U.S. Reg. No. 3,360,331, Doc. No. 1 (Feb. 22, 2007).) Dr. Chang also signed Registrant's Statement of Use, which was filed in support of the application on October 12, 2007. By signing the Statement of Use, Dr. Chang averred, under penalty of perjury, that Registrant was using the mark in U.S. commerce on or in connection with all goods identified in the Class 9 application. (*Id.*, Doc. No. 8 (Oct. 12, 2007).) Registrant also identified the date of first use anywhere as June 1, 2001 and the date of first use in commerce as July 1, 2001. (*Id.*)

Registrant submitted four specimens of use. It described the first as "a digital photo enlargement of that relevant portion of *a computer board* with the trademark imprinted thereon," although the specimen appears to represent a graphics processing unit ("GPU") (emphasis added). Registrant describes the second specimen as "a digital photo of *computer packaging* with the mark imprinted thereon," although the packaging depicted is for the ChromeS27, which is a GPU and not a computer (emphasis added). (Hughes Decl. ¶ 12, Ex. H. Dep. of Amy Wu: p.

computers; computer system components, parts and fittings, namely, motherboards, central processing units (CPUs), base PC modules, computer housing, computer casing, computer chassis, computer frames, computer hardware, namely, semiconductors, microprocessors, graphics processors, integrated circuits, computer chips, computer motherboards, computer graphics boards, computer interface boards, computer accelerator board, circuit boards, computer memory cards, memory chips, blank magnetic data carriers, hard drives, electronic computer locks, computer speakers, disc drives, computer peripherals, computer keyboards, computer printers, computer monitors, multimedia and digital displays, namely, CRT monitors, DVI displays, LCD panels, HDTV displays, GPS navigational displays and automotive visual displays, computer cables, disc and tape controller cards, input devices, namely, scanners, computer mice, joysticks, microphones; computer network adapters, networking switches, routers, modems, power adapters for computers; hand-held devices, namely Personal Digital Assistants (PDAs), electronic personal organizers, MP3 players; software and hardware for management, storage, communications and network management of digital media and enhancement of graphical and video display; pre-recorded computer discs featuring documentary programs, drama, musical entertainment; portable computer carry bags; cases to carry CDs and DVDs; computer firmware, namely, computer utility software and other computer software used to maintain and operate computer system all stored in a computer's read only memory or elsewhere in the computer's circuitry, operating system software; BIOS software; printed and electronic instructional manuals, specification sheets, data sheets, computer reference manuals, user guides and documents providing instruction in the use and operation of various electronic digital devices, sold as a unit therewith the aforesaid good" (Prosecution File for U.S. Reg. No. 3360331, Doc. No. 1, (Feb. 22, 2007).

37, ll. 3-4.) (“Wu Dep.”) The third specimen shows a graphics chip, which Registrant describes as “a computer chip;” and the fourth specimen, described as “a digital photo of the mark *imprinted thereon computer software and product packaging*” shows the same packaging for the Chrome S27 GPU. (Prosecution File of U.S. Reg. No. 3,360,331, Doc. No. 9 (Oct. 12, 2007)) (emphasis added). The application matured into U.S. Registration No. 3,360,331 on December 25, 2007. (*Id.*, Doc. No. 14 (Dec. 25, 2007).)

On September 9, 2008, Registrant applied to register the CHROME mark in connection with long list of services in Class 42.³ Jonathan Chang signed the application and attested that Registrant had a *bona fide* intent to use the mark in connection with all services identified in the application. (Prosecution File of U.S. Reg. No. 3,951,287, Doc. No. 1 (Sept. 9, 2008).) On March 1, 2011, Registrant’s Chief Financial Officer, Miller Chen, signed the Statement of Use and declared, under penalty of perjury, that Registrant was using the mark in commerce in connection with all services identified. (*Id.*, Doc. No. 19 (Mar. 1, 2011).) On April 26, 2011, the application matured into Registration No. 3,951, 287.

On or around December 18, 2012, pursuant to discussions between Google and Registrant regarding their respective uses of CHROME and CHROME-formative marks, Google

³ Specifically, Registrant’s Class 42 application identified the following services: “Computer services, namely, providing on-line information available on computer networks, global information networks and wireless communication networks in the fields of computer hardware, computer software, computer graphics, information technology, wireless communications, multimedia technology, entertainment technology, computer games, consumer electronics, robotics, business computing and environmentally-friendly computing, using both an interactive and non-interactive format; technical support services, namely, troubleshooting of computer hardware and software problems in person, by telephone, by electronic, computer and communications networks; provision of computer systems analysis and computer diagnostic services; design of computer hardware, integrated circuits, computer networks and communications hardware and software for others; consultancy in the field of design, development, configuration, installation, updating, upgrading or maintenance of computer software; computer programming for others; research and development of 3D content, 3D technology and processes, 3D animation technology, 3D processing power, 3D techniques, and flexible forward projection; designing and developing computer hardware and software for entertainment game systems and computer networks; creating, designing and maintaining web sites; providing search engines for obtaining data featuring information, product reviews, ratings, feature comparisons of computer, electronic, game and multimedia entertainment products.” (Prosecution File for U.S. Reg. No. 3,360,331, Doc. No. 1 (Sept. 9, 2008)).

sent Registrant a letter stating that Registrant did not appear to be using the CHROME mark in connection with the goods and services identified in the Subject Registrations and, therefore, the Subject Registrations were vulnerable to cancellation. (Hughes Decl. ¶ 2, Ex. A.) Less than two months later, Registrant filed a Combined Declaration of Continued Use and Incontestability under Sections 8 & 15 for the Class 9 Registration, removing several goods from the registration.⁴ Ken Weng, General Manager of S3 Graphics, Inc. in Fremont, California, signed the Declaration and swore, under penalty of perjury, that “the mark has been continuously used in commerce for five (5) consecutive years after the date of registration...and is still in use in commerce on or in connection with” the remaining goods identified in the registration. (Prosecution File for U.S. Reg. No. 3,360,331, Doc. No. 16 (Feb. 14, 2013).) Six days later, Google filed its petition to cancel the Subject Registrations.

As grounds for cancellation, Google alleged that Registrant: (1) had not used the CHROME mark in commerce on or in connection with some or all of the goods and services identified in the subject registrations; (2) was not using the CHROME mark in commerce on or in connection with some or all of the goods and services identified in the subject registrations when it filed its Statements of Use or Combined Declaration of Continued Use and Incontestability; and/or (3) had abandoned the CHROME mark for some or all of the goods and services identified therein. (Pet. for Cancellation, Cancellation No. 92056816 (Feb. 19, 2013).)

⁴ Specifically, Registrant deleted the following goods from its Class 9 CHROME registration: “handheld computers, computer housing, computer casing, computer chassis, computer frames, hard drives, disc drives, computer keyboards, computer printers, computer monitors, computer cables, disc and tape controller cards, scanners, computer mice, joysticks, microphones; computer network adapters, networking switches, routers, modems, power adapters for computers; hand-held devices, namely, Personal Digital Assistants (PDAs), electronic personal organizers, MP3 players; BIOS software, pre-recorded computer discs featuring documentary programs, drama, musical entertainment, blank magnetic data carriers, electronic computer locks, computer speakers, computer peripherals, multimedia and digital displays, namely, CRT monitors, DVI displays, LCD panels, HDTV displays, GPS navigational displays and automotive visual displays, input devices, namely, software and hardware for management, storage, communications and network management of digital media and enhancement of graphical and video display; portable computer carry bags; cases to carry CDs and DVDs.” (Prosecution File for U.S. Reg. No. 3360331, Doc. No. 16 (Feb. 14, 2013).

On April 20, 2015, Google sought the Board's leave to add a claim of fraud in the procurement and maintenance of the Subject Registrations. (Pet'r's Mot. for Leave to Amend Pet. for Cancellation, Cancellation No. 92056816 (Apr. 20, 2015)) ("Mot. for Leave").

B. Discovery Regarding Registrant's Use of the CHROME Mark

Throughout discovery, Registrant employed various tactics to avoid revealing that the CHROME mark was not used on or in connection with most of the goods and services identified in the Subject Registrations. Nonetheless, facts have emerged that strongly suggest Registrant misrepresented the scope of its use of the CHROME mark in procuring and maintaining the Subject Registrations and has continued to do so during this cancellation proceeding. While details supporting Google's fraud allegations are outlined in its motion for leave to amend its Petition for Cancellation, certain facts are particularly salient to the Board's consideration of Registrant's proposed amendment, as set forth below.

1. Registrant's Interrogatory Responses Reveal Inexplicable Inconsistencies.

Registrant admitted to Google, through its amended responses to Google's Interrogatories, that Registrant has not used the CHROME mark in connection with several services currently identified in the Class 42 Registration. Registrant has not, however, requested to delete most of these unused services from the registration in its current motion.

Specifically, Google's Interrogatory No. 4 requested descriptions of all goods and services with which Registrant or any other person is currently or has ever used the CHROME mark. (Hughes Decl. ¶ 3, Ex. B.) Registrant initially refused to provide any substantive response. (*Id.* ¶¶ 3-4, Ex. B.) Its amended response, served on September 9, 2013, merely listed all goods and services identified in the Subject Registrations. (*Id.* ¶ 5, Ex. C.) In response to Google's repeated requests that Registrant produce documents supporting the full scope of its

asserted use of the CHROME mark, Registrant finally served an amended response identifying some specific services with which it has used the CHROME mark. (*Id.* ¶¶ 6-17, Exs. D-M.) In amending its response, Registrant removed several services, including but not limited to those covered by the proposed amendment in the instant motion, thereby affirming that Registrant has never used the CHROME mark in connection with most of the services identified in the Class 42 Registration. (*Id.* ¶ 17, Ex. M.)

Registrant's conflicting representations are depicted in the recitation below. The items that Registrant has asked the Board to delete in its pending motion to amend the Subject Registrations are crossed out, while the items Registrant removed from its response to Interrogatory No. 4, but did not propose to delete in its motion to amend, are highlighted:

computer services, namely, providing on-line information available on computer networks, global information networks and wireless communication networks in the fields of the design, development and customization of computer hardware, computer software, computer graphics software, information technology, wireless communication devices, multimedia technology, robotics, namely, the design and development of new technology in the field of robotics, business computing and environmentally-friendly computing, and specifically excluding computer games and video games, using both an interactive and non-interactive format; technical support services, namely, troubleshooting of computer hardware and software problems in person, by telephone, by electronic, computer and communications networks; provision of computer systems analysis and computer diagnostic services; design of computer hardware, integrated circuits, computer networks and communications hardware and software for others; consultancy in the field of design, development, configuration, installation, updating, upgrading or maintenance of computer software - excluding computer game and video game software; computer programming for others; research and development of 3d content, 3d technology and processes, 3d animation technology, 3d processing power, 3d techniques, and flexible forward projection; creating, designing and maintaining web sites

(Resp't's Unconsented Mot. to Amend Registrations, Cancellation No. 92056816 (Mar. 15, 2015)) ("Mot. to Amend"). Despite this glaring inconsistency, Registrant claims in its motion that, "[a]s amended...Registration No. 3,951,287 would accurately

recite the services on which Registrant has used and intends to continue using the CHROME mark.” (*Id.*, p. 7.)

2. Registrant Lacks Documents Showing Sufficient Use of the CHROME Mark.

To date, Registrant has not produced documents demonstrating its use of the CHROME mark in connection with any goods shipped or sold in U.S. commerce other than graphics chips, chipsets, graphics processing units (“GPUs” or “graphics cards”), software drivers that facilitate interoperability of such products with third-party software and firmware, as well as some possible, but temporary, use of the mark on Registrant’s ARTIGO-brand processing units. (Givner-Forbes Decl. ¶¶ 2-3.) Registrant’s documentation of the services it rendered in U.S. commerce under the CHROME mark is similarly limited to software customization and other customization services provided on a few occasions to select customers who purchased the CHROME graphics products. (*Id.*, ¶ 2.)

On December 14, 2014, Google deposed Registrant’s Assistant Director of Product Marketing, Amy Wu, in her individual capacity. (Hughes Decl. ¶ 11, Ex. G.) Ms. Wu could not confirm that Registrant has used the CHROME mark in connection with any goods or services other than chips, chipsets, and GPUs. (*Id.*) In a letter sent February 13, 2015 and a meet & confer held February 26, Google repeated its request that Registrant support the full extent of its asserted use of CHROME with documents sufficient to show continuous use on or in connection with all goods and services claimed. (Hughes Decl. ¶ 12, Ex. G; Givner-Forbes Decl. ¶ 11.) In response, Registrant’s attorney told Google’s counsel that Registrant would “moot the concept” by amending the Subject Registrations to delete some of the goods and services identified therein. (Givner-Forbes Decl. ¶ 11.)

In response, Google requested that Registrant provide documents sufficient to show its

use of the CHROME mark in connection with any goods or services it did not propose to delete from the Subject Registrations. (*Id.* ¶ 11.) Registrant, however, has not produced or identified any more documents to support its use of the CHROME mark outside of graphics products and related services. Moreover, Registrant has not properly moved to amend the Subject Registrations to bring them into alignment with the scope of its use, as supported by available evidence. (*Id.* ¶ 15.)

Registrant's counsel also asserted during the February 26 meet & confer that some of Registrant's claims of use relied on use by Registrant's related companies or licensees rather than use by Registrant itself. (*Id.* ¶ 11.) The parties agreed on February 26 that Registrant would "[i]dentify each related company or licensee upon whose use of 'CHROME' VIA relied to support its Statements of Use and Section 8 & 15 declarations." (*Id.* ¶ 11, Ex. F.) Registrant committed to undertake a good faith effort to provide this information by March 16, 2015, but has not done so to date. (*Id.*) Registrant also declined Google's request that it produce the applicable license agreements or documents evidencing its control over such use by related companies. (*Id.*)

3. Registrant Misrepresented Its Claimed Dates of First Use.

On four separate occasions through four separately verified interrogatory responses, Registrant claimed that it began using the CHROME mark in connection with all of the goods identified in its Class 9 registration, as amended on February 14, 2013, at least as early as July 1, 2001. (Givner-Forbes Decl. ¶ 13.) Registrant, together with its outside counsel, had no fewer than four opportunities in the last two years alone to correct its misapprehensions regarding U.S. trademark law and dates of first use.

On December 14, 2014, Registrant's Assistant Director of Product Marketing indicated

during her deposition that Registrant did not begin selling products under the CHROME mark until sometime in 2005, at the earliest. Google then pointed out to Registrant, in its February 13, 2015 letter, that an article and press release in Registrant's document production indicated that Registrant had not sold any CHROME-branded products in U.S. commerce until 2005. (Hughes Decl. ¶ 12, Ex. H.) Registrant did not even respond to Google's inquiry or explain the contradiction until March 20, 2015, when Registrant requested Google's consent to the instant motion to amend the Subject Registrations in response to Google's inquiries regarding fraud. (Givner-Forbes ¶ 14, Ex. G.)

4. Discovery Regarding the Procurement and Maintenance of the Subject Registrations Reveals Deception.

Pursuant to a previous discovery dispute that culminated in Google's having to file a motion to compel, Google obtained some correspondence and other documents regarding Respondent's selection and adoption of the CHROME marks and its procurement and maintenance of the Subject Registrations. The correspondence and documents, as well as Registrant's privilege log, confirm the involvement of several individuals who assisted in the acquisition and maintenance of the Subject Registrations, including Jonathan Chang, Ken Weng, and other of Registrant's employees. Notably absent from this list of supportive individuals is Registrant's former paralegal, Donna Lee. (Givner-Forbes Decl. ¶ 9.)

Registrant's documents support that Ms. Lee prepared and submitted applications and fees through TEAS for several of Registrant's other marks, but not for the Subject Registrations. In fact, Registrant's privilege log reflects communications between Ms. Lee and Registrant's outside counsel regarding several other marks, but not the CHROME mark. (Givner-Forbes Decl. ¶ 9.)⁵ Moreover, none of Registrant's responses to Google's Interrogatories, including

⁵ A copy of Registrant's privilege log was submitted by Registrant as an Exhibit to its Opposition to Google's

those eliciting information regarding Registrant's selection and adoption of the CHROME mark and its preparations to use the CHROME mark in U.S. commerce, mention Ms. Lee. (*Id.* ¶ 10.)

C. Registrant's Motion to Amend the Subject Registrations

Registrant first informed Google that it planned to move to amend the Subject Registrations on February 26, 2015, in response to Google's request for documents sufficient to show Registrant's proclaimed use of the CHROME mark. (*Id.* ¶ 11.) Registrant did not describe the extent or nature of the amendments at that time. On March 20, however, Registrant wrote Google requesting its consent to the amendments now proposed to the Board. (*Id.* ¶ 14, Ex. G.) The same day, Google requested consent to amend its cancellation petition to add a claim of fraud. Both parties declined to grant the consent the other requested. (*Id.* ¶ 14.) On March 31, 2015, Registrant filed the pending motion.

Registrant claims that "[a]s amended, Registration No. 3,360,331 for CHROME would accurately reflect the first use and first use in commerce dates for the CHROME mark on goods, and Registration No. 3,951,287 would accurately recite the services on which Registrant has used[] and intends to continue using the CHROME mark." (Mot. to Amend, p. 7.) Registrant asserts that the specimens that Registrant originally submitted with its Statement of Use and Combined Declaration of Use and Incontestability for Registration No. 3,360,331 "support its use of the CHROME mark on the subject goods from 2005 onwards." (*Id.*) Registrant also offered to "consent[] to the entry of judgment against it in these cancellation proceedings on the question of use as to all of the mistakenly included services that it is proposing to delete through this motion, and as to use prior to 2005, thereby narrowing the scope of issues of use to be tried." (*Id.*, p. 6.)

Registrant proposes its amendments pursuant to 37 C.F.R. 2.175, which provides for the

Motion to Compel. *See* Resp't's Opp. to Mot. To Compel, Decl. of Irene Lee, Ex. M.

correction of mistakes made in good faith. (*Id.*, pp. 5-6.) As explanation for its errors, Registrant blames its “genuine misunderstandings regarding the use and service requirements of United States trademark law.” (*Id.*, p. 5.) Registrant’s alleged misunderstandings include a mistaken belief that the date of first use anywhere and date of first use in commerce for its ALPHACHROME registration applied to its application for the CHROME mark, and that offering services under its VIA mark constituted use of those services in connection with the CHROME mark. (*Id.*, pp. 5-6.)

Registrant attributes these misunderstandings to Registrant’s reliance on Donna Lee’s “mistaken belief and advice.” (*Id.*, p. 4.) Registrant asserts that Ms. Lee prepared the Subject Registrations and communicated her misunderstandings to Jonathan Chang, who also relied on them. (*Id.*) Registrant also claims that “up until recently, VIA neither believed nor had any knowledge that these statements were false....” (*Id.*)

Registrant has not produced any documents or communications reflecting any of the mistaken legal interpretations described above; nor does Registrant’s privilege log reflect that Ms. Lee advised or otherwise communicated with anyone regarding the Subject Registrations. (Givner-Forbes Decl. ¶ 9.) Registrant’s documents and publicly-available documents indicate that Registrant had outside counsel and an in-house legal department in California at its disposal for assistance in the filing and maintenance of its U.S. trademark applications and registrations.⁶ Additionally, Registrant has had wide exposure to issues of non-use, abandonment, and even fraud under U.S. trademark law.⁷

⁶ A number of Registrant’s applications and registrations list outside counsel as a correspondent, Registrant’s privilege log reflects communications with outside counsel regarding its marks, and Registrant’s documents reflect that Sherman Wan, an in-house attorney for Registrant in California, was involved in the applications for several CHROME-formative marks.

⁷ Registrant was involved in a dispute with Vizio, Inc. that led to Vizio filing a complaint in federal court in early 2011 to cancel two of Registrant’s registrations on the basis of abandonment and fraud. *Complaint for Declaratory Judgment of Non-Infringement of Trademarks; Declaratory Judgments of Invalidity and Unenforceability of, and*

III. THE BOARD SHOULD DENY REGISTRANT’S MOTION TO AMEND OR DEFER JUDGMENT UNTIL TRIAL.

An opposer or petitioner has a right to a decision on the merits with respect to the application or registration it chose to contest. *See The Mennen Company v. Nippon Menard Cosmetic Co., Ltd.*, 195 USPQ 737, 738 (TTAB 1977) (“it is well settled that opposer has the right to be heard on the question of likelihood of confusion as to the goods set forth in the application as published and opposed”). Thus, the Board will typically defer determination of an unconsented motion to amend an opposed application or contested registration until trial or on motion for summary judgment. *Drive Trademark Holdings LP v. Inofin*, 83 USPQ2d 1433, 1436 (TTAB 2007); TBMP § 514.01.

In its discretion, however, the Board may enter an amendment (1) that, while contested, is otherwise proper under applicable rules, and (2) when the interests of judicial economy would be served by a decision on the merits of the amended application or registration. *See Johnson & Johnson v. Stryker Corp.*, 109 USPQ2d 1077 (TTAB 2013). Neither circumstance exists here.

A. The Proposed Amendment Is Not Proper Because Registrant Lacks Good Cause for the Amendment and Errors Were Not Made in Good Faith.

Section 7(e) of the Lanham Act states that a registration based on Section 1 of the Lanham Act may be amended “for good cause.” 15 U.S.C. § 1057(e). Any such amendment must be accurate, which is “in keeping with the purpose of Section 7 – that is, to allow corrections of Office records to reflect reality.” *In re Pamex Foods, Inc.*, 209 USPQ 275, 277 (Comm’r Pats. 1980); *see also The Mennen Company*, 195 USPQ at 738 (good cause includes

Cancellation of Registered Trademarks, Trademark Misuse and Unfair Competition Pursuant to 15 U.S.C. § 1125(a); and California Business & Professions Code §§ 17200 et seq., Case No. 2:11-cv-02420-SVW-RZ (Mar. 22, 2011 C.D. Cal). Registrant also had a broad portfolio of more than fifty U.S. trademark applications and registrations, as is reflected in the PTO’s records. Registrant has even more trademark applications and registrations under the name S3 Graphics, Inc., which Registrant’s documents and PTO filings reflect were maintained by the same California-based employees as Registrant’s registrations and applications for VIA technologies.

ensuring that the goods and services used with a mark are “accurately and truthfully described.”). Further, Trademark Rule 2.175 permits amendment to correct an inaccuracy when “a showing has been made that the mistake occurred in good faith....” 37 C.F.R. § 2.175.

Registrant does not have good cause to amend the Subject Registrations because its goal is not to ensure that its registrations “accurately reflect...the services on which Registrant has used and intends to continue using the CHROME mark,” as it claims. If that were the case, Registrant would have proposed removal of all goods and services with which it has not used the CHROME mark. While Google and Registrant disagree regarding which goods and services fall into this category, the list surely encompasses far more than Registrant identifies in the proposed amendment. At minimum, Registrant should have requested deletion of all of those items in Class 42 that it did not identify in its amended response to Google’s Interrogatory No. 4.

Given the still unexplained discrepancies between available evidence and Registrant’s varied and ever-changing representations, it strains the limits of credulity to believe Registrant has a “genuine misunderstanding” about U.S. trademark law. Nor is there any evidence to suggest that Registrant sought, much less relied on, Ms. Donna Lee’s “good faith but mistaken belief and advice” regarding the Subject Registrations. Instead of correcting for accuracy, Registrant’s goal is to persuade the Board of various facts and circumstances surrounding the procurement of the Subject Registrations in order to undermine Google’s motion for leave to bring a claim of fraud. Simply put, there is not good cause, as contemplated by Section 7(e), to amend the Subject Registrations as requested by Registrant.

In addition, Registrant’s proposed amendments would be improper under Trademark Rule 2.175 because they do not constitute corrections to errors made in good faith. Google does not even need to prevail on its fraud claim to show that Registrant lacks the requisite good faith

to make the requested amendments. If Google proves just two out of the four elements of a successful fraud claim – that Registrant (1) made false statements in the procurement of its application and (2) that it did so knowingly – this would be sufficient to establish that Registrant’s misrepresentations were not made in good faith. As Google has not yet had an opportunity to conduct full discovery or present evidence on these issues, a decision on Registrant’s amendment prior to trial is premature.

B. Registrant Cannot Unilaterally Remove Parts of Its Registration from a Determination on the Merits or Dictate the Entry of Judgment on Grounds of Its Choosing.

It is a long-standing principle that a party that contests a registration or application is entitled to a decision on the merits of the registration or application it chose to contest. *The Mennen Company*, 195 USPQ at 738. Accordingly, the Board’s established practice is to grant unconsented amendments at the pretrial stage only in very specific circumstances that serve the interests of judicial economy. 37 C.F.R. § 2.133; *Ziebart International Corporation v. Northern Instruments Corporation*, 212 USPQ 537, 538 (TTAB 1981). As the Board explained, “[t]his practice regarding amendments before trial under Trademark Rule 2.133 is based on the rationale that if, in the interest of judicial economy, applicant wishes to go forward with trial of the opposition to its application in its restricted form, applicant should be required to accept judgment on the goods as they were originally identified so that it will be precluded by the principle of *res judicata* from seeking, at a later date, to register its mark pursuant to a new application for the goods comprehended by such original identification.” *Ziebart International Corporation*, 212 USPQ at 538.

Contrary to Registrant’s assertions, judicial economy does not mean that one party may unilaterally decide to narrow issues for trial. Rather, the parties should have the opportunity to resolve as many disputed facts and positions as possible within a single proceeding. *Nippon*

Electric Co., Ltd. v. National Electric Control Company, 197 USPQ 182, 186 (TTAB 1977). As the Board explained shortly after adopting Trademark Rule 2.133, quoting the decision of the Court of Customs and Patent Appeals in *Toro*, “the imperative of judicial economy requires maximum effort toward full consideration of as many apparent and alternative positions as possible in connection with the application.” *Id.*, quoting *Toro Co. v. Harding Industries, Inc.*, 193 USPQ 149 (CCPA 1977) (emphasis added).

Judicial economy is therefore only served when the amending party consents to the entry of judgment on grounds, such as a likelihood of confusion, that have a preclusive effect as to the portion of the original application or registration removed by amendment and when substantively new issues are presented by the application or registration as amended. *Johnson & Johnson v. Stryker Corp.*, 109 USPQ2d 1077 (TTAB 2013). Accordingly, all published decisions since *Toro* in which the Board has granted an unconsented amendment involve situations in which the “entry of judgment will preclude applicant from seeking to register its mark at a later date, thereby freeing opposer from the task of filing another opposition on the same issue...” *International Harvester Company v. International Telephone and Telegraph Corporation*, 208 USPQ 940, 941 (TTAB 1980), and in which the application or registration as amended “introduce[s] a substantially different issue for trial.” *Johnson & Johnson v. Stryker Corp.*, 109 USPQ2d 1077, 1078 (TTAB 2013). These requirements assure that the Board has “full consideration of as many apparent and alternative positions as possible.”

Registrant requests that the Board allow it to shield part of its registration from a decision on the merits in this proceeding, without any effect on Registrant’s ability to file future applications for the deleted services or that identify 2001 as its date of first use of the CHROME mark. Registrant further asks to be permitted to select the grounds of its choosing for the entry

of judgment – non-use – rather than fraud. Registrant’s proposed amendments, which only seek to narrow and circumvent the issues currently pending before the Board, certainly do not present any new substantive issues for trial. Because granting Registrant’s motion would do no service to judicial economy, there is simply no reasonable basis for depriving Google of a trial on the merits of the registrations it chose to contest.

IV. CONCLUSION

For the foregoing reasons, Google respectfully requests that the Board either deny Registrant’s motion outright or defer its decision until the appropriate time for a final determination on the merits of the claims at issue.

Respectfully submitted,

Date: April 20, 2015

/Brendan J. Hughes/
Janet L. Cullum
Brendan J. Hughes
Morgan A. Champion
Rebecca Givner-Forbes
COOLEY LLP
1299 Pennsylvania Ave., NW, Suite 700
Washington, D.C. 20004
Tel: (202) 842-7800
Email: bhughes@cooley.com

Counsel for Petitioner Google Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **OPPOSITION TO MOTION TO AMEND**, along with true and correct copies of the supporting declarations of Brendan J. Hughes and Rebecca Givner-Forbes filed concurrently herewith, have been served on Registrant VIA Technologies, Inc. by mailing said copy on the date set forth below, via First Class Mail, postage prepaid to Applicant's address of record:

Irene Y. Lee
Nathan D. Meyer
Jean Y. Rhee
RUSS, AUGUST & KABAT
Twelfth Floor
12424 Wilshire Boulevard
Los Angeles, California 90025
Telephone: (310) 826-7474
Facsimile: (310) 826-6991

Date: April 20, 2015

/Rebecca Givner-Forbes /
Rebecca Givner-Forbes
COOLEY LLP
1299 Pennsylvania Ave., N.W., Ste 700
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Tel: (202) 842-7800; Fax: (202) 842-7899
Email: rgivnerforbes@cooley.com

Counsel for Petitioner Google Inc.

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

Google Inc.,	)	Cancellation No.: 92056816
)	
Petitioner,	)	Registration No.: 3,360,331
	)	Mark: CHROME
v.	)	Issued: December 25, 2007
)	
VIA Technologies, Inc.,	)	Registration No.: 3,951,287
	)	Mark: CHROME
Registrant.	)	Issued: April 26, 2011
_____)	

**DECLARATION OF BRENDAN J. HUGHES IN SUPPORT OF
GOOGLE’S OPPOSITION TO REGISTRANT’S UNCONSENTED MOTION TO
AMEND THE REGISTRATIONS**

I, Brendan J. Hughes, hereby declare as follows.

1. I am a partner at the law firm Cooley LLP and represent Petitioner Google Inc. (“Google”) in this cancellation action against Registrant VIA Technologies, Inc. (“Registrant”). I make this statement based on my personal knowledge of the facts set forth herein, my review of client files maintained by Cooley LLP for Google, and my conversations with my colleagues regarding this proceeding. I submit this declaration in support of Google’s Opposition to Registrant’s Unconsented Motion to Amend the Registrations.
2. Attached hereto as Exhibit A is a true and correct copy of a letter sent by Ms. Janet Cullum, a partner at Cooley LLP, to Ms. Irene Lee, counsel for Registrant, on December 18, 2012. Two paragraphs have been redacted as confidential communications between the parties.
3. Based on client files maintained by Cooley, LLP for Google, I am aware that Google served its First Set of Special Interrogatories on Registrant on July 2, 2013. Attached hereto as Exhibit B is a true and correct copy of Registrant’s responses to Google’s

Interrogatories Nos. 4, 10, and 11, which Registrant served on August 6, 2013.

4. Based on my personal experience and client files maintained by Cooley, LLP for Google, I am aware that the Cooley litigation team in this matter requested complete responses to Google's Interrogatories relating to Registrant's use of the CHROME marks several times prior to May 30, 2014, including but not limited to August 26, 2013, November 6, 2013, February 11, 2014, February 12, 2014, March 14, 2014, March 25, 2014, April 11, 2014, and April 25, 2014.

5. Attached hereto as Exhibit C is a true and correct copy of Registrant's responses to Google's Interrogatory Nos. 4, 10, and 11 served on September 9, 2013.

6. Attached hereto as Exhibit D is a true and correct copy of Registrant's responses to Google's Interrogatory Nos. 4, 10, and 11 served on May 30, 2014.

7. Attached hereto as Exhibit E is a true and correct copy Registrant's responses to Google's Interrogatory Nos. 4, 10, and 11 served on June 11, 2014.

8. Attached hereto as Exhibit F is a true and correct copy Registrant's responses to Google's Interrogatory Nos. 4, 10, and 11 served on June 17, 2014.

9. After Google filed a motion to compel the production of Registrant's internal correspondence on June 24, 2014 and Registrant opposed Google's motion, the parties resolved their discovery dispute by Registrant agreeing that Google would depose: Ms. Inky Chen, Registrant's in-house legal specialist responsible for Registrant's document collection and production efforts by written question in Taiwan; Ms. Amy Wu, Registrant's Assistant Director of Product Marketing, in her individual capacity in California; and Dr. Ken Weng as the 30(b)(6) witness for Registrant regarding all other noticed topics. Google agreed to withdraw its motion to compel because of, among other reasons, Registrant's offering of these deponents and Ms. Inky Chen's declaration submitted in support of Registrant's opposition to Google's motion to

compel in which she asserted her belief that Registrant did not possess any responsive documents to Google's discovery requests that it had not already produced.

10. On November 25, 2014, Google deposed Ms. Inky Chen in Taipei, Taiwan by written question on the topics of Registrant's document preservation, collection, and production processes used in responding to Google's discovery requests.

11. On December 12, 2014, I deposed Ms. Amy Wu, Registrant's Assistant Director of Product Marketing, in her individual capacity in Palo Alto, California. Relevant pages of the deposition transcript are attached hereto as Exhibit G. During her deposition, Ms. Wu identified several generations of graphics chips and GPUs produced by Registrant's affiliate, S3 Graphics, Inc. since she began working at S3 Graphics, Inc. in 2000, including Super Savage, Alphachrome, Deltachrome, and Gammachrome. She identified products under the mark CHROME, standing alone, no earlier than 2005. She also confirmed that S3 Graphics, Inc., located in California, produced all of the foregoing products and licensed or sold them to VIA Technologies, Inc.

12. Attached hereto as Exhibit H is a true and correct copy of a letter I sent to Registrant's counsel on February 13, 2015.

13. On March 27, 2015, I met and conferred with Ms. Lee and Mr. Meyer regarding Registrant's request that Google consent to the amendments to its registrations now pending before the Board, as well as Google's request for Registrant's consent to amend its cancellation petition to add a claim of fraud in the procurement and maintenance of the CHROME registrations. Both parties denied the consent requested by the other.

///

I declare under penalty of perjury that the foregoing statements are true and correct.

/Brendan J. Hughes/
Brendan J. Hughes
COOLEY LLP
1299 Pennsylvania Avenue, NW, Suite 700
Washington, DC 20004
Tel: 202-842-7826
Email: bhughes@cooley.com

116099700

Exhibit A



Janet L. Cullum
T: +1 212 479 6500
jcullum@cooley.com

VIA EMAIL AND FIRST CLASS MAIL
ILEE@RAKLAW.COM

December 18, 2012

Irene Y. Lee, Esq.
Russ August & Kabat
12424 Wilshire Boulevard
Los Angeles, CA 90025

RE: CHROME Mark

Dear Ms. Lee:

Cooley LLP represents Google Inc. in intellectual property matters. This letter is further to the discussions which have taken place between Google and your client, Via Technologies, Inc. ("Via"). Google has asked us to take over these discussions. We understand that for some time Google and Via have engaged in a dialogue regarding a potential purchase by Google of the rights, if any, which Via owns in the CHROME mark. Unfortunately, the parties have been unable to reach an agreement on a purchase price. Although Via's letter of October 23 suggested it was considering a claim against Google for "reverse confusion," it appears that Via has now changed its position; and we understand that Via has recently threatened to sell any such rights to the "highest bidder" and suggested that third parties may be interested in acquiring the registrations in order to attempt to disrupt Google's use of the CHROME mark.

Having reviewed the relevant history, and for all of the reasons set forth below, we see no merit to either of Via's threatened courses of action.

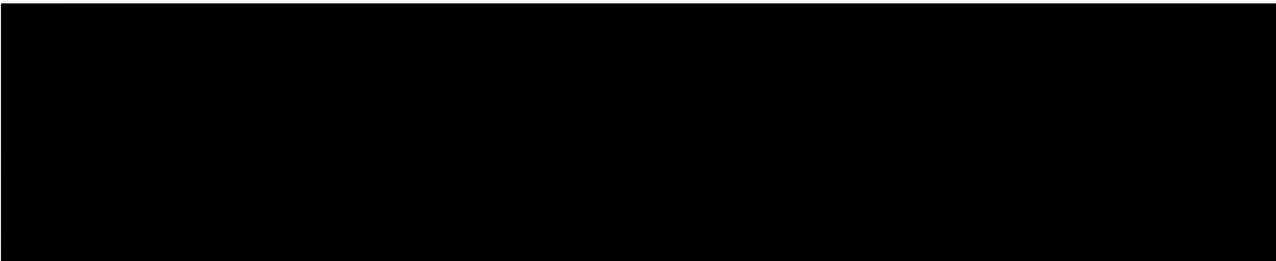
Over four years ago, in 2008, Via expressly consented to Google's use of the CHROME mark. This oral consent has been confirmed in the parties' subsequent course of dealing, during which Via has acquiesced in the face of Google's adoption and widespread use of the CHROME mark across a number of products. Notably, despite the duration and extent of its use of CHROME, Google has experienced no instance of actual confusion with Via and, despite Google's inquiries to you for evidence of the same, Via has been unable to produce any such evidence. Google is highly confident there is no actual and no likely confusion as a result of its use of CHROME. As Google has made clear, acquisition of Via's registrations is useful to Google to facilitate and expedite its registration of the CHROME mark in certain jurisdictions but Google does not now nor has it ever considered that it requires those rights in order to use and register the CHROME mark.

Via's current rights in the CHROME mark are at best suspect. As you are aware, Via must be using the mark in commerce in order to have valid trademark rights. Again, despite Google's repeated requests to you for evidence to substantiate the value you claim exists in Via's CHROME rights, Via has have refused to provide any evidence of use and in fact you recently advised that Via will not provide any such evidence. As Google has previously noted, Via's U.S. registrations are vulnerable to cancellation based on the overbroad list of goods and services for

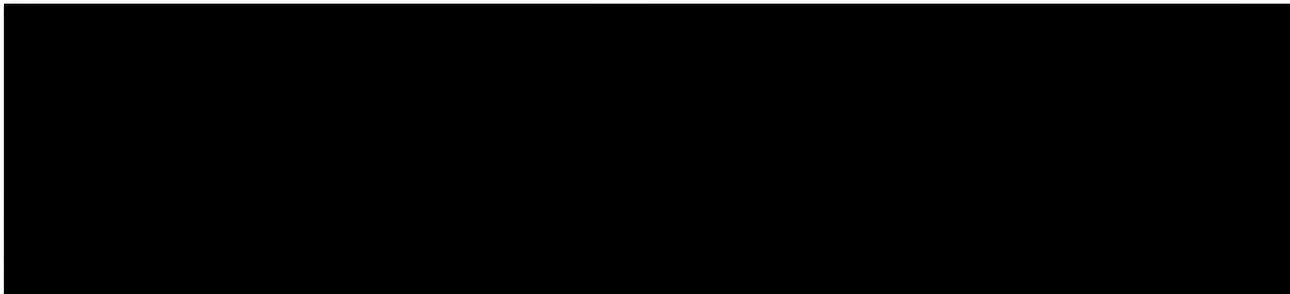


Irene Y. Lee, Esq.
December 18, 2012
Page Two

which it, apparently falsely, claimed to have used the mark and also appear to be independently vulnerable to cancellation for non use. A cancellation action will entitle Google to full discovery on these issues and a successful petition will result in cancellation of the registrations in their entirety. Of course, since Via's international registrations were achieved under the Madrid Protocol, cancellation of the U.S. registrations will result in cancellation of the International Registrations as well. Moreover, our further research suggests that Via's international registrations are subject to cancellation on various other independent grounds.

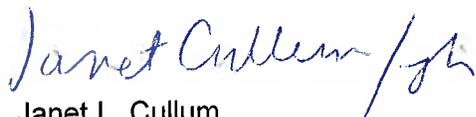


As you must also be aware, a purchaser of a mark is not automatically entitled to the benefit of any rights the seller may have in the mark. A mark conveys the goodwill of the owner earned over time in the marketplace. In order to prove continuity of use so as to attribute that goodwill to the buyer, the law requires that the buyer use the mark on products that are sufficiently similar to those of the seller. See 3 *McCarthy on Trademarks and Unfair Competition* § 17:23 (4th ed. 2012) (earlier use may be relied upon for priority purposes only where the "products are closely related"); see also *Visa, U.S.A., Inc. v. Birmingham Trust Nat'l Bank*, 696 F.2d 1371, 1375 (Fed.Cir.1982) (valid assignment of a mark must include "the transfer of the goodwill to which the mark pertains," such that mark "continues to be associated with the same or similar products after the assignment" (internal quotation omitted)). Thus, even if Via can show some use of the mark, that limited use will be a constraint on the rights acquired by any buyer.



Sincerely,

Cooley LLP



Janet L. Cullum

Exhibit B

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

Google, Inc., Petitioner, v. VIA Technologies, Inc., Registrant.	Cancellation No.: 92056816 Registration No.: 3,360,331 Mark: CHROME Issued: December 25, 2007 Registration No.: 3,951,287 Mark: CHROME Issued: April 26, 2011
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**REGISTRANT VIA TECHNOLOGIES, INC.'S RESPONSES TO PETITIONER
GOOGLE, INC.'S FIRST SET OF SPECIAL INTERROGATORIES**

PROPOUNDING PARTY: PETITIONER GOOGLE, INC.

RESPONDING PARTY: REGISTRANT VIA TECHNOLOGIES, INC.

SET NUMBER: ONE

PRELIMINARY STATEMENT

These responses are made pursuant to Rule 33 of the Federal Rules of Civil Procedure, solely for the purposes of this action. Each response is subject to all objections as to competence, relevance, materiality, propriety and admissibility, and any and all other objections and grounds which would require the exclusion of any statement herein if the questions were asked of, or any statements contained herein were made by, a witness present and testifying in court, all of which objections and grounds are reserved and may be interposed at the time of trial.

Registrant VIA Technologies, Inc. ("Registrant") has not completed its investigation of the facts relating to this case, and has not completed discovery in this action, and has not completed preparation for trial. The following responses are based upon information presently

INTERROGATORY NO. 2:

Identify each PERSON with knowledge of the selection, adoption, and development of the CHROME MARKS.

RESPONSE TO INTERROGATORY NO. 2

In addition to the General Objections set forth above, Registrant further objects to this Interrogatory to the extent it seeks the information that is protected from discovery by the attorney-client privilege and/or the work product doctrine. Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to admissible evidence.

INTERROGATORY NO. 3:

Describe fully the facts and circumstances surrounding the selection, adoption, and development of the CHROME MARKS.

RESPONSE TO INTERROGATORY NO. 3

In addition to the General Objections set forth above, Registrant further objects to this Interrogatory to the extent it seeks the information that is protected from discovery by the attorney-client privilege and/or the work product doctrine. Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to admissible evidence.

INTERROGATORY NO. 4:

Describe in detail all goods and/or services with which the CHROME MARKS have been or are currently being used by any PERSON.

RESPONSE TO INTERROGATORY NO. 4

In addition to the General Objections set forth above, Registrant further objects to this Interrogatory to the extent it seeks the information that is protected from discovery by the attorney-client privilege and/or the work product doctrine. Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to admissible evidence.

INTERROGATORY NO. 5:

Describe in detail all goods and/or services in connection with which YOU intend to use the CHROME MARKS in the future.

RESPONSE TO INTERROGATORY NO. 5

In addition to the General Objections set forth above, Registrant further objects to this Interrogatory to the extent it seeks the information that is protected from discovery by the attorney-client privilege and/or the work product doctrine. Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to admissible evidence.

INTERROGATORY NO. 6:

Describe in detail all goods and/or services in connection with which YOU no longer use or intend to use the CHROME MARKS.

RESPONSE TO INTERROGATORY NO. 6

In addition to the General Objections set forth above, Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this

admissible evidence. Subject to the foregoing general and specific objections Registrant responds that CHROME MARK I was first used within the United States on July 1, 2000, and CHROME MARK II was first used within the United States on July 19, 2007.

INTERROGATORY NO. 9:

With respect to any of the goods and services identified in response to Interrogatory No. 4, identify the dates during which each PERSON has continuously used the CHROME MARKS, or if such use(s) has (have) not been continuous, state with particularity the dates and reasons for any period that the CHROME MARK I and CHROME MARK II has not been used by any PERSON.

RESPONSE TO INTERROGATORY NO. 9:

In addition to the General Objections set forth above, Registrant further objects to this Interrogatory to the extent it seeks the information that is protected from discovery by the attorney-client privilege and/or the work product doctrine. Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to admissible evidence. Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this Interrogatory as requiring a legal conclusion. Registrant further objects to this Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to admissible evidence.

INTERROGATORY NO. 10:

Describe in detail any personal computer, desktop computer, portable computer, notebook computer, laptop computer, or any other computer device on which YOUR CHROME MARKS are currently being used in commerce in the United States.

RESPONSE TO INTERROGATORY NO. 10

In addition to the General Objections set forth above, Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to admissible evidence.

INTERROGATORY NO. 11:

Describe in detail any personal computer, desktop computer, portable computer, notebook computer, laptop computer, or any other computer device on which YOUR CHROME MARKS have been used in commerce in the United States in the last 4 years.

RESPONSE TO INTERROGATORY NO. 11

In addition to the General Objections set forth above, Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to admissible evidence.

INTERROGATORY NO. 12:

With respect to any of the goods and services identified in response to Interrogatory No. 4, provide the geographical scope of such former or current use of the CHROME MARKS.

RESPONSE TO INTERROGATORY NO. 12

In addition to the General Objections set forth above, Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to admissible evidence.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing **REGISTRANT VIA TECHNOLOGIES, INC.'S RESPONSES TO PETITIONER GOOGLE, INC.'S FIRST SET OF SPECIAL INTERROGATORIES** was served by electronic mail on August 6, 2013, upon counsel of
Petitioner:

COOLEY LLP
JANET L. CULLUM
ANNE H. PECK
JEFFREY NORBERG
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apect@cooley.com
jnorberg@cooley.com
thance@cooley.com
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trademarks@cooley.com

/s/ Josie Mercado

Josie Mercado

Exhibit C

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

Google, Inc., Petitioner, v. VIA Technologies, Inc., Registrant.	Cancellation No.: 92056816 Registration No.: 3,360,331 Mark: CHROME Issued: December 25, 2007 Registration No.: 3,951,287 Mark: CHROME Issued: April 26, 2011
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**REGISTRANT VIA TECHNOLOGIES, INC.'S AMENDED RESPONSES TO
PETITIONER GOOGLE, INC.'S FIRST SET OF SPECIAL INTERROGATORIES**

PROPOUNDING PARTY: PETITIONER GOOGLE, INC.

RESPONDING PARTY: REGISTRANT VIA TECHNOLOGIES, INC.

SET NUMBER: ONE

PRELIMINARY STATEMENT

These responses are made pursuant to Rule 33 of the Federal Rules of Civil Procedure, solely for the purposes of this action. Each response is subject to all objections as to competence, relevance, materiality, propriety and admissibility, and any and all other objections and grounds which would require the exclusion of any statement herein if the questions were asked of, or any statements contained herein were made by, a witness present and testifying in court, all of which objections and grounds are reserved and may be interposed at the time of trial.

Registrant VIA Technologies, Inc. ("Registrant") has not completed its investigation of the facts relating to this case, and has not completed discovery in this action, and has not completed preparation for trial. The following responses are based upon information presently

containing Chrome in the style of drive-through dining and performance auto products.

INTERROGATORY NO. 4:

Describe in detail all goods and/or services with which the CHROME MARKS have been or are currently being used by any PERSON.

RESPONSE TO INTERROGATORY NO. 4

In addition to the General Objections set forth above, Registrant further objects to this Interrogatory to the extent it seeks the information that is protected from discovery by the attorney-client privilege and/or the work product doctrine. Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to admissible evidence.

Subject to the foregoing general and specific objections Registrant responds as follows:

The CHROME MARKS have been and/or are currently being used on a wide variety of multi-media and computer related products, including but not limited to graphics/video related products. Additionally, as Registrant is a graphics chip provider, it is important to understand that many of its customers utilize its products in a variety of applications, including, for example, the Fujitsu S6520 Notebook and the ARTIGO system.

VIA is informed and believes and based thereon alleges that the CHROME MARKS have been or are currently being used in connection with the following goods and services:

Computers, namely, personal computers, portable computers, notebook computers, microcomputers, desktop computers; computer system components, parts and fittings, namely, motherboards, central processing units (CPUs), base PC modules, computer hardware, namely,

semiconductors, microprocessors, graphics processors, integrated circuits, computer chips, computer motherboards, computer graphics boards, computer interface boards, computer accelerator board, circuit boards, computer memory cards, memory chips, computer firmware, namely, computer utility software and other computer software used to maintain and operate computer system all stored in a computer's read only memory or elsewhere in the computer's circuitry, operating system software; printed and electronic instructional manuals, specification sheets, data sheets, computer reference manuals, user guides and documents providing instruction in the use and operation of various electronic digital devices, sold as a unit therewith the aforesaid good; computer services, namely, providing on-line information available on computer networks, global information networks and wireless communication networks in the fields of the design, development and customization of computer hardware, computer software, computer graphics software, information technology, wireless communication devices, multimedia technology, robotics, namely, the design and development of new technology in the field of robotics, business computing and environmentally-friendly computing, and specifically excluding computer games and video games, using both an interactive and non-interactive format; technical support services, namely, troubleshooting of computer hardware and software problems in person, by telephone, by electronic, computer and communications networks; provision of computer systems analysis and computer diagnostic services; design of computer hardware, integrated circuits, computer networks and communications hardware and software for others; consultancy in the field of design, development, configuration, installation, updating, upgrading or maintenance of computer software - excluding computer game and video game software; computer programming for others; research and development of 3d content, 3d technology and

processes, 3d animation technology, 3d processing power, 3d techniques, and flexible forward projection; creating, designing and maintaining web sites.

INTERROGATORY NO. 5:

Describe in detail all goods and/or services in connection with which YOU intend to use the CHROME MARKS in the future.

RESPONSE TO INTERROGATORY NO. 5

In addition to the General Objections set forth above, Registrant further objects to this Interrogatory to the extent it seeks the information that is protected from discovery by the attorney-client privilege and/or the work product doctrine. Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to admissible evidence.

Subject to the foregoing general and specific objections Registrant responds as follows:

In addition to continuing the use of the CHROME MARKS on the goods and services identified in response to Interrogatory No. 4, VIA intends to expand the use of the CHROME MARKS in several areas, including but not limited to television related applications, tablets, and smart phones.

INTERROGATORY NO. 6:

Describe in detail all goods and/or services in connection with which YOU no longer use or intend to use the CHROME MARKS.

RESPONSE TO INTERROGATORY NO. 6

In addition to the General Objections set forth above, Registrant further objects that this

or if such use(s) has (have) not been continuous, state with particularity the dates and reasons for any period that the CHROME MARK I and CHROME MARK II has not been used by any PERSON.

RESPONSE TO INTERROGATORY NO. 9:

In addition to the General Objections set forth above, Registrant further objects to this Interrogatory to the extent it seeks the information that is protected from discovery by the attorney-client privilege and/or the work product doctrine. Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to admissible evidence. Registrant further objects to this Interrogatory as requiring a legal conclusion.

Subject to the foregoing general and specific objections Registrant responds as follows:

VIA has continuously used the CHROME MARKS on the goods and services identified in response to Interrogatory No. 4.

INTERROGATORY NO. 10:

Describe in detail any personal computer, desktop computer, portable computer, notebook computer, laptop computer, or any other computer device on which YOUR CHROME MARKS are currently being used in commerce in the United States.

RESPONSE TO INTERROGATORY NO. 10

In addition to the General Objections set forth above, Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to

admissible evidence.

Subject to the foregoing general and specific objections Registrant responds as follows:

The CHROME MARKS are currently being used in connection with various computer devices that are currently being used in the United States, including but not limited with respect to the ARTIGO A1150, the ARTIGO A1200, and the ARTIGO A1250.

INTERROGATORY NO. 11:

Describe in detail any personal computer, desktop computer, portable computer, notebook computer, laptop computer, or any other computer device on which YOUR CHROME MARKS have been used in commerce in the United States in the last 4 years.

RESPONSE TO INTERROGATORY NO. 11

In addition to the General Objections set forth above, Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to admissible evidence.

Subject to the foregoing general and specific objections Registrant responds as follows:

In the past four years, the CHROME MARKS have been used in connection with various computer devices in the United States, including but not limited with respect to the ARTIGO A1150, the ARTIGO A1200, and the ARTIGO A1250.

INTERROGATORY NO. 12:

With respect to any of the goods and services identified in response to Interrogatory No. 4, provide the geographical scope of such former or current use of the CHROME MARKS.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing **REGISTRANT VIA TECHNOLOGIES, INC.'S AMENDED RESPONSES TO PETITIONER GOOGLE, INC.'S FIRST SET OF SPECIAL INTERROGATORIES** was served by electronic mail on September 9, 2013, upon counsel of Petitioner:

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/s/ Josie Mercado

Josie Mercado

Exhibit D

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

Google, Inc.,

Petitioner,

v.

VIA Technologies, Inc.,

Registrant.

Cancellation No.: 92056816

Registration No.: 3,360,331

Mark: CHROME

Issued: December 25, 2007

Registration No.: 3,951,287

Mark: CHROME

Issued: April 26, 2011

**REGISTRANT VIA TECHNOLOGIES, INC.'S SECOND AMENDED RESPONSES TO
PETITIONER GOOGLE, INC.'S FIRST SET OF SPECIAL INTERROGATORIES**

PROPOUNDING PARTY: PETITIONER GOOGLE, INC.

RESPONDING PARTY: REGISTRANT VIA TECHNOLOGIES, INC.

SET NUMBER: ONE

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Registrant VIA Technologies, Inc. ("VIA") hereby supplements its response to Petitioner Google, Inc.'s Interrogatory Nos. 4 as follows:

GENERAL OBJECTIONS

VIA incorporates by reference Preliminary Statement and General Objections set forth in Registrant VIA Technologies, Inc.'s Amended Responses to Petitioner Google, Inc.'s First Set of Special Interrogatories dated September 5, 2013.

INTERROGATORIES

INTERROGATORY NO. 1:

Identify each PERSON that has used or it is contemplated will in the future use the CHROME MARKS in the U.S. in connection with providing or offering for sale goods or services.

RESPONSE TO INTERROGATORY NO. 1

In addition to the General Objections set forth above, Registrant further objects that this

admissible evidence.

Subject to the foregoing general and specific objections Registrant responds as follows:

At the time that the CHROME MARKS were conceived, Young Kwon was the Sr. Product Marketing Manager for S3 Graphics, a wholly owned subsidiary of Registrant. In that capacity, Mr. Kwon was responsible for coming up with branding ideas. At the time that the CHROME MARKS were conceived, S3 Graphics was working on a graphics processor that had 8 pipelines, which are parallel processing units contained within the chip. S3 Graphics considered this graphics processor to be a high performance product and was searching for a brand that would capture its high performance aspects.

The initial idea of using the CHROME MARKS came to Mr. Kwon one day when he was driving to work. At that time, Mr. Kwon saw a motorcycle that was fully accessorized with chrome-plated parts. At that moment, Mr. Kwon realized that chrome is not a color, but rather a reflection of all colors. Because the graphics processor that they were looking to brand essentially manipulated color data to form images, CHROME seemed to be a perfect fit. Additionally, Chrome conjured up images of the golden age of American automobiles – a lot of which featured 8 cylinder engines and chrome accessories. This evocative tie-in with high-powered automobiles embodied the performance aspect of the graphics processor. In fact, Registrant even chose the 'raceway' font – a classic American font – to write the product names containing Chrome in the style of drive-through dining and performance auto products.

INTERROGATORY NO. 4:

Describe in detail all goods and/or services with which the CHROME MARKS have been or are currently being used by any PERSON.

RESPONSE TO INTERROGATORY NO. 4

In addition to the General Objections set forth above, Registrant further objects to this Interrogatory to the extent it seeks the information that is protected from discovery by the attorney-client privilege and/or the work product doctrine. Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this

Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to admissible evidence.

Subject to the foregoing general and specific objections Registrant responds as follows:

personal computers, portable computers, notebook computers, microcomputers, desktop computers, motherboards, central processing units (CPUs), semiconductors, microprocessors, graphics processors, integrated circuits, computer chips, computer motherboards, computer graphics boards, computer interface boards, computer accelerator board, circuit boards, computer memory cards, memory chips, computer firmware, namely, computer utility software and other computer software used to maintain and operate computer system all stored in a computer's read only memory or elsewhere in the computer's circuitry, operating system software, printed and electronic instructional manuals, specification sheets, data sheets, computer reference manuals, user guides and documents providing instruction in the use and operation of various electronic digital devices, sold as a unit therewith the aforesaid good, technical support services, namely, troubleshooting of computer hardware and software problems in person, by telephone, by electronic, computer and communications networks, provision of computer systems analysis and computer diagnostic services, design of computer hardware, integrated circuits, computer networks and communications hardware and software for others, consultancy in the field of design, development, configuration, installation, updating, upgrading or maintenance of computer software - excluding computer game and video game software, and research and development of 3d content, 3d technology and processes, 3d animation technology, 3d processing power, 3d techniques, and flexible forward projection.

INTERROGATORY NO. 5:

Describe in detail all goods and/or services in connection with which YOU intend to use the CHROME MARKS in the future.

RESPONSE TO INTERROGATORY NO. 5

In addition to the General Objections set forth above, Registrant further objects to this Interrogatory to the extent it seeks the information that is protected from discovery by the

VIA has continuously used the CHROME MARKS on the goods and services identified in response to Interrogatory No. 4.

INTERROGATORY NO. 10:

Describe in detail any personal computer, desktop computer, portable computer, notebook computer, laptop computer, or any other computer device on which YOUR CHROME MARKS are currently being used in commerce in the United States.

RESPONSE TO INTERROGATORY NO. 10

In addition to the General Objections set forth above, Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to admissible evidence.

Subject to the foregoing general and specific objections Registrant responds as follows:
ARTIGO series, AMOS series, and ZOTAC.

INTERROGATORY NO. 11:

Describe in detail any personal computer, desktop computer, portable computer, notebook computer, laptop computer, or any other computer device on which YOUR CHROME MARKS have been used in commerce in the United States in the last 4 years.

RESPONSE TO INTERROGATORY NO. 11

In addition to the General Objections set forth above, Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to admissible evidence.

Subject to the foregoing general and specific objections Registrant responds as follows:
ARTIGO series, AMOS series, ZOTAC and Fujitsu.

INTERROGATORY NO. 12:

With respect to any of the goods and services identified in response to Interrogatory No. 4, provide the geographical scope of such former or current use of the CHROME MARKS.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing **REGISTRANT VIA TECHNOLOGIES, INC.'S SECOND AMENDED RESPONSES TO PETITIONER GOOGLE, INC.'S FIRST SET OF SPECIAL INTERROGATORIES** was served by Federal Express on May 30, 2014, upon counsel of Petitioner:

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/s/ Josie Mercado

Josie Mercado

Exhibit E

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

Google, Inc., Petitioner, v. VIA Technologies, Inc., Registrant.	Cancellation No.: 92056816 Registration No.: 3,360,331 Mark: CHROME Issued: December 25, 2007 Registration No.: 3,951,287 Mark: CHROME Issued: April 26, 2011
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**REGISTRANT VIA TECHNOLOGIES, INC.'S THIRD AMENDED RESPONSES TO
PETITIONER GOOGLE, INC.'S FIRST SET OF SPECIAL INTERROGATORIES**

PROPOUNDING PARTY: PETITIONER GOOGLE, INC.

RESPONDING PARTY: REGISTRANT VIA TECHNOLOGIES, INC.

SET NUMBER: ONE

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Registrant VIA Technologies, Inc. ("VIA") hereby supplements its responses to Petitioner Google, Inc.'s Interrogatory Nos. 4, 10 & 11 as follows:

GENERAL OBJECTIONS

VIA incorporates by reference the Preliminary Statement and General Objections set forth in Registrant VIA Technologies, Inc.'s Amended Responses to Petitioner Google, Inc.'s First Set of Special Interrogatories dated September 5, 2013.

INTERROGATORIES

INTERROGATORY NO. 1:

Identify each PERSON that has used or it is contemplated will in the future use the CHROME MARKS in the U.S. in connection with providing or offering for sale goods or services.

RESPONSE TO INTERROGATORY NO. 1

Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to admissible evidence.

Subject to the foregoing general and specific objections Registrant responds as follows:

At the time that the CHROME MARKS were conceived, Young Kwon was the Sr. Product Marketing Manager for S3 Graphics, a wholly owned subsidiary of Registrant. In that capacity, Mr. Kwon was responsible for coming up with branding ideas. At the time that the CHROME MARKS were conceived, S3 Graphics was working on a graphics processor that had 8 pipelines, which are parallel processing units contained within the chip. S3 Graphics considered this graphics processor to be a high performance product and was searching for a brand that would capture its high performance aspects.

The initial idea of using the CHROME MARKS came to Mr. Kwon one day when he was driving to work. At that time, Mr. Kwon saw a motorcycle that was fully accessorized with chrome-plated parts. At that moment, Mr. Kwon realized that chrome is not a color, but rather a reflection of all colors. Because the graphics processor that they were looking to brand essentially manipulated color data to form images, CHROME seemed to be a perfect fit. Additionally, Chrome conjured up images of the golden age of American automobiles – a lot of which featured 8 cylinder engines and chrome accessories. This evocative tie-in with high-powered automobiles embodied the performance aspect of the graphics processor. In fact, Registrant even chose the 'raceway' font – a classic American font – to write the product names containing Chrome in the style of drive-through dining and performance auto products.

INTERROGATORY NO. 4:

Describe in detail all goods and/or services with which the CHROME MARKS have been or are currently being used by any PERSON.

RESPONSE TO INTERROGATORY NO. 4

In addition to the General Objections set forth above, Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome.

Subject to the foregoing general and specific objections Registrant responds as follows:

personal computers, portable computers, notebook computers, microcomputers, desktop computers, motherboards, central processing units (CPUs), semiconductors, microprocessors, graphics processors, integrated circuits, computer chips, computer motherboards, computer graphics boards, computer interface boards, computer accelerator board, circuit boards, computer memory cards, memory chips, computer firmware, namely, computer utility software and other computer software used to maintain and operate computer system all stored in a computer's read only memory or elsewhere in the computer's circuitry, operating system software, printed and electronic instructional manuals, specification sheets, data sheets, computer reference manuals, user guides and documents providing instruction in the use and operation of various electronic digital devices, sold as a unit therewith the aforesaid good, technical support services, namely, troubleshooting of computer hardware and software problems in person, by telephone, by electronic, computer and communications networks, provision of computer systems analysis and computer diagnostic services, design of computer hardware, integrated circuits, computer networks and communications hardware and software for others, consultancy in the field of design, development, configuration, installation, updating, upgrading or maintenance of computer software - excluding computer game and video game software, and research and development of 3d content, 3d technology and processes, 3d animation technology, 3d processing power, 3d techniques, and flexible forward projection.

VIA has produced documents relating to the aforementioned goods and/or services with which the CHROME MARKS have been or are currently being used that are non-privileged and non-attorney work product, within its possession, custody, or control, and could be located upon a reasonably diligent search. These documents include, without limitation, the documents bearing the following Bates numbers, VIA00001-3, 5, 7-10, 14, 16-17, 19-20, 22, 27-29, 31-38, 40, 42-46, 48-49, 51, 53, 76, 94-102, 288-295, 324, 331-332, 334, 437-440, 454, 488-494, 508-510, 514-516, 523, 525, 528-529, 533, 539, 544-545, 550-554, 562-564, 568-570, 581-582, 584, 696, 736-738, 742-762, 766-775, 788-790, 800-802, 812-817, 839-845, 851-860, 899-907, 941-951, 959, 962-969, 973-1034, 1036-1098, 1101-1101, 1104-1105, 1108-1201, 1204-1267, 1317-

1338, 1341-1347, 1353-1364, 1419-1436, 1443-1459, 1462-1490, 1496-1502, 1508, 1512, 1518, 1521-1522, 1528, 1530, 1533, 1543, 1545-1547, 1551, 1560-1564, 1568, 1573-1577, 1591, 1658-1666, 1682-1686, 1766-1808, 1829-1838, 1846-1911, 1930-1935, 1941-1942, 1988-2094, 2297-2399, 2410-2532, 2542-2544, and 2577-3018, and pursuant to Federal Rule of Civil Procedure 33(d) the burden and expense of summarizing the contents of these documents to respond to this Interrogatory would be substantially the same for VIA as for Google.

INTERROGATORY NO. 5:

Describe in detail all goods and/or services in connection with which YOU intend to use the CHROME MARKS in the future.

RESPONSE TO INTERROGATORY NO. 5

In addition to the General Objections set forth above, Registrant further objects to this Interrogatory to the extent it seeks the information that is protected from discovery by the attorney-client privilege and/or the work product doctrine. Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to admissible evidence.

Subject to the foregoing general and specific objections Registrant responds as follows:

In addition to continuing the use of the CHROME MARKS on the goods and services identified in response to Interrogatory No. 4, VIA intends to expand the use of the CHROME MARKS in communication devices and media players.

INTERROGATORY NO. 6:

Describe in detail all goods and/or services in connection with which YOU no longer use or intend to use the CHROME MARKS.

RESPONSE TO INTERROGATORY NO. 6

In addition to the General Objections set forth above, Registrant further objects that this Interrogatory is vague and unintelligible and assumes false facts. Subject to the foregoing general and specific objections Registrant responds as follows: None.

or if such use(s) has (have) not been continuous, state with particularity the dates and reasons for any period that the CHROME MARK I and CHROME MARK II has not been used by any PERSON.

RESPONSE TO INTERROGATORY NO. 9:

In addition to the General Objections set forth above, Registrant further objects to this Interrogatory to the extent it seeks the information that is protected from discovery by the attorney-client privilege and/or the work product doctrine. Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to admissible evidence. Registrant further objects to this Interrogatory as requiring a legal conclusion.

Subject to the foregoing general and specific objections Registrant responds as follows:

VIA has continuously used the CHROME MARKS on the goods and services identified in response to Interrogatory No. 4.

INTERROGATORY NO. 10:

Describe in detail any personal computer, desktop computer, portable computer, notebook computer, laptop computer, or any other computer device on which YOUR CHROME MARKS are currently being used in commerce in the United States.

RESPONSE TO INTERROGATORY NO. 10

In addition to the General Objections set forth above, Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome.

Subject to the foregoing general and specific objections Registrant responds as follows:

ARTIGO series, AMOS series, ZOTAC, Wyse, Lenovo, and HP. VIA has produced documents relating to the aforementioned computer devices with which the CHROME MARKS are currently being used that are non-privileged and non-attorney work product, within its possession, custody, or control, and could be located upon a reasonably diligent search. These documents include, without limitation, the documents bearing the following Bates numbers, 5,

696, 736-738, 742-762, 766-771, 800-802, 812-817, 839-842, 858-860, 899-907, 945-951, 1151-1170, 2410-2497, and 2542-2544, and pursuant to Federal Rule of Civil Procedure 33(d) the burden and expense of summarizing the contents of these documents to respond to this Interrogatory would be substantially the same for VIA as for Google.

INTERROGATORY NO. 11:

Describe in detail any personal computer, desktop computer, portable computer, notebook computer, laptop computer, or any other computer device on which YOUR CHROME MARKS have been used in commerce in the United States in the last 4 years.

RESPONSE TO INTERROGATORY NO. 11

In addition to the General Objections set forth above, Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome.

Subject to the foregoing general and specific objections Registrant responds as follows: ARTIGO series, AMOS series, ZOTAC, Fujitsu, Wyse, Lenovo, HP, Samsung, and ASRock. VIA has produced documents relating to the aforementioned computer devices with which the CHROME MARKS have been used in the last 4 years that are non-privileged and non-attorney work product, within its possession, custody, or control, and could be located upon a reasonably diligent search. These documents include, without limitation, the documents bearing the following Bates numbers, 5, 488-494, 533, 696, 736-738, 742-762, 766-771, 800-802, 812-817, 839-842, 858-860, 899-907, 945-951, 962-969, 1151-1170, 1575-1577, 2338-2340, 2410-2497, and 2542-2544, and pursuant to Federal Rule of Civil Procedure 33(d) the burden and expense of summarizing the contents of these documents to respond to this Interrogatory would be substantially the same for VIA as for Google.

INTERROGATORY NO. 12:

With respect to any of the goods and services identified in response to Interrogatory No. 4, provide the geographical scope of such former or current use of the CHROME MARKS.

RESPONSE TO INTERROGATORY NO. 12

In addition to the General Objections set forth above, Registrant further objects that this

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing **REGISTRANT VIA TECHNOLOGIES, INC.'S THIRD AMENDED RESPONSES TO PETITIONER GOOGLE, INC.'S FIRST SET OF SPECIAL INTERROGATORIES** was served by Federal Express on June 11, 2014, upon counsel of Petitioner:

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/s/ Josie Mercado
Josie Mercado

Exhibit F

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

Google, Inc., Petitioner, v. VIA Technologies, Inc., Registrant.	Cancellation No.: 92056816 Registration No.: 3,360,331 Mark: CHROME Issued: December 25, 2007 Registration No.: 3,951,287 Mark: CHROME Issued: April 26, 2011
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**REGISTRANT VIA TECHNOLOGIES, INC.’S FOURTH AMENDED RESPONSES TO
PETITIONER GOOGLE, INC.’S FIRST SET OF SPECIAL INTERROGATORIES**

PROPOUNDING PARTY: PETITIONER GOOGLE, INC.

RESPONDING PARTY: REGISTRANT VIA TECHNOLOGIES, INC.

SET NUMBER: ONE

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Registrant VIA Technologies, Inc. (“VIA”) hereby supplements its responses to Petitioner Google, Inc.’s Interrogatory Nos. 10 & 11 as follows:

GENERAL OBJECTIONS

VIA incorporates by reference the Preliminary Statement and General Objections set forth in Registrant VIA Technologies, Inc.’s Amended Responses to Petitioner Google, Inc.’s First Set of Special Interrogatories dated September 5, 2013.

INTERROGATORIES

INTERROGATORY NO. 1:

Identify each PERSON that has used or it is contemplated will in the future use the CHROME MARKS in the U.S. in connection with providing or offering for sale goods or services.

Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to admissible evidence.

Subject to the foregoing general and specific objections Registrant responds as follows:

At the time that the CHROME MARKS were conceived, Young Kwon was the Sr. Product Marketing Manager for S3 Graphics, a wholly owned subsidiary of Registrant. In that capacity, Mr. Kwon was responsible for coming up with branding ideas. At the time that the CHROME MARKS were conceived, S3 Graphics was working on a graphics processor that had 8 pipelines, which are parallel processing units contained within the chip. S3 Graphics considered this graphics processor to be a high performance product and was searching for a brand that would capture its high performance aspects.

The initial idea of using the CHROME MARKS came to Mr. Kwon one day when he was driving to work. At that time, Mr. Kwon saw a motorcycle that was fully accessorized with chrome-plated parts. At that moment, Mr. Kwon realized that chrome is not a color, but rather a reflection of all colors. Because the graphics processor that they were looking to brand essentially manipulated color data to form images, CHROME seemed to be a perfect fit. Additionally, Chrome conjured up images of the golden age of American automobiles – a lot of which featured 8 cylinder engines and chrome accessories. This evocative tie-in with high-powered automobiles embodied the performance aspect of the graphics processor. In fact, Registrant even chose the 'raceway' font – a classic American font – to write the product names containing Chrome in the style of drive-through dining and performance auto products.

INTERROGATORY NO. 4:

Describe in detail all goods and/or services with which the CHROME MARKS have been or are currently being used by any PERSON.

RESPONSE TO INTERROGATORY NO. 4

In addition to the General Objections set forth above, Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome.

Subject to the foregoing general and specific objections Registrant responds as follows:

personal computers, portable computers, notebook computers, microcomputers, desktop computers, motherboards, central processing units (CPUs), semiconductors, microprocessors, graphics processors, integrated circuits, computer chips, computer motherboards, computer graphics boards, computer interface boards, computer accelerator board, circuit boards, computer memory cards, memory chips, computer firmware, namely, computer utility software and other computer software used to maintain and operate computer system all stored in a computer's read only memory or elsewhere in the computer's circuitry, operating system software, printed and electronic instructional manuals, specification sheets, data sheets, computer reference manuals, user guides and documents providing instruction in the use and operation of various electronic digital devices, sold as a unit therewith the aforesaid good, technical support services, namely, troubleshooting of computer hardware and software problems in person, by telephone, by electronic, computer and communications networks, provision of computer systems analysis and computer diagnostic services, design of computer hardware, integrated circuits, computer networks and communications hardware and software for others, consultancy in the field of design, development, configuration, installation, updating, upgrading or maintenance of computer software - excluding computer game and video game software, and research and development of 3d content, 3d technology and processes, 3d animation technology, 3d processing power, 3d techniques, and flexible forward projection.

VIA has produced documents relating to the aforementioned goods and/or services with which the CHROME MARKS have been or are currently being used that are non-privileged and non-attorney work product, within its possession, custody, or control, and could be located upon a reasonably diligent search. These documents include, without limitation, the documents bearing the following Bates numbers, VIA00001-3, 5, 7-10, 14, 16-17, 19-20, 22, 27-29, 31-38, 40, 42-46, 48-49, 51, 53, 76, 94-102, 288-295, 324, 331-332, 334, 437-440, 454, 488-494, 508-510, 514-516, 523, 525, 528-529, 533, 539, 544-545, 550-554, 562-564, 568-570, 581-582, 584, 696, 736-738, 742-762, 766-775, 788-790, 800-802, 812-817, 839-845, 851-860, 899-907, 941-

951, 959, 962-969, 973-1034, 1036-1098, 1101-1101, 1104-1105, 1108-1201, 1204-1267, 1317-1338, 1341-1347, 1353-1364, 1419-1436, 1443-1459, 1462-1490, 1496-1502, 1508, 1512, 1518, 1521-1522, 1528, 1530, 1533, 1543, 1545-1547, 1551, 1560-1564, 1568, 1573-1577, 1591, 1658-1666, 1682-1686, 1766-1808, 1829-1838, 1846-1911, 1930-1935, 1941-1942, 1988-2094, 2297-2399, 2410-2532, 2542-2544, and 2577-3018, and pursuant to Federal Rule of Civil Procedure 33(d) the burden and expense of summarizing the contents of these documents to respond to this Interrogatory would be substantially the same for VIA as for Google.

INTERROGATORY NO. 5:

Describe in detail all goods and/or services in connection with which YOU intend to use the CHROME MARKS in the future.

RESPONSE TO INTERROGATORY NO. 5

In addition to the General Objections set forth above, Registrant further objects to this Interrogatory to the extent it seeks the information that is protected from discovery by the attorney-client privilege and/or the work product doctrine. Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to admissible evidence.

Subject to the foregoing general and specific objections Registrant responds as follows:

In addition to continuing the use of the CHROME MARKS on the goods and services identified in response to Interrogatory No. 4, VIA intends to expand the use of the CHROME MARKS in communication devices and media players.

INTERROGATORY NO. 6:

Describe in detail all goods and/or services in connection with which YOU no longer use or intend to use the CHROME MARKS.

RESPONSE TO INTERROGATORY NO. 6

In addition to the General Objections set forth above, Registrant further objects that this Interrogatory is vague and unintelligible and assumes false facts. Subject to the foregoing general

4, identify the dates during which each PERSON has continuously used the CHROME MARKS, or if such use(s) has (have) not been continuous, state with particularity the dates and reasons for any period that the CHROME MARK I and CHROME MARK II has not been used by any PERSON.

RESPONSE TO INTERROGATORY NO. 9:

In addition to the General Objections set forth above, Registrant further objects to this Interrogatory to the extent it seeks the information that is protected from discovery by the attorney-client privilege and/or the work product doctrine. Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to admissible evidence. Registrant further objects to this Interrogatory as requiring a legal conclusion.

Subject to the foregoing general and specific objections Registrant responds as follows:

VIA has continuously used the CHROME MARKS on the goods and services identified in response to Interrogatory No. 4.

INTERROGATORY NO. 10:

Describe in detail any personal computer, desktop computer, portable computer, notebook computer, laptop computer, or any other computer device on which YOUR CHROME MARKS are currently being used in commerce in the United States.

RESPONSE TO INTERROGATORY NO. 10

In addition to the General Objections set forth above, Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome.

Subject to the foregoing general and specific objections Registrant responds as follows:

ARTIGO series, AMOS series, ZOTAC, Wyse, Lenovo, and HP. More specifically, ARTIGO A1100, ARTIGO A1150, ARTIGO A1200, ARTIGO A1250, ARTIGO A2000, AMOS-3001, ZOTAC ZBOX Nano (ZBOXNANO-VDO1-U), ZOTAC ZBOX Nano Plus (ZBOXNANO-VD01-PLUS), Wyse C10LE Thin Client, Wyse C30LE Thin Client, Wyse C50LE Thin Client,

Wyse C90LE Thin Client, Wyse C90LE7 Thin Client, Lenovo Itona MD27-F9R7-US-L Thin Client, HP 2533t Mobile Thin Client, and HP t5565 Thin Client.

VIA has produced documents relating to the aforementioned computer devices with which the CHROME MARKS are currently being used that are non-privileged and non-attorney work product, within its possession, custody, or control, and could be located upon a reasonably diligent search. These documents include, without limitation, the documents bearing the following Bates numbers, 5, 696, 736-738, 742-762, 766-771, 800-802, 812-817, 839-842, 858-860, 899-907, 945-951, 1151-1170, 2410-2497, and 2542-2544, and pursuant to Federal Rule of Civil Procedure 33(d) the burden and expense of summarizing the contents of these documents to respond to this Interrogatory would be substantially the same for VIA as for Google.

INTERROGATORY NO. 11:

Describe in detail any personal computer, desktop computer, portable computer, notebook computer, laptop computer, or any other computer device on which YOUR CHROME MARKS have been used in commerce in the United States in the last 4 years.

RESPONSE TO INTERROGATORY NO. 11

In addition to the General Objections set forth above, Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome.

Subject to the foregoing general and specific objections Registrant responds as follows: ARTIGO series, AMOS series, ZOTAC, Fujitsu, Wyse, Lenovo, HP, and Samsung. More specifically, ARTIGO A1100, ARTIGO A1150, ARTIGO A1200, ARTIGO A1250, ARTIGO A2000, AMOS-3001, ZOTAC ZBOX Nano (ZBOXNANO-VDO1-U), ZOTAC ZBOX Nano Plus (ZBOXNANO-VD01-PLUS), Fujitsu LifeBook S6520, Wyse C10LE Thin Client, Wyse C30LE Thin Client, Wyse C50LE Thin Client, Wyse C90LE Thin Client, Wyse C90LE7 Thin Client, Lenovo Itona MD27-F9R7-US-L Thin Client, HP 2533t Mobile Thin Client, HP t5565 Thin Client, Samsung NP-NC20, and Samsung NC20-21 GBK.

VIA has produced documents relating to the aforementioned computer devices with which the CHROME MARKS have been used in the last 4 years that are non-privileged and non-

attorney work product, within its possession, custody, or control, and could be located upon a reasonably diligent search. These documents include, without limitation, the documents bearing the following Bates numbers, 5, 488-494, 533, 696, 736-738, 742-762, 766-771, 800-802, 812-817, 839-842, 858-860, 899-907, 945-951, 962-969, 1151-1170, 1575-1577, 2338-2340, 2410-2497, and 2542-2544, and pursuant to Federal Rule of Civil Procedure 33(d) the burden and expense of summarizing the contents of these documents to respond to this Interrogatory would be substantially the same for VIA as for Google.

INTERROGATORY NO. 12:

With respect to any of the goods and services identified in response to Interrogatory No. 4, provide the geographical scope of such former or current use of the CHROME MARKS.

RESPONSE TO INTERROGATORY NO. 12

In addition to the General Objections set forth above, Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this Interrogatory to the extent that it is overbroad and not relevant or reasonably calculated to lead to admissible evidence.

Subject to the foregoing general and specific objections Registrant responds as follows:

As clarified during the Parties' meet and confer, VIA understands this question to be seeking information relating to the geographic scope of former or current use of the CHROME MARKS in the United States. VIA states that the CHROME MARKS have been used all over the United States.

INTERROGATORY NO. 13:

With respect to any of the goods and services identified in response to Interrogatory No. 4, describe in detail the manner in which the CHROME MARKS are or have been promoted in the United States.

RESPONSE TO INTERROGATORY NO. 13

In addition to the General Objections set forth above, Registrant further objects that this Interrogatory is vague, compound, and unduly burdensome. Registrant further objects to this

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing **REGISTRANT VIA TECHNOLOGIES, INC.'S FOURTH AMENDED RESPONSES TO PETITIONER GOOGLE, INC.'S FIRST SET OF SPECIAL INTERROGATORIES** was served by electronic mail and First Class Mail on June 17, 2014, upon counsel of Petitioner:

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Anne Zivkovic

Exhibit G

1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

3 ---o0o---

4 Condensed
5 Transcript

5 GOOGLE, INC.,)
6 Petitioner,)
7) Cancellation
8 vs.) No. 92056816
9 VIA Technologies, Inc.,)
10 Registrant.)
11 _____)

12
13
14
15 VIDEOTAPED DEPOSITION OF AMY WU
16 FRIDAY, DECEMBER 12, 2014
17
18
19
20

21
22 Job No. CS1977557
23

24 PAGES 1 - 229
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10 Deposition of AMY WU, taken on behalf of Plaintiff,
11 at Cooley, LLP, 3175 Hanover Street, Palo Alto,
12 California, commencing at 9:14 a.m., Friday, December
13 12, 2014, before Kelli Combs, CSR No. 7705.
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Page 3

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21 Emily Burns, Google In-House Counsel
22
23
24
25

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1 that? 9:36:32AM

2 A First PCIE express discrete graphic chips.

3 Q Any other products from 2002 to 2003 that

4 you recall working on?

5 A No. 9:36:51AM

6 Q Do you know whether S3 Graphics sold any

7 other products, other than AlphaChrome and

8 DeltaChrome, in 2002 and 2003?

9 A I don't recall.

10 Q So how about 2003 to 2004? What products 9:37:22AM

11 did you work on during that period of time?

12 A GammaChrome.

13 Q GammaChrome? What kind of product is

14 that?

15 A Discrete graphic chips. 9:37:35AM

16 Q Do you recall any other products that you

17 worked on during that --

18 A No.

19 Q No? Okay.

20 Did you work on the AlphaChrome and 9:37:53AM

21 DeltaChrome products during that period of time?

22 A DeltaChrome, yes.

23 Q Do you recall working on any other

24 products from 2002 to -- or rather, 2003 to 2004?

25 A GammaChrome, DeltaChrome, that's the only 9:38:16AM

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1 two product I'm working on. 9:38:19AM

2 Q Okay.

3 Do you know whether S3 Graphics sold any

4 products, other than GammaChrome and DeltaChrome,

5 from 2003 to 2004? 9:38:33AM

6 A I don't recall.

7 Q And during that period of time from 2003

8 to 2004, what was your title?

9 A Project Manager.

10 Q Project Manager? 9:38:57AM

11 And who did you report to?

12 A William Wen. William -- I cannot spell

13 his last name. I think it's W-A-N or W-E-N. I

14 cannot spell the last name.

15 Q Okay. 9:39:18AM

16 And was Mr. Wen, was he the -- also who

17 you reported to from 2002 to 2003?

18 A I cannot recall. In between those years,

19 my manager change, so I have also Young Kwon as my

20 manager, but I cannot recall in which time that 9:39:45AM

21 management change.

22 Q Somewhere in 2003 to 2004, is it fair to

23 say that Young Kwon became the person that you

24 reported to?

25 A Yes. 9:40:14AM

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1 Q Okay. 9:40:17AM

2 Do you recall what Young Kwon's title was?

3 A Product Marketing.

4 Q Product Marketing. Okay.

5 Did he have the position that you have 9:40:33AM

6 today?

7 A Yes.

8 Q Who did Young Kwon report to?

9 A Gerry Liu.

10 Q So I think that brings us to 2005 to 2006. 9:40:54AM

11 That period of time, the years 2005 to 2006, do you

12 recall during that two-year period of time what

13 products that you worked on while at S3 Graphics?

14 A Chrome S4, S8 and S16.

15 Q What is S16? 9:41:23AM

16 A S18, I'm sorry. S18.

17 Q Okay.

18 A It's a discrete graphic GPU.

19 Q It's a discrete graphic --

20 A GPU, graphic chips. 9:41:39AM

21 Q Okay.

22 A Yeah.

23 Q You said "GPU"?

24 A GPU, graphic chips.

25 Q All right. What is S8? 9:41:49AM

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1 A Same. 9:41:55AM

2 Q Same?

3 A Yeah.

4 Q A discrete graphic --

5 A GPU. 9:42:02AM

6 Q -- GPU?

7 A Yeah.

8 Q And what is S4?

9 A Same.

10 Q And what is Chrome? 9:42:22AM

11 A Chrome is the core name for the GPU, so

12 the S4, S8, S18 is the product that related to the

13 Chrome.

14 Q Okay.

15 So when you say "core name for the GPU," 9:42:39AM

16 so Chrome was used to identify discrete graphic

17 chips as well?

18 A Chrome is our graphic core, C-O-R-E.

19 Q What do you mean by "graphic core"?

20 A It's the graphic processor controller that 9:43:05AM

21 we design that has all of these programmable

22 pipeline inside.

23 Q So S4, could you explain the relationship

24 between the S4 and Chrome?

25 A S4 and Chrome, the Chrome -- S4 has the 9:43:33AM

Page 30

1 Chrome core inside. S4 is four pipeline. 9:43:37AM
 2 Q Oh, four pipeline. Okay.
 3 And S8, then?
 4 A S8 pipeline.
 5 Q Eight pipeline. And then S18? 9:43:50AM
 6 A Is eight pipeline, but this one is for
 7 mobile graphic, means that the S4, S8 is for
 8 desktop. S18 is for mobile, for notebook computer.
 9 Q So I knew you were going to trick me
 10 there. I thought 18 would be 18 pipeline. See, 9:44:12AM
 11 that's why I asked. Alrighty. Okay.
 12 So with S18, you said eight pipeline, but
 13 it's for mobile. So then the 10 part or the
 14 addition of 10 is just a signal that this is for
 15 mobile applications; is that right? 9:44:33AM
 16 A Yeah. That's at the time internal
 17 decided.
 18 Q Okay.
 19 And who were these graphic core -- these
 20 Chrome graphic core processors, who were they 9:44:50AM
 21 marketed towards?
 22 A They market in U.S. market, Japan market,
 23 Korea market, APAC market and also Europe that --
 24 when customer has interest.
 25 Q So, again, were you responsible for the 9:45:12AM

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1 marketing of the Chrome graphic core process 9:45:14AM
 2 controllers in the U.S. at that time?
 3 A No.
 4 Q Who was responsible for that?
 5 A Nadeem, Nadeem Mohammad. 9:45:21AM
 6 Q I think that it would be helpful probably
 7 for the court reporter if you could spell that.
 8 A I cannot spell his last name, but Nadeem,
 9 N-A --
 10 Q Is it Nathan, N-A-T-H -- 9:45:44AM
 11 A No. His name is hard to spell.
 12 N-A-D-I-M-O-N [sic], something like that. I forgot
 13 how to spell it.
 14 Q Last name is Mohammad?
 15 A Mohammad. 9:46:08AM
 16 Q Okay.
 17 And who did you report to during this
 18 period of time, 2005 to 2006?
 19 A Young Kwon.
 20 Q And was Nathan [sic] or was Mr. Mohammad's 9:46:32AM
 21 direct report to Young Kwon as well?
 22 A No.
 23 Q Okay.
 24 Who did Mr. Mohammad report to?
 25 A Gerry Liu, L-I-U. 9:46:45AM

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1 Q Do you recall what Gerry Liu's title was? 9:46:50AM
 2 A I cannot recall.
 3 Q Do you recall what Mr. Mohammad's title
 4 was?
 5 A I cannot recall. 9:47:04AM
 6 Q Is Mr. Mohammad still with the company?
 7 A No.
 8 Q Is Mr. Liu still with the company?
 9 A No.
 10 Q How about Mr. Kwon? 9:47:19AM
 11 A No.
 12 Q Do you recall when Mr. Kwon left?
 13 A I cannot recall.
 14 Q During this period of time from 2005 to
 15 2006, do you recall whether VIA Technologies sold 9:47:33AM
 16 any other products, other than the Chrome S4, Chrome
 17 S8 and Chrome S18?
 18 A S3 Graphic sell in those part. I don't
 19 recall VIA directly sell, but our graphic core will
 20 be -- put it into the VIA chipset as a UMA product. 9:47:55AM
 21 Q Okay.
 22 So S3 Graphics created this Chrome graphic
 23 core process controller and then provided it to VIA
 24 Technologies?
 25 A Yes. We give them the IP to put into the 9:48:19AM

Page 33

1 chipset to create a UMA product. 9:48:22AM
 2 Q Just for the record, could you explain
 3 what a UMA product is?
 4 A Unified memory architecture.
 5 Q What's an example of a product like that? 9:48:37AM
 6 A Means that the chipset and the graphic in
 7 one chip, that they share the system memory
 8 together.
 9 Q Who are these products sold to?
 10 A Many company. They sell notebook 9:48:56AM
 11 computer, desktop computer, Think clients, server.
 12 Q Does VIA sell a product named Chrome?
 13 A The graphic core is Chrome. They use
 14 Chrome9 and also UniChrome. I cannot recall all of
 15 them. I don't handle the product at that time. 9:49:40AM
 16 Q Okay.
 17 So when the product is sold --
 18 So S3 Graphics sells the Chrome graphic
 19 core process controller to VIA Technologies at this
 20 point, right? 9:50:07AM
 21 A We license our discrete graphics since
 22 SuperSavage to VIA, as far as I remember.
 23 Q Okay.
 24 A So every single new core, we will license
 25 them to them for the new UMA product that they 9:50:22AM

Page 34

1 create. 9:50:25AM

2 Q Okay.

3 Then VIA Technologies, after they create

4 the UMA product, then they sell it to another

5 entity; is that correct? 9:50:36AM

6 A Correct.

7 Q And those entities create computers and

8 other devices; is that right?

9 A Yes.

10 Q Does VIA Technologies sell a computer 9:51:10AM

11 named Chrome?

12 MS. LEE: Objection; lacks foundation,

13 calls for speculation.

14 THE WITNESS: I don't know. I don't

15 handle those products; so I don't know. 9:51:19AM

16 BY MR. HUGHES:

17 Q Are you aware of any computer products

18 named Chrome that VIA sells?

19 MS. LEE: Same objections.

20 THE WITNESS: I cannot recall. 9:51:35AM

21 BY MR. HUGHES:

22 Q So during this period of time from 2005 to

23 2006, what was your title at S3 Graphics?

24 A Product Manager.

25 Q So in 2006 to 2008, what was your title? 9:52:09AM

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1 A Product Marketing Manager. 9:52:16AM

2 Q Was that a promotion?

3 A Yes.

4 Q Was that the position that Young Kwon

5 previously had? 9:52:33AM

6 MS. LEE: Objection; vague.

7 THE WITNESS: I -- he's still my boss, I

8 believe, in the beginning of the time; so I don't

9 think it's the same position.

10 BY MR. HUGHES: 9:52:50AM

11 Q During 2006 to 2008, were you still

12 employed by S3 Graphics?

13 A Yes.

14 Q What were your responsibilities as Product

15 Manager for S3 Graphics during 2006 to 2008? 9:53:07AM

16 A Working with the R&D team and customer to

17 create the next generation GPU product.

18 MS. LEE: Counsel, I just want to clarify;

19 you said "Product Manager." I think she testified

20 that she was a Product Marketing Manager. 9:53:31AM

21 BY MR. HUGHES:

22 Q Is that correct, Product Marketing

23 Manager?

24 A Product Marketing Manager.

25 Q Okay. 9:53:40AM

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1 So you worked with the research and 9:53:43AM

2 development team to create the next generation GPU?

3 A Correct.

4 Q What was the name of the next generation

5 GPU? 9:53:57AM

6 A Chrome20 series, so we have Chrome25,

7 Chrome S25, S27.

8 Q Okay.

9 So it was Chrome S25, Chrome S27; is that

10 correct? 9:54:18AM

11 A Yeah. Chrome S20 -- S20.

12 Q Okay.

13 And what did the S20 refer to?

14 A For mobile product.

15 Q Mobile? Not 20 pipelines? 9:54:28AM

16 A No.

17 Q Okay.

18 Why was the number 20 chosen?

19 A Because we have a previous product as 18,

20 so the internal team decided to just bump up to 20. 9:54:40AM

21 Q Understand.

22 How about S25, why was that name chosen?

23 A Also because the mobile product is a

24 low-power, fanless version, so S25 has better

25 performance, so we bump up the number, and S27 means 9:55:12AM

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1 more performance. 9:55:16AM

2 Q And S27?

3 A Yes. S27 is 128-bit processor compared to

4 the S20 processor. S20 is 64 bit.

5 Q Do you work on any other products from 9:55:48AM

6 2006 to 2008?

7 A Chrome 4 -- 430 ULP, Chrome 45 -- 450. I

8 don't remember all the name on that.

9 Q Can you remember any other names of

10 products that you worked on? 9:56:29AM

11 MS. LEE: Objection; vague.

12 THE WITNESS: I cannot remember.

13 BY MR. HUGHES:

14 Q What type of product was the Chrome20

15 series? 9:56:45AM

16 A Discrete graphic GPU.

17 Q And so the Chrome S20, Chrome S25, Chrome

18 S27, those were all discrete graphic chip units?

19 A Yes.

20 Q Okay. 9:57:08AM

21 How about the Chrome 430 URP [sic]?

22 A Discrete graphic GPU.

23 Q Who did S3 Graphics market these products

24 to?

25 A We market to worldwide customer. 9:57:28AM

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1 A Yeah. October. 10:46:00AM
 2 Q Of this year?
 3 A Yes.
 4 Q So October 2014?
 5 A Yes. 10:46:12AM
 6 Q And he took over from Ms. Wu's job; is
 7 that right?
 8 A Yes.
 9 Q Okay.
 10 A For U.S. only. 10:46:20AM
 11 Q For U.S. only.
 12 And is Ms. Wu still there?
 13 A Yes.
 14 Q Okay.
 15 She's still with VIA Technologies, right? 10:46:35AM
 16 A Correct.
 17 Q Do you recall when she began?
 18 A I cannot recall.
 19 Q Okay.
 20 Has she been there the whole time that 10:46:43AM
 21 you've been there?
 22 A Yes.
 23 Q Okay.
 24 What are the responsibilities of the U.S.
 25 marketing and sales team? 10:47:01AM

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1 A Selling product to U.S. customer, selling 10:47:02AM
 2 computer system, boards, module, IC to all the U.S.
 3 customer.
 4 Q When you say selling boards, what -- what
 5 do you mean by that? 10:47:23AM
 6 A The motherboard.
 7 Q Okay.
 8 A Or computer system, include the chassis
 9 and everything in -- in -- in one system like a
 10 complete system, and IC when customer only wanted to 10:47:36AM
 11 buy individual chips, and also selling a complete
 12 system, including monitor also.
 13 Q A computer system?
 14 A Yeah. Plus monitor.
 15 Q What's the name of the computer system? 10:47:54AM
 16 A ARTiGO -- ARTiGO series, AMOS series,
 17 A-M-O -- A-M-O-S, AMOS.
 18 Q AMOS?
 19 A Yeah.
 20 Q ARTiGO, AMOS? 10:48:10AM
 21 A ARTiGO is one series.
 22 Q Okay.
 23 A And AMOS is one series, and ALTA DS is one
 24 series, A-L-T-A.
 25 Q And let's see here. 10:48:29AM

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1 Does VIA Technologies sell any Chrome 10:48:41AM
 2 computer systems?
 3 A Yes. The ARTiGO series has come with the
 4 Chrome logo.
 5 Q What does the Chrome logo identify? 10:48:56AM
 6 A I see just the "Chrome" and then a sticker
 7 on it.
 8 Q Okay.
 9 Does it -- is it the name of the -- the
 10 product? 10:49:09AM
 11 MS. LEE: Objection; lacks foundation --
 12 THE WITNESS: The product name --
 13 MS. LEE: -- calls for speculation.
 14 THE WITNESS: -- is called ARTiGO.
 15 MR. HUGHES: Okay. 10:49:19AM
 16 MS. LEE: Ms. Wu, if you can let me finish
 17 my objection before you can answer so that the madam
 18 court reporter can jot down my objection and then
 19 your response, that would be appreciated.
 20 THE WITNESS: All right. 10:49:34AM
 21 MS. LEE: Thank you.
 22 BY MR. HUGHES:
 23 Q So "ARTiGO" identifies the name of the
 24 product; is that right?
 25 A That's product name. 10:49:41AM

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1 Q And does "Chrome" identify the graphic 10:49:42AM
 2 chips within the product?
 3 MS. LEE: Objection; lacks foundation,
 4 calls for speculation.
 5 THE WITNESS: I would say it's also part 10:49:55AM
 6 of the product that they name.
 7 BY MR. HUGHES:
 8 Q So what was your response? The Chrome
 9 mark on the ARTiGO identifies what about the
 10 product? 10:50:17AM
 11 MS. LEE: Same objection.
 12 THE WITNESS: Chrome is inside the box.
 13 That's what the most -- I don't know because I don't
 14 deal with the market logo.
 15 BY MR. HUGHES: 10:50:32AM
 16 Q Who does?
 17 A Our MarCom, our Product Manager.
 18 Q And what's his name or her name?
 19 A Our MarCom is Richard Brown.
 20 Q And when you said that -- 10:50:53AM
 21 If I recall correctly, you said that
 22 "Chrome" identifies what's inside the box. What did
 23 you mean by that?
 24 A Chrome GP graphic is inside the box.
 25 Q The graphics component within the ARTiGO 10:51:13AM

Page 62		Page 64	
1 device?	10:51:17AM	1 A All VIA product marketing.	10:53:38AM
2 A It's all together because the chip itself		2 Q All VIA product marketing.	
3 is one chip, including the chipset and graphics, so		3 And how long has he been the head of all	
4 I will say the complete component that inside the		4 product marketing?	
5 box that operate the box working is Chrome -- has	10:51:26AM	5 MS. LEE: Objection; lacks foundation,	10:53:52AM
6 the Chrome part.		6 calls for speculation.	
7 Q Has the Chrome part within the box?		7 THE WITNESS: I cannot recall. Ever since	
8 A Chrome, I will say, Chrome IC.		8 I joined S3, I notice that his name is on -- he also	
9 Q What do you mean -- what does IC mean?		9 do some of S3 Graphics marketing for us.	
10 A The UMA graphic is inside the UMA chip, so	10:51:42AM	10 BY MR. HUGHES:	10:54:07AM
11 it's the IC chips, integrated circuit.		11 Q When you say that he does S3 Graphics	
12 Q Okay.		12 marketing for you, or you always see his name, what	
13 So the Chrome mark identifies the		13 do -- what do you mean by that?	
14 integrated circuit; is that correct?		14 A We -- we are joint venture company so we	
15 MS. LEE: Objection; misstates her	10:51:58AM	15 share one MarCom division, so for the S3 Graphics	10:54:18AM
16 testimony.		16 marketing, we also using the same MarCom.	
17 THE WITNESS: I cannot say that because		17 Q When you say "MarCom," can you explain	
18 it's the marketing team decided what to do with		18 that?	
19 that.		19 A Marketing, like, a press release, a	
20 BY MR. HUGHES:	10:52:08AM	20 promotion, flier and advertisement.	10:54:46AM
21 Q But to you, when you see the Chrome mark,		21 Q So the same marketing and communications	
22 what does it mean to you?		22 team handles it for S3 Graphics and VIA	
23 A I believe this is our Chrome product.		23 Technologies?	
24 When I look at the Chrome as the product for me.		24 A Yes.	
25 Q But I thought you just said that ARTiGO	10:52:28AM	25 Q Okay.	10:55:00AM
Page 63		Page 65	
1 was the name of the product?	10:52:31AM	1 And who is the head of that marketing and	10:55:04AM
2 A To me, because Chrome is our main core,		2 communications team? Is that --	
3 that's what we're selling, so Chrome, to me, is also		3 A Richard Brown.	
4 a product and also a core or IC. So, to me, it's a		4 Q -- Richard Brown? Okay.	
5 product.	10:52:45AM	5 Is Richard Brown located in the United	10:55:16AM
6 Q The -- the core graphics chipset named		6 States?	
7 Chrome is the product?		7 A No.	
8 A Yes. Yes.		8 Q Where is he located?	
9 Q And that core graphics chipset is within		9 A Taiwan.	
10 the ARTiGO device?	10:52:56AM	10 Q How about Mr. Pai?	10:55:23AM
11 A Correct.		11 A Yes, U.S.	
12 Q Okay.		12 Q Is your office in the U.S.?	
13 Is it fair to say it's a component of the		13 A Yes.	
14 ARTiGO device?		14 Q How about Ms. Wu? Is she located in your	
15 A I think it will be -- the ARTiGO device,	10:53:04AM	15 office?	10:55:38AM
16 the main portion of the ARTiGO device is the Chrome		16 A Taiwan.	
17 because without the Chrome, the ARTiGO device will		17 Q Taiwan?	
18 not function.		18 Let's go back, then, to -- kind of trace	
19 Q Okay.		19 this back a little bit here; we got a little off	
20 But the Chrome graphics chip is within the	10:53:23AM	20 track.	10:56:03AM
21 entire ARTiGO device?		21 We were talking about 2009 and '10. I	
22 A Will be inside, yes.		22 think that's where we left off. Actually, no, I'm	
23 Q Okay.		23 sorry, now we're at 2011 to 2012.	
24 Is Richard Brown responsible for all		24 During that period of time, what was your	
25 product marketing or just the ARTiGO device?	10:53:36AM	25 title?	10:56:17AM

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1 Q Who would know the name of that project 12:44:33PM
 2 manager?
 3 A Epan Wu.
 4 Q Epan Wu?
 5 A Yes. 12:44:39PM
 6 Q And why would she know?
 7 A She's the overhead V.P., Sales V.P., so
 8 she would know all the projects.
 9 Q Okay.
 10 And all the individuals that you named as 12:45:04PM
 11 Project Managers, some were in the U.S. and some
 12 were in Taiwan, were those specific to -- were those
 13 Project Managers responsible for specific types of
 14 products, or did you just name all the Product
 15 Managers that you can think of? 12:45:15PM
 16 A I just name all the Product Manager I can
 17 think of.
 18 Q Okay.
 19 I asked you about whether VIA offered a
 20 personal computer called Chrome. When I asked that, 12:45:31PM
 21 would you have a different answer if I said
 22 S3 Graphics?
 23 A You're talking about computer, right?
 24 Q That's right.
 25 A If you asked VIA, I will say "yes." If 12:45:46PM

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1 you asked S3, I will say "no." 12:45:48PM
 2 Q All right.
 3 So, okay, to be clear, though, when I
 4 mention -- when I say "VIA Technologies" at this
 5 point do you still -- do you think of it as a 12:45:57PM
 6 division between VIA Technologies and S3 Graphics,
 7 or when I say "VIA," do you think the entire
 8 company?
 9 A At this time when you say "VIA," I will
 10 think about the entire company. 12:46:09PM
 11 Q Okay.
 12 So S3 Graphics is a division within VIA?
 13 A Subsidiary under VIA.
 14 Q Okay.
 15 And so does S3 Graphics offer a personal 12:46:22PM
 16 computer called Chrome?
 17 A No.
 18 Q Other than the ARTiGO device, are you
 19 aware of any other computers named Chrome?
 20 MS. LEE: Objection; vague. 12:46:42PM
 21 THE WITNESS: I don't know.
 22 BY MR. HUGHES:
 23 Q You're not aware of any other ones?
 24 MS. LEE: Same objection.
 25 THE WITNESS: I don't know because I don't 12:46:49PM

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1 handle products. 12:46:50PM
 2 BY MR. HUGHES:
 3 Q Right. I understand.
 4 What I mean is, I'm just asking what your
 5 knowledge is. Are you personally aware of any other 12:46:56PM
 6 products, any other personal computers, named
 7 Chrome?
 8 A I don't know.
 9 Q Okay.
 10 You don't know of any other ones; is that 12:47:12PM
 11 what you're saying?
 12 MS. LEE: Same objection.
 13 THE WITNESS: I don't have answer. I
 14 don't know.
 15 BY MR. HUGHES: 12:47:17PM
 16 Q I think it's slightly different. I'm
 17 just -- I guess I'm saying the only product that
 18 you're aware of named Chrome that's a personal
 19 computer is the ARTiGO device; is that correct?
 20 A That, to me, yes. 12:47:30PM
 21 Q Okay. All right. Great. Okay.
 22 So with respect to the ARTiGO device, who
 23 does VIA sell that product to?
 24 MS. LEE: Objection; lacks foundation,
 25 calls for speculation. 12:47:48PM

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1 THE WITNESS: I don't sell that product; 12:47:50PM
 2 so I don't know.
 3 BY MR. HUGHES:
 4 Q Does VIA sell the ARTiGO?
 5 A Yes. 12:47:55PM
 6 Q How do you know that they sell the ARTiGO?
 7 A They sell it through -- even online, so
 8 customer, some kind of customer. I don't know
 9 because I don't work on system products, so OEM
 10 customer or some customer, so... 12:48:16PM
 11 Q Okay.
 12 When a customer is --
 13 Or rather, what types of OEM customers
 14 purchase the ARTiGO device?
 15 A I don't know. 12:48:36PM
 16 Q Okay.
 17 When a customer purchases the ARTiGO
 18 device, how would they make that purchase? Do they
 19 submit an invoice?
 20 A I don't know. 12:48:47PM
 21 Q How would I --
 22 If I were trying to confirm that VIA sells
 23 a product named Chrome, a personal computer named
 24 Chrome, what types of documents would help me verify
 25 that? 12:49:24PM

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1 A Yes. 1:36:04PM
 2 Q Are you familiar with it?
 3 A Yeah.
 4 Q What are they?
 5 A This is the Fujitsu notebook. 1:36:11PM
 6 Q Do you recall when they were taken?
 7 A I don't recall.
 8 Q Did you take the pictures?
 9 A Yeah, I took the picture.
 10 Q Did you take both pictures? 1:36:26PM
 11 A Yes.
 12 Q Why would you have taken the picture?
 13 A We need to pull out a notebook system has
 14 the sticker, so I took the notebook from the company
 15 lab and I took a picture. 1:36:44PM
 16 Q You -- for what purpose, again? You
 17 needed to --
 18 A Provide this one to my inside counsel.
 19 Q Okay. Oh, all right.
 20 Did -- did you put the stickers on this -- 1:37:03PM
 21 on this product?
 22 A No.
 23 Q So this was prepared --
 24 These pictures were taken for the purposes
 25 of this litigation? 1:37:14PM

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1 A This picture is taken request by my inside 1:37:16PM
 2 counsel.
 3 Q Okay.
 4 Were these pictures provided to Fujitsu?
 5 A No. 1:37:27PM
 6 Q Are these -- were these examples to
 7 Fujitsu as to, you know, where you wanted to place
 8 the sticker?
 9 A I -- I think so, because it's constantly
 10 shipping notebook. 1:37:42PM
 11 Q What -- what -- can you explain that to
 12 me? What do you mean, it comes with the shipping
 13 notebook?
 14 A We bought -- once Fujitsu went production,
 15 we bought some notebook from the Fujitsu, and this 1:37:54PM
 16 is the notebook that we have inside of our company
 17 lab.
 18 Q Understood. Right. Okay.
 19 So this -- this is the -- this is the
 20 LifeBook product that you received from Fujitsu? 1:38:03PM
 21 A Yes.
 22 Q And this is an example of one of them that
 23 you took pictures of?
 24 A Yes.
 25 Q Okay. 1:38:10PM

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1 So is this the way a consumer in the U.S. 1:38:20PM
 2 would have received a brand-new Fujitsu computer?
 3 A I don't know.
 4 Q Were the Fujitsu computers sold in the
 5 U.S.? 1:38:29PM
 6 A Yes.
 7 Q Okay.
 8 Going back, then, I think we've covered it
 9 with respect to personal computers, notebook
 10 computers, but does VIA offer a microcomputer called 1:39:14PM
 11 Chrome?
 12 MS. LEE: Objection; vague.
 13 THE WITNESS: I would say -- I don't know,
 14 but, to my understanding, the ARTiGO is a
 15 microcomputer. It's a small computer. 1:39:36PM
 16 BY MR. HUGHES:
 17 Q Okay.
 18 So other than --
 19 So with respect to any computers, other
 20 than the ARTiGO computer and the LifeBook computer, 1:39:41PM
 21 are you aware of the Chrome mark being used in
 22 connection with any other computers?
 23 MS. LEE: Objection; vague.
 24 THE WITNESS: I don't know.
 25

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1 BY MR. HUGHES: 1:39:57PM
 2 Q Has VIA ever offered a computer called
 3 Chrome, other than the ARTiGO computer, that bears
 4 the Chrome mark on it?
 5 A I don't know. 1:40:18PM
 6 Q Okay.
 7 Does VIA sell a motherboard called Chrome?
 8 A I don't know.
 9 Q Who would know that?
 10 A I think the board and system marketing or 1:40:38PM
 11 board system sales would know.
 12 Q Does -- has VIA ever, you know, sold a
 13 motherboard named Chrome?
 14 A I don't know.
 15 Q And, again, who -- who would know that? 1:41:03PM
 16 A The VIA sales, VIA marketing guy that is
 17 in charge of the board and system product.
 18 Q And who specifically would you contact if
 19 you wanted that information?
 20 A I would talk to my boss. 1:41:17PM
 21 Q Ms. --
 22 A Epan.
 23 Q Epan Wu?
 24 A Epan Wu, yeah.
 25 Q Because she would likely be responsible 1:41:27PM

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1 for that? 1:41:28PM

2 A She would know who is in charge. For the

3 Japan market, I can talk to Sonia because she's in

4 charge of that portion.

5 Q Okay. 1:41:47PM

6 Does VIA offer browsing software called

7 Chrome?

8 A No.

9 Q Has VIA ever offered a browsing software

10 named Chrome? 1:42:02PM

11 A No.

12 Q Has VIA ever developed a browsing software

13 named Chrome?

14 A No.

15 Q What type of software does VIA develop? 1:42:14PM

16 MS. LEE: Objection; lacks foundation.

17 THE WITNESS: I don't know what VIA is

18 making in the software side.

19 BY MR. HUGHES:

20 Q What type of software does S3 Graphics -- 1:42:28PM

21 A S3 Graphics would produce a graphic driver

22 firmware for the graphics, and we also make CMS

23 software.

24 Q And what -- what's the name of the

25 graphics driver? 1:42:47PM

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1 A There's no name. It's based on the chip, 1:42:51PM

2 the same graphic driver.

3 Q The software itself does not have a name?

4 A No. It's just called -- it's followed by

5 the GPU naming, and then -- so if it's Chrome 2000, 1:43:01PM

6 it's a Chrome 2000 driver.

7 Q Okay.

8 To your knowledge, has S3 or VIA ever sold

9 software independent of its GPU device?

10 MS. LEE: Objection; lacks foundation, 1:43:30PM

11 calls for speculation.

12 THE WITNESS: I don't know.

13 BY MR. HUGHES:

14 Q In your time with S3 Graphics, do you

15 recall S3 ever selling software? 1:43:40PM

16 MS. LEE: Objection; vague.

17 THE WITNESS: I don't know.

18 BY MR. HUGHES:

19 Q You don't recall?

20 MS. LEE: Same objection. 1:43:54PM

21 THE WITNESS: I don't know. I don't -- I

22 don't know. So when you say "software," I don't --

23 means the complete set of software?

24 BY MR. HUGHES:

25 Q Yes. Like an independent software 1:44:06PM

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1 application that would be -- 1:44:10PM

2 A We license source code and we will charge

3 money.

4 Q Okay.

5 And to who would you license that to? 1:44:18PM

6 A To customer that -- who needs the source

7 code that they want to modify the section by

8 themselves instead of us.

9 Q So the OEMs that you sold the GPU to?

10 A Yes. 1:44:33PM

11 Q Anyone else?

12 A I don't recall.

13 MR. HUGHES: Okay. I'd like to show

14 another document to you. Okay.

15 Let the record reflect that I am showing a 1:45:53PM

16 document to Ms. Wu that's entitled "Semi-Embedded

17 Systems New VIA ARTiGO A1250."

18 (Plaintiff's Exhibit 6 marked

19 for identification.)

20 THE VIDEOGRAPHER: Wu Exhibit 6. 1:46:07PM

21 BY MR. HUGHES:

22 Q Have you seen this document before?

23 A Yes.

24 Q What is it?

25 A This is the ARTiGO system. 1:46:34PM

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1 Q And the document specifically -- 1:46:40PM

2 Is this one of those spec sheets that you

3 were referring to earlier?

4 A This is not from me.

5 Q Right. 1:46:56PM

6 Is this -- rather, what -- what, you know,

7 type of document is this, or why was this document

8 created?

9 MS. LEE: Objection; lacks foundation,

10 calls for speculation. 1:47:04PM

11 THE WITNESS: I don't know because I don't

12 handle this product.

13 BY MR. HUGHES:

14 Q Okay.

15 Do you know -- 1:47:20PM

16 So if I were to ask a question about the

17 ARTiGO device, who should I speak to at

18 VIA Technologies?

19 A The Product Manager for this device.

20 Q Do you recall his name? 1:47:38PM

21 A I don't know.

22 Q Do you know who would know?

23 A Right now, I know is Kevin Huang.

24 Q Now, earlier you testified, I believe,

25 that the -- a sticker bearing "Chrome" was placed on 1:47:58PM

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1 this device; is that true? 1:48:04PM
 2 A Yes, I saw in the trade show.
 3 Q Do you know why that sticker is not on
 4 this picture?
 5 A I don't know. 1:48:13PM
 6 Q Do you know whether or not the ARTiGO
 7 device has ever been sold without that sticker?
 8 A I don't know.
 9 Q Do you know when the sticker first started
 10 appearing on the ARTiGO device? 1:48:24PM
 11 A I don't know.
 12 Q If I wanted answers to these types of
 13 questions, who should I speak to at
 14 VIA Technologies?
 15 A I would say you can talk to Epan, and she 1:48:34PM
 16 can address that for you.
 17 Q Okay.
 18 And Kevin Huang?
 19 A Kevin Huang is the hardware side for the
 20 PM that creates the box. 1:48:51PM
 21 Q Okay.
 22 But Epan would be the person that would
 23 know information about when the stickers were placed
 24 on the ARTiGO devices?
 25 A Yes. 1:49:14PM

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1 Q So you have no awareness with respect to 1:49:15PM
 2 any advertising or promotion involving the ARTiGO
 3 device; is that correct?
 4 A I have -- I don't involve with the
 5 promotion. 1:49:27PM
 6 Q Okay.
 7 And do you have any awareness of when the
 8 Chrome mark would have been used in connection with
 9 the ARTiGO device?
 10 A I first seen it is 2011. 1:49:38PM
 11 Q And you saw that at a trade show?
 12 A Yes.
 13 Q Do you recall which trade show that was?
 14 A I cannot recall.
 15 Q Do you know how long ago the ARTiGO device 1:49:48PM
 16 was first sold in the marketplace?
 17 A I don't know.
 18 MR. HUGHES: Okay. That was Exhibit 6; is
 19 that right?
 20 THE VIDEOGRAPHER: Yes. 1:50:26PM
 21 MR. HUGHES: Great. Okay.
 22 I'd like to show another document to you.
 23 BY MR. HUGHES:
 24 Q Actually, before I do that, are you aware
 25 of the ZBOX? 1:50:51PM

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1 A No. 1:50:55PM
 2 Q Do you have any knowledge of ZBOX?
 3 A No.
 4 Q Do you know who puts out the ZBOX?
 5 A I don't know. 1:51:07PM
 6 Q Who would I contact if I wanted to find
 7 out information about that?
 8 MS. LEE: Objection; lacks foundation,
 9 calls for speculation.
 10 THE WITNESS: I don't know. 1:51:17PM
 11 MR. HUGHES: Okay. Let the record reflect
 12 that I'm showing Ms. Wu a document Bates Numbered
 13 VIA00003.
 14 (Plaintiff's Exhibit 7 marked
 15 for identification.) 1:51:55PM
 16 THE VIDEOGRAPHER: Wu Exhibit 7.
 17 BY MR. HUGHES:
 18 Q Have you ever seen this document before?
 19 A I see the picture before.
 20 Q When did you see that picture. 1:52:15PM
 21 A On our website, the GStore.
 22 Q What is it a picture of?
 23 A This is the graphic card that we make.
 24 Q Is this the graphic card that you were
 25 referring to earlier in the testimony? 1:52:39PM

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1 A This is one of them, yes. 1:52:42PM
 2 Q One of them.
 3 Is this product still sold?
 4 A Right now -- are you talking about right
 5 now? No. 1:52:53PM
 6 Q Do you recall when S3 Graphics ceased
 7 selling this product?
 8 A The picture is too blurry. I cannot see
 9 the GPU number; so I cannot recall.
 10 Q Okay. 1:53:14PM
 11 Did VIA Technologies ever sell this
 12 product?
 13 A On the GStore that S3 and VIA is both can
 14 access that store, so I don't know if VIA did sell,
 15 but I saw this one on S3 GStore. 1:53:31PM
 16 Q And is this the Chrome card that a user,
 17 then, incorporates into a computer?
 18 A Yes.
 19 Q Would they incorporate this Chrome video
 20 card into any other types of devices? 1:54:01PM
 21 A Any device -- any computer system that can
 22 handle PCIE graphic adapter card can be put in. It
 23 doesn't matter if it's desktop computer, server
 24 tower, so I don't know what the customer will put
 25 this device in. So can be anything that you can 1:54:27PM

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1 talk about. 1:54:32PM

2 Q Thanks.

3 Do you know whether or not S3 Graphics has

4 ever sold handheld computers?

5 A We -- we don't sell handheld computer 1:54:50PM

6 today.

7 Q Do you recall whether S3 Graphics ever

8 sold handheld computers?

9 A S3 Graphics is a chip IC maker, so we make

10 graphic chip and graphic board. 1:55:04PM

11 Q Do you recall whether or not S3 Graphics

12 chips were ever incorporated into a handheld

13 computer?

14 A I cannot recall.

15 Q Do you not think so or you cannot recall? 1:55:36PM

16 A I don't think so.

17 Q And why don't you think so?

18 A This is a discrete graphic GPU. What we

19 have is a -- is a -- from a handheld device, the

20 power is not match. 1:55:57PM

21 Q I understand.

22 So in a handheld computer --

23 A Talking about the handheld device, small,

24 right? Tablet type?

25 Q That's right. In a handheld computer 1:56:07PM

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1 would -- you would not be able to embed a Chrome 1:56:09PM

2 graphics chip unit?

3 A Not the Chrome graphic chip unit, but will

4 be a SOC that we have.

5 Q What do you mean by that? 1:56:28PM

6 A We -- we make SOC in license with the ARM

7 CPU and with our graphics and our chipset and

8 altogether SOC system on chips. Those product can

9 be on a handheld device.

10 Q Do you recall S3 Graphics ever providing 1:56:50PM

11 that chipset in connection with a handheld device?

12 A Yes.

13 Q What device?

14 A Tablet.

15 Q A tablet? And which tablet? 1:57:04PM

16 A I don't know. Depends on -- I don't work

17 on that part, so I don't know.

18 Q Just based on your recollection, do you

19 recall whether or not S3 Graphics ever sold a tablet

20 named Chrome? 1:57:24PM

21 A I don't recall. I don't know.

22 Q Do you think that they ever did?

23 MS. LEE: Objection; asked and answered.

24 THE WITNESS: I -- I don't have -- we --

25 we have the SOC now, so I don't know how to answer 1:57:38PM

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1 you. So I don't have an answer for you yet. 1:57:43PM

2 BY MR. HUGHES:

3 Q Do you know whether VIA ever sold a

4 handheld computer named Chrome?

5 A I don't know. 1:57:50PM

6 Q Okay.

7 Do you know whether or not S3 Graphics

8 ever sold a disk drive named Chrome?

9 A I don't know. I don't believe so.

10 Q Do you know whether or not VIA ever sold a 1:58:05PM

11 disk drive named Chrome?

12 A I don't know.

13 Q Based on your work with VIA today, is VIA

14 currently selling any handheld computers named

15 Chrome? 1:58:27PM

16 MS. LEE: Asked and answered.

17 THE WITNESS: I don't know.

18 BY MR. HUGHES:

19 Q During your time with S3 Graphics, did

20 they ever sell any computer speakers named Chrome? 1:58:42PM

21 A No.

22 Q Did they ever sell any computer keyboards

23 named Chrome?

24 A No.

25 Q Did they ever sell any computer printers 1:58:55PM

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1 named Chrome? 1:58:58PM

2 A No.

3 Q Did they ever sell any computer monitors

4 named Chrome?

5 A No. 1:59:04PM

6 Q Did they ever sell any CRT monitors named

7 Chrome?

8 A No.

9 Q Did they ever sell any DVI displays named

10 Chrome? 1:59:13PM

11 A DVI display, you mean the graphic board

12 output?

13 Q Yes.

14 A Yes.

15 Q What product was that? 1:59:22PM

16 A All the board that support DVI.

17 Q Okay.

18 Did they ever --

19 During your time with S3 Graphics, did

20 they ever sell a GPS navigational product named 1:59:33PM

21 Chrome?

22 A No.

23 Q During your time with S3 Graphics, did

24 they ever sell any computer cables named Chrome?

25 A No. 1:59:51PM

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1 want to take a quick break right now? 2:04:16PM
 2 MS. LEE: Sure.
 3 THE VIDEOGRAPHER: We are off the record
 4 at 2:04 p.m.
 5 (Recess taken.) 2:04:23PM
 6 THE VIDEOGRAPHER: We are back on the
 7 record at 2:19 p.m.
 8 BY MR. HUGHES:
 9 Q Hello, Ms. Wu. How are you?
 10 A Fine. 2:19:46PM
 11 Q Great. We've talked about goods earlier
 12 today, and just one thing I just want to clarify.
 13 To what extent are you involved in either
 14 VIA Technologies or S3 providing any services to any
 15 clients? 2:20:03PM
 16 A Customize service, so if the customer
 17 require customization, then we will charge them an
 18 NRE fee and then provide a service for them.
 19 Q And the customization there is in
 20 connection with software relating to graphics 2:20:29PM
 21 component?
 22 A Can be software-related or
 23 hardware-related graphics component or the chip --
 24 graphic chipsets -- chipset component with the
 25 graphics. 2:20:47PM

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1 Q And when you say "we," are you referring 2:20:48PM
 2 to S3 Graphics or are you referring to
 3 VIA Technologies?
 4 A Both VIA Technologies and S3.
 5 Q Does VIA Technologies provide any of those 2:21:10PM
 6 services under the Chrome mark?
 7 A I don't remember. I don't think so.
 8 Q Do they provide --
 9 Does VIA provide, say, for instance,
 10 information about the design, development, 2:21:26PM
 11 customization of hardware or software under the
 12 Chrome mark?
 13 A I don't know.
 14 Q Don't know or --
 15 A I don't know. 2:21:43PM
 16 Q Okay.
 17 Who would know that?
 18 A Epan.
 19 Q Epan?
 20 Do you provide any services related to 2:21:55PM
 21 robotics?
 22 A I don't.
 23 Q By that, I actually meant do you work on
 24 any services related to robotics?
 25 A I don't work on. 2:22:07PM

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1 Q Okay. 2:22:08PM
 2 Do you know whether or not VIA or
 3 S3 Graphics provides any services relating to
 4 design, developing, customizing robotics for third
 5 parties? 2:22:20PM
 6 A I don't know.
 7 Q And who would know that?
 8 A Maybe Epan.
 9 Q Epan? Okay.
 10 With respect to, say, other services like, 2:22:30PM
 11 you know, customizing multimedia technology or
 12 customizing wireless communication devices, do you
 13 work on any of those types of services?
 14 A No.
 15 Q Okay. 2:22:46PM
 16 So then the services -- just to clarify,
 17 the services that you have knowledge about just
 18 relate to customization of software or hardware
 19 related to the graphics device or graphics
 20 component? 2:23:00PM
 21 A Graphic component or system component.
 22 Q Okay.
 23 What do you mean by "system component"?
 24 A The UMA chipset is part of a system
 25 component. 2:23:13PM

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1 Q Okay. The UMA chipset. 2:23:16PM
 2 Do you know how long VIA has provided
 3 those types of services to third parties?
 4 A I don't know.
 5 Q Do you know how long S3 has provided those 2:23:30PM
 6 services?
 7 A It depends on -- I would say since 2008
 8 when we enter -- embedded the market, we provide
 9 those service.
 10 Q You tied the two. Since you -- since you 2:23:53PM
 11 what?
 12 A 2007 or 2008 when S3 from PC market, you
 13 know, moving to the embedded market to provide
 14 service.
 15 Q The embedding of those graphic chips, 2:24:05PM
 16 right?
 17 A The graphic chips, yeah.
 18 Q Right. Okay.
 19 So in 2007, 2008 when they moved into that
 20 market, then you started providing that type of 2:24:13PM
 21 customization service; is that correct?
 22 A How do I say? We provide customize
 23 service before the embedded market, PC market, but
 24 we don't charge customer --
 25 Q Okay. 2:24:29PM

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1 A -- for the service because the volume is 2:24:29PM
 2 large, so when we enter into the embedded market,
 3 the volume base is smaller, so we will charge the
 4 customize service, we will charge them for the
 5 sample board that they buy, sample chip that they -- 2:24:43PM
 6 they use, so we will start charging for the embedded
 7 market.
 8 Q For that -- for those customization
 9 services?
 10 A Yes. Customization service or the 2:24:52PM
 11 standard part that we still charge them, you know,
 12 because depends on the volume. For embedded market,
 13 there's no standard; there's always customization.
 14 Q Okay.
 15 And who do you -- 2:25:09PM
 16 Who do you provide the services to?
 17 A We provide it to Sony, Toshiba,
 18 RealVision, R-E-A-L, and then Vision. I cannot
 19 recall all of them, but all the customer that buys
 20 our part for the embedded market, we will charge 2:25:37PM
 21 them, and we will give them the customization
 22 service.
 23 Q How do those -- So, okay. I understand.
 24 So any of the -- of those entities, how do
 25 they request the rendering of those types of 2:25:50PM

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1 services from VIA? 2:25:53PM
 2 A During the project development, they will
 3 have their requirement for what special feature that
 4 they want, what do they need us to implement for
 5 them. Then we, based on the implementation, the 2:26:07PM
 6 time cost, and we provide, you know, the service for
 7 them.
 8 Q Do they put in, like, a purchase order to
 9 you, or it's just they submit like a, you know,
 10 request for services to you? 2:26:20PM
 11 A It's during the conference call that we
 12 talk about the project requirement, so we would
 13 document them, and then we provide the service as to
 14 what they request and maybe change down the road a
 15 little bit that they want to do some modification 2:26:39PM
 16 little bit here, little bit there, so based on what
 17 they want. So it takes some time at the project,
 18 beginning to end, we change a little bit, so it's
 19 hard to pinpoint and say what exactly.
 20 Q Are there e-mails exchanged adjusting the 2:26:55PM
 21 customization requests and services that you're
 22 offering?
 23 A Yes.
 24 Q And who typically is communicating with
 25 the entities that you're selling or offering those 2:27:10PM

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1 services to? 2:27:11PM
 2 A PM, Project PM.
 3 Q You being one of the Project PMs?
 4 A Yes, from before I enter marketing team,
 5 yes. 2:27:25PM
 6 Q Okay.
 7 So same PMs that we talked about earlier
 8 that would have been responsible in the U.S. would
 9 have been the same ones talking to these entities
 10 about providing services? 2:27:35PM
 11 A For PM, it's project assignment, so I
 12 cannot recall who in charge of what project, so it's
 13 based on project, so I cannot recall.
 14 Q And with respect to -- are you --
 15 Do you, then, invoice these entities for 2:27:54PM
 16 those services?
 17 A Yes, we do. When the service is complete,
 18 we invoice them.
 19 Q Okay.
 20 Do you have any knowledge of S3 Graphics 2:28:18PM
 21 or VIA providing technical support services?
 22 A Yes.
 23 Q And what are you aware of with respect to
 24 technical support services provided by either party?
 25 A Like, customer buys source code from us, 2:28:36PM

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1 and then they -- they try to do their own 2:28:38PM
 2 implementation, and then if they run into issue,
 3 they will pay for our engineer to give them advice.
 4 Q Okay.
 5 And, again, is that communicated 2:28:49PM
 6 through --
 7 Is there a hotline to you all or is there
 8 e-mail communications?
 9 A No. Conference call.
 10 Q And then they're invoiced for the 2:29:01PM
 11 services?
 12 A Yes. I think we will tell them how much
 13 we will charge for the service, and then if they
 14 agree, then we proceed with that service.
 15 Q And for how long has VIA been providing 2:29:14PM
 16 those services?
 17 A I don't know about VIA side, but S3, we
 18 been doing it since 2007.
 19 Q And same thing goes for those
 20 customization services? 2007? 2:29:27PM
 21 A Yeah. The 2007 is the one that we start
 22 charging, yes.
 23 Q And how about things like computer system
 24 analysis or computer diagnostic services? Are -- is
 25 VIA providing those services? 2:29:45PM

Exhibit H



Brendan J. Hughes
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VIA EMAIL

February 13, 2015

Irene Lee, Esq.
Jean Rhee, Esq.
Russ, August & Kabat
12424 Wilshire Boulevard, 12th Floor
Los Angeles, CA 90025

**RE: VIA Technologies's Deficient Discovery Efforts
Google Inc. v. VIA Technologies, Inc., Cancellation No. 92056818**

Dear Irene and Jean:

Based on the deposition testimony of Ms. Inky Chen and Ms. Amy Wu, as well as our review of the additional documents and discovery responses served by VIA Technologies, Inc. ("VIA"), we believe that VIA has still not satisfied its discovery obligations. Please let us know if you are available on Tuesday, February 17 to meet & confer regarding the various discovery deficiencies detailed below.

DOCUMENTS SUPPORTING VIA'S USE OF THE CHROME MARK IN CONNECTION WITH THE GOODS AND SERVICES IDENTIFIED IN ITS REGISTRATIONS

As you know, documents supporting VIA's claim of current and continuous use of the CHROME mark in connection with the goods and services identified in its trademark registrations are highly relevant in this proceeding. Google has repeatedly requested that VIA produce such documents. A review of the documents produced thus far, however, shows that VIA has fallen woefully short in fulfilling its discovery obligations.

Class 9

Computers, laptops, CPUs, motherboards, displays

VIA's document production to date does not include any documents demonstrating the use of the CHROME mark as the source identifier for a computer, laptop, CPU, motherboard, or display. Instead, it appears that VIA has only used the CHROME mark in connection with, at various times, graphics chips, cards, and processors that are a component of such goods, which are sold under third party marks. Please either (a) confirm that VIA has never sold a computer, laptop, CPU, motherboard, or display identified by the CHROME mark, or (b) produce documents demonstrating otherwise. Google's previously served document requests call for the production of any such documents.

In a few documents, a "CHROME" sticker has been affixed to a sample of the larger product. Specifically, documents reflect a "CHROME" sticker has been placed on (1) VIA's Artigo computer, (2) boxes containing EPIA motherboards, and (3) Fujitsu LifeBook laptops. To the



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extent that VIA purports to offer such images as evidence of use of the CHROME mark to identify computers, laptops, and motherboards, it needs to produce documents evidencing current and continuous use in U.S. commerce of these stickers on the goods. Because most of the other documents and images reflecting the very same product models show no sticker or other CHROME marking affixed to the product at all, we assume that the CHROME stickers have not been consistently used on such products.

With respect to the Fujitsu LifeBook, it appears that VIA's document production shows the LifeBook offered outside of the U.S., specifically through Fujitsu's China and Europe/Middle East/Africa online storefronts. The image of a Fujitsu LifeBook with a "CHROME" sticker has Japanese letters on its keys, suggesting it may not have been sold in U.S. commerce. Furthermore, we understand from Ms. Wu's testimony that the Fujitsu Lifebook is no longer sold in commerce.

Accordingly, we request that VIA produce documents evidencing when the practice of affixing "CHROME" stickers to laptops, computers, and boxes containing motherboards began, whether it extends to products imported and sold in United States commerce, and whether it has continued uninterrupted to date. Again, Google's previously served document requests call for the production of any such documents.

Operating systems

VIA's current document production and its response to Interrogatory No. 20 indicate that VIA has never used the CHROME mark to identify an operating system; instead, it appears that VIA has only used the mark in connection with software drivers that facilitate the use of CHROME-branded chipsets in connection with third-party operating systems. Please either (a) confirm that VIA has only used the CHROME mark in connection with such drivers, or (b) produce documents demonstrating that VIA has offered a CHROME-branded operating system in U.S. commerce.

Software and hardware related to graphical and video display

In its Class 9 registration, VIA claims use of the CHROME mark in connection with "software and hardware for management, storage, communications and network management of digital media and enhancement of graphical and video display." VIA's document production appears to include evidence that it offers such goods only to facilitate the use of "CHROME" graphics chips or chipsets, video cards, and processors. Please either (a) confirm that VIA does not offer such software and hardware except to enable the use of its graphics chips, video cards, and processors, or (b) produce documents evidencing otherwise.

Hand-held computers and hand-held devices

VIA's production includes a document depicting the Samsung Q-Series handheld computer with a CHROME-branded graphics chipset. If it is VIA's position that this constitutes commercial use of the CHROME mark in connection with hand-held computers, please produce documents



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sufficient to show such use currently and continuously in U.S. commerce. The produced document (VIA 000911-923) is insufficient to demonstrate that this product was offered outside of Europe and Asia.

Electronic computer locks

VIA's production includes an agreement with a third party that seemed to contemplate some arrangement with respect to electronic computer locks. The agreement, however, does not demonstrate that electronic computer locks ever were sold in U.S. commerce under the CHROME mark. Accordingly, please confirm that VIA has never sold such products in the U.S. or produce documents evidencing otherwise.

Other goods and services

In addition, the production fails to show that VIA has ever shipped or sold any of the following goods under the CHROME mark in U.S. commerce:

- Electronic personal organizers, MP3 players
- Computer housing, computer casing, computer chassis, computer frames
- Computer memory cards, memory chips, blank magnetic data carriers
- Hard drives, disc drives
- Computer speakers, computer keyboards, computer printers, computer cables, disc and tape controller cards, scanners, computer mice, joysticks, microphones
- Pre-recorded computer discs featuring documentary programs, drama, musical entertainment;
- Portable computer carry bags; cases to carry CDs and DVDs
- GPS navigational displays and automotive visual displays
- Computer network adapters, networking switches
- Routers, modems, power adapters for computers
- Semiconductors, microprocessors, integrated circuits
- Computer interface boards, computer accelerator boards, circuit boards

Please provide documents demonstrating VIA's use of the CHROME mark with respect to each of the foregoing goods. If VIA has never shipped or sold such products under the CHROME



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mark in U.S. commerce, please confirm that VIA will amend its responses to Interrogatory Nos. 4, 6, 8, 9, and 16 accordingly.

Claimed Date of First Use

None of VIA's produced documents provide support for its claimed July 2001 date of first use in commerce, even with respect to its graphics chips, video cards and graphics processors. In fact, VIA's documents affirmatively contradict this assertion. An article and a VIA press release, each dated April 2005, explain how CHROME products "disappeared" from the U.S. market for a period of five years, only to be reintroduced in 2005. (See VIA 001247 and VIA 001257). Moreover, the only product initially available to the U.S. market was the GAMMACHROME video card, according to such documents. Accordingly, we request that VIA amend its response to Interrogatory Nos. 8 and 9 to accurately reflect the dates of first use and the dates of current and continuous use in US commerce, and to produce documents supporting such assertions.

Class 42

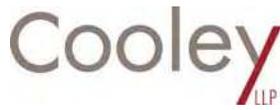
VIA's document production also fails to support its current and continuous use with respect to all of the services identified in its Class 42 registration for the CHROME mark. In fact, VIA's document production includes no evidence that VIA has ever provided the following services in U.S. commerce under the CHROME mark:

- Providing on-line information in the field of robotics
- Provision of computer systems analysis and computer diagnostic services
- Creating, designing, maintaining websites

With respect to "designing computer hardware, integrated circuits, computer networks and communications hardware for others," we note that VIA released an open source laptop hardware design in 2008 that included a CHROME9 graphics chipset. This open source hardware design is inadequate to show that VIA has continuously provided such services under the CHROME mark in U.S. commerce to the current date. Please produce documents sufficient to make this showing, or confirm that VIA has not provided such services to others.

INADEQUATE DOCUMENT COLLECTION & OBJECTIONS

Information provided during the recent depositions of Ms. Chen and Ms. Wu has heightened our concerns that VIA did not follow appropriate protocols when searching for documents or identifying persons who may have information responsive to Google's discovery requests. Please confirm that VIA will collect and produce responsive documents and information to rectify each of the deficiencies described below.



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Custodians

We have grave concerns regarding the limited number of custodians whose files VIA searched or who were otherwise consulted in connection with VIA's responses to Google's discovery requests. In particular, the absence of documents from senior management responsible for CHROME-branded products and from VIA's U.S.-based sales and marketing team suggests that VIA's production is missing a significant portion of relevant correspondence and documents. We also doubt that VIA's responses to Google's interrogatories could be complete without consulting these persons or their files.

Richard Brown and Ken Weng

In her deposition, Ms. Chen stated that Richard Brown and Ken Weng did not produce documents to Google because they were too senior to possess responsive documents. However, Ms. Wu provided information that calls this assertion into question. Specifically, Mr. Brown and Mr. Weng are two of the people most knowledgeable about the marketing of the CHROME products, according to Ms. Wu. Further, Mr. Brown is responsible for significant activities such as marketing, press releases, flyers, and advertisements for the Artigo products, and Mr. Weng's approval is required for the placement of CHROME stickers. Accordingly, we do not find it credible that these custodians do not possess responsive documents or communications. Further, while Mr. Weng and/or his files were consulted to provide VIA's responses to Google's interrogatories, Mr. Brown and his files were not. See VIA's response to Interrogatory No. 22.

Epan Wu

Ms. Chen stated that VIA searched Epan Wu's files when collecting documents responsive to Google's discovery requests. However, Ms. Wu's name appears on only a handful of documents VIA produced, and these include no emails or other correspondence. Because Ms. Wu was head of U.S. sales and marketing until a few months ago, she would logically possess a significant volume of responsive documents and correspondence.

Iming Pai

Mr. Pai is currently the head of U.S. sales and marketing. He has been with the company since 2001, according to documents included in VIA's production, and has held important positions such as vice president of software engineering. However, Mr. Pai is not listed among the custodians whose files VIA searched to locate responsive documents, nor the persons consulted to prepare VIA's responses to Google's interrogatories.

Miller Chen

Inky Chen stated that Miller Chen is the CFO of VIA-Taiwan and never worked directly on any CHROME-related operations, and so his files were not included in VIA's searches for responsive documents. Further, Miller Chen is also not listed among the persons consulted in



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the preparation of VIA's responses to Google's interrogatories. However, Mr. Chen signed the declaration supporting VIA's Statement of Use for its Class 42 registration on February 25, 2011. Accordingly, Mr. Chen would likely have documents and information relevant to this dispute.

Young Kwon

VIA's responses to Google's Interrogatory Nos. 2 & 3 identify Young Kwon as the only person with knowledge of the selection, adoption, and development of the CHROME marks, and detail a story about Mr. Kwon contemplating the meaning of the word "chrome" when he saw a motorcycle on his way home from work. However, Ms. Chen stated during her deposition that Mr. Kwon left the company in 2006, and "when [VIA's] counsel reached out to him, he refused to get involved." Mr. Kwon is also not listed among the persons consulted to prepare VIA's responses to Google's interrogatories. As it seems Mr. Kwon was not consulted in connection with this story about the origination of the CHROME mark, we request that VIA provide the source of the story, either in the form of documents supporting its veracity or the name(s) of the person(s) who can support it.

U.S. Sales & Marketing

From Ms. Wu's deposition and our review of some of the sales documentation provided in VIA's production, we understand that VIA has a U.S. sales and marketing team. However, the individuals comprising that team are not among the persons Ms. Chen identifies as custodians or among those consulted when VIA prepared its interrogatory responses. Such persons include, but may not be limited to, Audrey Tsai, David Allen Bailey, and Mike Dickey, as well as a person named "Ciran" whose last name Ms. Wu could not recollect.

Ms. Wu also identified individuals responsible for product planning who may also have knowledge of the sales and marketing of CHROME products in the U.S., including Vincent Tan and Kevin Wong. Due to their positions, such individuals are highly likely to have responsive documents and information, including information that Ms. Wu was unable to provide during her deposition because, as she stated, she had only focused on the U.S. market for the previous two months.

The foregoing may not represent a complete list of appropriate custodians omitted from VIA's efforts to respond to Google's discovery requests. For example, as described immediately below, individuals at other corporate entities affiliated with VIA may also likely possess responsive documents or information.

Companies

We understand from discovery to date and from the prosecution files for the CHROME marks that VIA's activities with respect to the CHROME marks have involved multiple related entities including, but not limited to, VIA Technologies, Inc. of California, S3 Graphics Co. Ltd., S3 Graphics, Inc., and a Shanghai-based S3 Graphics entity. However, we have reason to doubt



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that VIA's efforts to search for responsive documents and information fully extended to such entities. To the extent that VIA has relied on the activities of any such entities to support its trademark rights in the CHROME mark, those entities should fall within the scope of VIA's discovery efforts.

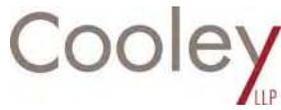
In its "General Objections" to Google's Requests for Admission ("RFAs"), VIA indicates that it relied upon "use by related companies within the meaning of the Trademark Act" to support its RFA responses. However, VIA's General Objections to Google's document requests and interrogatories include an objection to the definition of "YOU" on the grounds that the definition "purports to require Registrant to respond to, or on behalf of, persons or entities other than this answering Registrant" and "calls for information in the possession, custody or control of parties other than this answering Registrant." It is not reasonable for VIA to rely on use by related companies when responding to Google's RFAs – or when making statements regarding use to the PTO – and then fail to produce responsive documents and information from all such companies.

As such, we request that you confirm that VIA will produce documents sufficient to support any "use by related companies within the meaning of the Trademark Act" upon which VIA relied: (1) when responding to Google's RFAs, and (2) when submitting any Statements of Use or Declarations of Use to the PTO. Please further confirm that VIA has not relied upon its objection to the definition of "YOU," or upon similar grounds, to fail to search for or to withhold responsive documents and information from such companies or from any other current or past affiliates.

Scope of Search

In her deposition, Ms. Wu referenced a number of documents that are missing from Google's production, including Market Development Fund documents ("MDFs"), which include trademark licenses relating to the use of CHROME stickers discussed above, as well as "Roadmaps," or marketing documents produced on a quarterly or semi-quarterly basis, of which VIA has produced only one. The fact that these documents are missing from the production is cause for concern that other key documents may also be absent. Moreover, VIA has not produced even a fraction of the volume of responsive communications that are likely to exist in light of the long existence of CHROME-branded products and the extent of VIA's efforts to market, promote, and sell products under the CHROME mark.

The absence of such documents and correspondence from VIA's production may be attributable, in part, to the instructions and insufficient list of keywords provided to custodians. The keyword list consisted of only a handful of major customers for and products incorporating CHROME-branded chips or chipsets, as well as the words "CHROME," "Google," "trade show," and "thin client." Also, Ms. Wu's testimony suggests that custodians may have been instructed to inappropriately narrow the time period for their searches, and the majority of VIA's production is limited to the period between 2011 and 2013. Given these deficiencies, we would like to meet & confer regarding expanded search terms and search instructions that do not include an inappropriate date restriction.



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Finally, VIA's objections to several of Google's document requests suggest it may be withholding or have neglected to search for relevant documents based on various stated objections. We understand that members of your team discussed VIA's numerous objections with prior members of Cooley's team, and that VIA agreed to produce documents in spite of many of its stated objections.

To correct the foregoing issue, please confirm that VIA will serve amended responses to Google's document requests in order to confirm which objections VIA is maintaining. It is important that Google know whether VIA is withholding any documents on the basis of its general and specific objections, aside from privilege concerns, so that we may assess VIA's objections and whether VIA is appropriately withholding responsive documents. If VIA is maintaining all of the objections stated in its August 6, 2013 responses to Google's document requests and withholding documents on the basis thereof, please confirm as much in writing.

* * * *

Please let us know if you are available on Tuesday, February 17 to meet & confer regarding the issues described in this letter.

Sincerely,

/Brendan J. Hughes/

cc: Janet Cullum, Esq.
Morgan Champion, Esq.
Rebecca Givner-Forbes, Esq.

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

Google Inc.,	)	Cancellation No.: 92056816
)	
Petitioner,	)	Registration No.: 3,360,331
	)	Mark: CHROME
v.	)	Issued: December 25, 2007
)	
VIA Technologies, Inc.,	)	Registration No.: 3,951,287
	)	Mark: CHROME
Registrant.	)	Issued: April 26, 2011
_____)		

**DECLARATION OF REBECCA GIVNER-FORBES IN SUPPORT OF
GOOGLE’S OPPOSITION TO REGISTRANT’S UNCONSENTED MOTION TO
AMEND THE REGISTRATIONS**

I, Rebecca Givner-Forbes, hereby declare as follows.

1. I am an associate at the law firm Cooley LLP and represent Petitioner Google Inc. (“Google”) in this cancellation action against Registrant VIA Technologies, Inc. (“Registrant”). I make this statement based on my personal knowledge of the facts set forth herein, my review of client files maintained by Cooley LLP for Google, and my conversations with my colleagues regarding this proceeding. I submit this declaration in support of Google’s Motion in Opposition to Registrant’s Unconsented Motion to Amend the registrations that are subject to this cancellation action (the “Subject Registrations”).

2. I have reviewed all documents produced by Registrant during this cancellation action. I have recognized therein Registrant’s graphics chips, chipsets, graphics processing units (GPUs), including GPUs installed on what appear to be graphics or video cards, and software drivers that allow these products to operate with third-party hardware or software, all bearing the CHROME mark. I have also identified documents relating to customization services provided to Registrant’s customers for its graphics chips, chipsets, and graphics processing units (GPUs), and

associated software drivers under the CHROME mark.

3. In my review of Registrant's document production, I have identified photographs of Registrant's Artigo devices bearing a "CHROME®" sticker. Attached hereto as Exhibit A is a true and correct copy of Registrant's documents bearing Bates Stamps VIA0046-47 depicting such a device in a warehouse setting. Other depictions of the ARTIGO device in Registrant's production, on its website, and in retail outlets offering the ARTIGO device for sale do not bear the "CHROME®" sticker. Attached hereto as Exhibit B are screenshots of Artigo devices shown for sale through online retail outlets and depicted on Registrant's website that do not bear the "CHROME®" sticker.

4. In my review of Registrant's document production, I identified photographs and documents reflecting the use of certain stickers on Fujitsu Lifebook computers. The documents indicate that, at some point in time, Fujitsu affixed stickers reading "Accelerated by S3 Graphics Chrome" to the keyboards of some of its Lifebook model computers. However, Registrant's documents pertaining to such computers do not indicate that the stickers traveled in U.S. commerce. One photograph of a Lifebook bearing the sticker shows Japanese lettering on the keyboard, while another depicts a unit that Ms. Amy Wu, Registrant's Assistant Director of Product Marketing, took from the company's lab and photographed at the request of in-house counsel. Attached hereto as Exhibit C are relevant pages from Ms. Wu's deposition testimony. The letter agreement describing Registrant's arrangement with Fujitsu reflects that Registrant required Fujitsu to submit photographs of the retail outlets where the subject computers were sold as well as invoices reflecting such sales. Registrant's production does not include these photographs or invoices. Registrant attached a copy of this letter as Exhibit N to the Declaration of Irene Lee in support of Registrant's opposition to Google's motion to compel filed July 9,

2013; attached hereto as Exhibit D is a true and correct copy of Registrant's exhibit.

5. Other than the products described in Paragraphs 2 – 4, above, I have not identified any goods bearing the CHROME mark or services offered in connection with the CHROME mark in Registrant's document production.

6. I reviewed the equipment authorization licenses and supporting photographs and documentation on file with the Federal Communications Commission (FCC) for VIA Technologies, Inc. and S3 Graphics, Inc., reflecting the FCC's authorization to sell certain computers and computer peripherals. I identified authorizations granted to S3 Graphics, Inc. for its graphics cards sold under the CHROME mark. I did not identify equipment authorizations for any other products identified by or bearing the CHROME mark. Although VIA Technologies Inc. was granted an authorization for a computer in 2014, the relevant file identifies the computer by the product name "Viega," and makes no mention of the CHROME mark.

7. Attached hereto as Exhibit E is a true and correct copy of a letter from Ms. Jean Rhee, counsel for Registrant, dated June 11, 2014, which accompanied Registrant's production on that date. The letter states that the bulk of the documents had been in the possession of Donna Lee. Although the declarations submitted with Registrant's Unconsented Motion to Amend the Registrations specify that Ms. Lee passed away on May 7, 2010, most of the documents in this production post-date her passing.

8. The documents included in Registrant's June 11, 2014 production that may have been in Ms. Lee's custody include TEAS notices confirming the filing of various trademark applications and reimbursement requests for PTO application filing fees. These reflect that Ms. Lee submitted applications for Registrant's ALPHACHROME, BETACHROME, DELTACHROME, GAMMACHROME and CHROMOTION marks. The production did not

include any such documents with respect to the CHROME registrations that are the subject of this proceeding. No other documents or correspondence produced by Registrant reflects that Ms. Lee prepared the applications for the Subject Registrations.

9. I have also reviewed the privilege log produced by Registrant in this proceeding. The privilege log reflects communications among Ms. Lee, outside counsel, and other of Registrant's employees regarding Registrant's trademark applications marks such as DELTACHROME and GAMMA CHROME, but not the applications for the CHROME marks at issue in this proceeding. A copy of the privilege log is already on file in this proceeding; Registrant submitted it as Exhibit M attached to the Declaration of Irene Lee in support of Registrant's Opposition to Google's Motion to Compel filed July 9, 2014.

10. Ms. Lee is not identified in any of Registrant's responses to Google's Interrogatories, including Interrogatory No. 3, which asks Registrant to "Describe fully the facts and circumstances surrounding the selection, adoption, and development of the CHROME MARKS."

11. On or around February 26, 2015, Ms. Morgan Champion, an associate at Cooley, LLP and I met & conferred via telephone with Ms. Irene Lee and Mr. Nate Meyer. During the conversation, Ms. Champion asked whether Registrant would produce additional documents sufficient to show present and continuous use with several goods and services identified in the Subject Registrations. In response, Mr. Meyer said, "there may be some products...[for which] we're going to moot the concept. We're going to amend the registrations, hopefully by consented motion but if not then not." He did not identify the goods or services affected by the amendment at that time. I requested that, for each good or service Registrant did not delete by amendment, Registrant produce specimens sufficient to show present and continuous use. Mr.

Meyer agreed that Registrant would do so, to the extent Registrant had not produced such specimens already. Ms. Lee then stated that for some goods and services, Registrant relied on use by related companies or licensees to support its claims. We asked if Registrant would produce documents and correspondence sufficient to show control over related companies and applicable licenses with licensees. Ms. Lee said that the arrangements were informal and thus such documents most likely did not exist. Mr. Meyer stated that Registrant would at least identify the applicable related company or licensee whose use it relied upon for each good or service. Attached hereto as Exhibit F is a true and correct copy of an email I sent to Mr. Meyer and Ms. Lee summarizing the parties' agreement during the meet & confer and a copy of Mr. Meyer's response.

12. On March 16 and March 23, Registrant served additional documents. I have reviewed these documents. They do not provide any support for Registrant's claims that it has offered any goods or services under the CHROME mark in U.S. commerce other than those described in Paragraph 2. Registrant did not identify the related company or licensee uses upon which it had relied as promised.

13. On March 16, 2015, Registrant served its Fifth Amended Interrogatory Responses. Registrant has submitted a copy of these responses as Exhibit A to the Declaration of Nathan D. Meyer in support of Registrant's Uncontested Motion to Amend the Registrations. Registrant's response to Interrogatory No. 8, identified the date of first use for the Class 9 Registration, for the first time, as October 1, 2005. Registrant initially identified the date as July 1, 2000, in its initial response served on August 6, 2013 and its First Amended Response served on September 9, 2013. Registrant thereafter identified the date as July 1, 2001 in its Second Amended Responses served on May 30, 2014, its Third Amended Responses served on June 11,

2014, and its Fourth Amended Responses served on June 17, 2014.

14. Attached hereto as Exhibit G is a true and correct copy of a letter Mr. Meyer sent to the Cooley litigation team in this proceeding on March 20, 2015 requesting consent to the pending amendments Registrant has now proposed to the Board. On the same day, Google requested Registrant's consent to amend its cancellation petition to add a claim of fraud in the procurement and maintenance of the Subject Registrations.

15. Based on my review of Registrant's document production and written discovery responses, the deposition testimony of Ms. Amy Wu, and publicly-available documents, the Subject Registrations would still be inaccurate even if amended as Registrant now proposes.

I declare under penalty of perjury that the foregoing statements are true and correct.

/Rebecca Givner-Forbes/
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COOLEY LLP
1299 Pennsylvania Avenue, NW, Suite 700
Washington, DC 20004
Tel: 202-776-2382
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Exhibit A



VIA00046



VIA00047

Exhibit B


Connecting You to the Cloud
Search

COMPANY
PRODUCTS
INITIATIVES
RESOURCES
SUPPORT
LANGUAGES

ARTiGO Pico-ITX Builder Kit

Get the satisfaction of building your own ultra compact computer with VIA ARTiGO – a genuine Pico-ITX Builder Kit.

Home
Specs Sheet
Package
How to Assemble
Usage
Mainboard
Additional Cables
FAQs
Where to Buy



REGISTER NOW



Have fun building your own portable PC. The **VIA ARTiGO Pico-ITX Builder Kit** is designed to help DIY enthusiasts utilize all the features of the ultra compact, versatile VIA Pico-ITX mainboard.

The **VIA ARTiGO Pico-ITX Builder Kit A1000** includes a 1GHz VIA EPIA Pico-ITX mainboard, compact Pico-ITX form factor chassis, power adapter and accessories.

Please check the ARTiGO how-to video.

The VIA ARTiGO Pico-ITX Builder Kit A1000 does not include memory, hard drive, keyboard, mouse, or monitor.

ARTiGO

Inspired by Pico-ITX

A Consumer DIY Kit with a difference

- Space Saving, Ultra Compact Design
- Highly Integrated System
- Fun DIY Experience
- Choose Your Own Hard Disk and System Memory
- Unrivalled Versatility

What is a "Builder Kit"?

A Builder Kit is a retail bundle for DIY PC hobbyists comprising of a chassis, mainboard and accessories.



*The specification is subject to change without prior notice.

The VIA ARTiGO Package

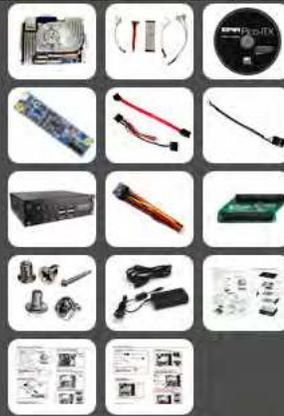
- One VIA EPIA PX Package
 - 1 x EPIA PX Pico-ITX Mainboard
 - 1 x Power Ribbon Cable (for ATX Power Supply)
 - 1 x ATA-66/100/133 IDE Ribbon Cable
 - 1 x PS/2 Ribbon Cable
 - 1 x COM Port Ribbon Cable
 - 1 x DVI Ribbon Cable
 - 1 x Driver Utility CD
 - 1 x Power Board
- One ARTiGO Chassis
 - 1 x Chassis with Assembling Accessories
- One Power Cord
- One Adaptor
- One Assembly Guide
- SATA Cable*
- 12-12 pin power connector w/SATA power*
- USB Cable*



VIA ARTiGO Specification Sheet

CPU	VIA C7 1GHz Processor
Chipset	VIA VX700 Unified Digital Media IGP Chipset
Memory Support	1 DDR2 533 SODIMM Socket. Up to 1GB
Hard Disk Support	1 IDE Connector (2.0mm 44-pin Header) and 1 SATA Connector for 2.5" Hard Disk
Operation System Support	Windows 2000 / XP, WinCE, XPe, Linux
USB Ports	4 USB 2.0 ports
LAN Port	1 10/100Mbps RJ-45 LAN port
Audio	Build-in High Definition Audio
Audio Ports	1 Microphone-in jack 1 Line-out jack
Display Port	1 VGA port
Dimensions	5.9"(L) x 4.3"(D) x 1.8"(H) (15cm x 11cm x 4.5cm)
Average System Weight	1.14 lbs (520g)

* The three cables are additional accessories and not promised in all packages.



<top>

How to Assemble your own ARTiGO



Please check the details in Assembly Guide.

▲ Top

Downloads:

- **System (ARTiGO)**
Assembly Guide
Image Kit
Datasheet
- **Mainboard (EPIA PX)**
BIOS
Windows XP Drivers
Operating Guide
User's Manual
- **Power Board (PW-N550)**
Easy Guide

The Versatile VIA ARTiGO Pico-ITX Builder kit



ARTiGO can be a stand-alone computing system on your desk.



The ARTiGO is an extremely ultra compact system that can be installed into a standard 5.25" desktop drive bay. Adding a mini PC within a Desktop PC.



External screw holes for versatile system mounting.

▲ Top

The VIA EPIA Pico-ITX Mainboard



The VIA EPIA Pico-ITX PX10000 Mainboard. The world's smallest full-featured x86 mainboard at just 3.9" x 2.8" (10cm x 7.2cm) for ultra compact embedded PCs, systems and appliances.

More about EPIA Pico-ITX

▲ Top

Additional Accessories for EPIA PX Pico-ITX Mainboard

Additional accessories for enhanced customization:

- COM D-SUB Cable (RS-232 Device)
- 12-20-Pin Power Cable (ATX Power Supply)
- IDE Cable (IDE Device)
- DVI Cable (CRT/ LCD)
- PS2 Cable (KB/ MS)
- SATA Cable (SATA Device)
- 12-12 pin power connector w/SATA power (SATA Device)
- USB Cable (for WLAN Module)

[↑ Top](#)**FAQs****Q:** What's the available CPU frequency on ARTIGO?**A:** ARTIGO A1000 is now available with VIA C7 1.0GHz CPU model.**Q:** What is AC voltage range of ARTIGO power supply?**A:** The AC input is 100-240V ~ 1.8A (50/60Hz), and DC output is +12V/ 5A.**Q:** What type of system memory (RAM) do I need?**A:** The VIA ARTiGO supports DDR2 533MHz SO-DIMM. Please refer to the VIA DRAM qualification vendor list below.

Module Vendor	Model/Serial No.	CLK	Size	CL	Type	Component Vendor
Samsung	M470T6554CZ3-CD5	DDR2 533	512MB	4	2Rx16	Samsung
Hynix	HYMP564S84CP6-C4	DDR2 533	512MB	4	2Rx16	Hynix
Micron	MT8HTF6464HDY-53EB3	DDR2 533	512MB	4	2Rx16	Micron
Infineon	HYS64T64920HDL-3,7-B	DDR2 533	512MB	4	2Rx16	Infineon
Hynix	HY5PS12821BFP-C4	DDR2 533	1GB	4	2Rx16	Hynix
Infineon	HYB18T512800BF37	DDR2 533	1GB	4	2Rx16	Infineon
MDT	18D51280D-3.7	DDR2 533	1GB	4	2Rx16	MDT
Nanya	NT5TU64M8AE-37B	DDR2 533	1GB	4	2Rx16	Nanya
SEC	K4T51083QC-ZCD5	DDR2 533	1GB	4	2Rx16	Samsung

Q: What sort of hard disk drive should I use with the VIA ARTIGO? Do you have any recommended drives?**A:** You can use the IDE adaptor board with an IDE hard drive. There is also a SATA connector on the EPIA Pico-ITX mainboard, so you can choose to install a SATA hard drive externally. (SATA cable is not included in this package.)**Q:** Can I run Windows Vista on this system? What operating systems can I run on this system?**A:** Windows Vista is currently not supported. You can run Windows XP/2000 & Linux on this system. For the Linux support, please refer to <http://www.viaarena.com/>**Q:** What keyboard and mouse should I use?**A:** ARTIGO uses a USB and USB 2.0 keyboard and mouse.**Q:** I'd like to know what resolution of monitor (LCD) is supported.**A:** EPIA PX Pico-ITX can support a lot of resolution from 640x480 through 1600x1200, including popular resolutions of 640x480, 800x600, 1024x768 and 1600x1200.**Q:** Can I output to my TV screen?**A:** Yes, if your TV supports the VGA input.**Q:** Is the case available in different colours?**A:** So far, only black is available.**Q:** Where can I download the Windows XP drivers or BIOS of the EPIA PX Pico-ITX mainboard?**A:** Please download the drivers or BIOS from /en/products/embedded/ProductDetail.jsp?productLine=1&motherboard_id=472**Q:** Where can I check the detail specification of the EPIA PX Pico-ITX mainboard?**A:** You can find the specification at /en/products/embedded/ProductDetail.jsp?productLine=1&motherboard_id=472**Q:** Where can I find each pin definition of the EPIA-PX Pico-ITX mainboard?**A:** Please check the User's Manual at /en/products/embedded/ProductDetail.jsp?productLine=1&motherboard_id=472**Q:** How can I know more about the VIA power board for the PW-N550 in ARTIGO package?**A:** Please check the related information in the Easy Guide at /en/products/embedded/ProductDetail.jsp?productLine=1&motherboard_id=472**Q:** Where can I download the Linux/CE drivers of the EPIA PX Pico-ITX mainboard?**A:** Please download the drivers from <http://www.viaarena.com/>.[↑ Top](#)**Online Shopping Links****America****USA**

- AVNET www.embeddedmatrix.com (Avnet-embedded-bdm@avnet.com)
- Fry's Electronics www.Frys.com
- ICP America www.icpamerica.com
- Logic Supply www.logicsupply.com
- Ma Lab / Ewiz www.ewiz.com
- E-itx.com E-itx.com
- WDL Systems www.wdlsystems.com

Argentina:

• Vicda Argentina www.vicdaembedded.com.ar

Brazil:

Canada:

• EPROM Computer Systems www.eprom.com

Asia

Japan:

• ベストゲートトレンド bg-trend.com

• 価格.com kakaku.com

• UnityDirect www.unitydirect.jp

Korea:

Europe

Austria

• i-design i-design.at

France:

• Bacatá www.bacata.net

Germany:

• Mini-ITX.de www.mini-itx.de

Italy:

• Monclick www.monclick.it

Norway:

• Komplettno www.komplett.no

Spain:

• Sistemas Ibertrónica www.ibertronica.es

Sweden:

• EET Nordic A/S se.eetnordic.com

UK:

• LinITX.com LinITX.com

• Mini-ITX.com www.mini-itx.com

[▲ Top](#)

[Check other VIA Embedded Boards](#)

Should you have any queries about the VIA ARTiGO Builder Kit, you can contact us at ARTiGO@via.com.tw



SEARCH

GO

PRODUCTS

- Blade Computing
- Box PC
 - ARM
 - Commercial
 - Light Industrial Fanless
 - VIA Technologies
 - ARTiGO A1150
 - **ARTiGO A1250**
 - AMOS-820
 - AMOS-3003
 - AMOS-3002
 - ICOP
 - ipcas
 - ADLINK
 - Kontron
 - DMP
 - M2M
 - Mil Spec
 - Rugged
 - Industrial
 - Digital Signage
 - Medical
 - Rackmount
 - IoT Gateway
- Communications
- Computer on Module
- Digital Signage/Panel PCs
- Displays
- FPGA
- GPU
- Industrial DRAM
- Machine Vision
- Industrial Keyboards
- Measurement and Automation
- Tablets & Handheld
- Motherboards
- Power Solutions
- Single Board Computers
- Software
- SSD

Box PC : Light Industrial Fanless : VIA Technologies > ARTiGO A1250

ARTiGO A1250

VIA TECHNOLOGIES ARTiGO A1250 1.0GHZ VIA QUADCORE CPU BOX PC



Mouse over image to Zoom

[Specs](#)

VIA Technologies ARTiGO A1250 1.0GHz VIA QuadCore CPU Box PC

VIA Technologies ARTiGO A1250, 1.0GHz QuadCore E CPU based semi-embedded system with VGA, HDMI, 2 USB 3.0, 2 USB 2.0, GbE, DC-in 12V, USA type power cord. MPN: ATG-A1250-1Q10A1

PART#	VENDOR PART#	QTY	PRICING	
1EAR125	ATG-A1250-1Q10A1	<input type="text" value="1"/>	Quantity	Price
		Add to Cart	1 – 24	\$368.00
			25 – 49	\$358.00
			50 – 99	\$354.00
			100 +	\$345.00



Mini-ITX, Pico-ITX and other Custom Platforms Specialist

SEARCH



[Home](#) > [VIA Embedded Store](#) > [VIA ARTiGO Series](#) > **VIA ARTiGO A1150**

For OEM Project Inquiries: oem@e-itx.com
 For Reseller Inquiries: reseller@e-itx.com
 For General Sales Inquiries: sales@e-itx.com
 or give us a call at (510) 770-9419 to discuss your project requirements.

For Shipping Cost Quote, please add the item(s) you are interested and do check-out, input your shipping address and select a shipping method, the web site will calculate the shipping cost for you before you complete the order.

- Apacer Industrial SSD ▶
- OEM / Custom Systems ▶
- Intel NUC Store ▶
- Gigabyte BRiX Store ▶
- VIA Embedded Store ▼
 - [VIA AMOS Series](#)
 - [VIA ARTiGO Series](#)
 - [VIA Pico-ITX Boards](#)
 - [VIA Mini-ITX Boards](#)
 - [VIA ALTA DS Series](#)
- Giada (JEHE) Store ▶
- MSI WindBox Series ▶
- Cables / Accessories ▶
- Cases ▶
- Motherboards ▶
- Networking ▶
- Power Solutions ▶
- Clearance / Open Box ▶
- Ordering & Shipping ▶
- International Orders ▶
- Terms & Conditions ▶

VIA ARTiGO A1150 Ultra Compact Eden X2 Dual Core Embedded System with HDMI, VGA, Host/Device USB and Gigabit LAN

Item# SYS-V-A1150

Your Price: **\$359.95**



Please click on the pull-down menu below for available options:

Memory:

Storage:

SD:

WLAN:

Cord:

Mounting:

O/S:

Warranty:

Policy:

Quantity: **Availability: Usually ships in 2-3 business days**

VIA ARTiGO A1150 [General Datasheet](#), [User's Manual](#) and [Quick Installation Guide](#).

VIA ARTiGO A1150 (ATG-A1150-1D10A3) Key Features

You may consider

ARTiGO A1250
 QUAD CORE PROCESSOR
 VIA ARTiGO A1250
 1.0GHz VIA QuadCore-E
 \$409.95

VIA AMOS-3002
 1.0GHZ VIA Eden X2
 Fanless IPC System
 \$609.95

VIA AMOS-3002
 1.0GHZ VIA Eden X2
 2.5" HDD/SSD



- Based on VIA [EPIA P900](#) Pico-ITX Embedded Platform.
- 1.0GHz VIA [Eden X2](#) Dual Core Embedded Processor, 2MB Cache.
- MPEG-2, WMV9/VC1, H.264 Video Decoding Acceleration.
- HDMI, VGA, Gigabit Ethernet, High Definition Audio Codec
- Supports up to 4GB DDR3 SODIMM memory.
- USB Client port for user friendly and quick data transmission.
- Available Side-Accessible SD Card Reader.
- Space saving, low power consumption, ultra compact design.

Fanless IPC System
\$699.95

[More Images](#)

[Related Items](#)

Click an image below to enlarge



VIA ARTiGO A1150



VIA ARTiGO A1150



VIA ARTiGO A1150



VIA ARTiGO A1150



VIA ARTiGO A1150

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Exhibit C

1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

3 ---o0o---

4 Condensed
5 Transcript

5 GOOGLE, INC.,)
6 Petitioner,)
7) Cancellation
8 vs.) No. 92056816
9 VIA Technologies, Inc.,)
10 Registrant.)
11 _____)

12
13
14
15 VIDEOTAPED DEPOSITION OF AMY WU
16 FRIDAY, DECEMBER 12, 2014

17
18
19
20
21
22 Job No. CS1977557

23
24 PAGES 1 - 229
25

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1 A Yes. 1:36:04PM
 2 Q Are you familiar with it?
 3 A Yeah.
 4 Q What are they?
 5 A This is the Fujitsu notebook. 1:36:11PM
 6 Q Do you recall when they were taken?
 7 A I don't recall.
 8 Q Did you take the pictures?
 9 A Yeah, I took the picture.
 10 Q Did you take both pictures? 1:36:26PM
 11 A Yes.
 12 Q Why would you have taken the picture?
 13 A We need to pull out a notebook system has
 14 the sticker, so I took the notebook from the company
 15 lab and I took a picture. 1:36:44PM
 16 Q You -- for what purpose, again? You
 17 needed to --
 18 A Provide this one to my inside counsel.
 19 Q Okay. Oh, all right.
 20 Did -- did you put the stickers on this -- 1:37:03PM
 21 on this product?
 22 A No.
 23 Q So this was prepared --
 24 These pictures were taken for the purposes
 25 of this litigation? 1:37:14PM

Page 147

1 A This picture is taken request by my inside 1:37:16PM
 2 counsel.
 3 Q Okay.
 4 Were these pictures provided to Fujitsu?
 5 A No. 1:37:27PM
 6 Q Are these -- were these examples to
 7 Fujitsu as to, you know, where you wanted to place
 8 the sticker?
 9 A I -- I think so, because it's constantly
 10 shipping notebook. 1:37:42PM
 11 Q What -- what -- can you explain that to
 12 me? What do you mean, it comes with the shipping
 13 notebook?
 14 A We bought -- once Fujitsu went production,
 15 we bought some notebook from the Fujitsu, and this 1:37:54PM
 16 is the notebook that we have inside of our company
 17 lab.
 18 Q Understood. Right. Okay.
 19 So this -- this is the -- this is the
 20 LifeBook product that you received from Fujitsu? 1:38:03PM
 21 A Yes.
 22 Q And this is an example of one of them that
 23 you took pictures of?
 24 A Yes.
 25 Q Okay. 1:38:10PM

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1 So is this the way a consumer in the U.S. 1:38:20PM
 2 would have received a brand-new Fujitsu computer?
 3 A I don't know.
 4 Q Were the Fujitsu computers sold in the
 5 U.S.? 1:38:29PM
 6 A Yes.
 7 Q Okay.
 8 Going back, then, I think we've covered it
 9 with respect to personal computers, notebook
 10 computers, but does VIA offer a microcomputer called 1:39:14PM
 11 Chrome?
 12 MS. LEE: Objection; vague.
 13 THE WITNESS: I would say -- I don't know,
 14 but, to my understanding, the ARTiGO is a
 15 microcomputer. It's a small computer. 1:39:36PM
 16 BY MR. HUGHES:
 17 Q Okay.
 18 So other than --
 19 So with respect to any computers, other
 20 than the ARTiGO computer and the LifeBook computer, 1:39:41PM
 21 are you aware of the Chrome mark being used in
 22 connection with any other computers?
 23 MS. LEE: Objection; vague.
 24 THE WITNESS: I don't know.
 25

Page 149

1 BY MR. HUGHES: 1:39:57PM
 2 Q Has VIA ever offered a computer called
 3 Chrome, other than the ARTiGO computer, that bears
 4 the Chrome mark on it?
 5 A I don't know. 1:40:18PM
 6 Q Okay.
 7 Does VIA sell a motherboard called Chrome?
 8 A I don't know.
 9 Q Who would know that?
 10 A I think the board and system marketing or 1:40:38PM
 11 board system sales would know.
 12 Q Does -- has VIA ever, you know, sold a
 13 motherboard named Chrome?
 14 A I don't know.
 15 Q And, again, who -- who would know that? 1:41:03PM
 16 A The VIA sales, VIA marketing guy that is
 17 in charge of the board and system product.
 18 Q And who specifically would you contact if
 19 you wanted that information?
 20 A I would talk to my boss. 1:41:17PM
 21 Q Ms. --
 22 A Epan.
 23 Q Epan Wu?
 24 A Epan Wu, yeah.
 25 Q Because she would likely be responsible 1:41:27PM

Exhibit D

EXHIBIT N



Chrome 430 ULP MDF letter For Fujitsu MG model

**For S3 Graphics
Mobile Processors**

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www.s3graphics.com

10/16/2008

CONFIDENTIAL

VIA00968



Dear Fujitsu:

Thank you for your support of S3 Graphics in the PC market. S3 Graphics, Inc. is agrees to give Fujitsu our MDF program for MG model with below requirements

1. S3 agree to give Fujitsu our MDF program at \$1.50 USD per S3 logo sticker on each selling Fujitsu Notebook PC start from PO number "P-113657".
 - a. Please issue another 1K PO for S3 logo sticker for PO number "P-113657"
 - b. On future PO please order S3 logo sticker together with the amount of part you order
2. Total promotion amount is \$40K USD and Max 26,666pcs for this MDF program.
3. If Fujitsu has extra inventory currently in stock will like to put S3 logo sticker on please provide S3 following.
 - a. Total amount and from which PO were these parts ordered
 - b. Please issue PO for the extra S3 logo for this claim
4. In order to claim for this MDF fund Fujitsu must provide below
 - a. A picture of selling PC contain S3 logo sticker on it
 - b. Two pictures of the retail shops where Fujitsu PC is contain with S3 logo on it.
 - c. Fujitsu need to issue MDF invoice to S3 quarterly
5. S3 logo sticker part number for ordering is 25-S3G-0D-010-010-010
6. S3 logo sticker image



Customer satisfaction is important to us at S3 Graphics, Inc. and we remain committed to helping you achieve your goals.

Sincerely,

Amy Wu
Sr. Product Marketing Manager
S3 Graphics, Inc.

1025 Mission Court
Fremont, CA 94539
Tel: (510) 687-4970
Fax: (510) 687-3402

Exhibit E



June 11, 2014

12424
Wilshire Boulevard
12th Floor
Los Angeles
California
90025

Tel 310.826.7474
Fax 310.826.6991
www.raklaw.com

VIA ELECTRONIC MAIL AND FEDERAL EXPRESS

Katie Krajeck
Cooley LLP
Palo Alto—Hanover Campus
3175 Hanover Street
Palo Alto, California 94304-1130

*Re: Google, Inc. v. VIA Technologies, Inc.
Cancellation No. 92056816*

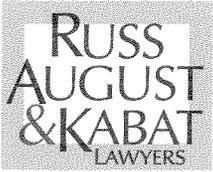
Dear Katie:

I write in response to your June 5, 2014 letter.

VIA'S INTERROGATORY RESPONSES

In response to Interrogatory No. 4, VIA served a full and complete response by identifying all of the products and services with which the CHROME MARKS have been or are currently being used. The fact that you may consider these products and services to be “basic” and that they are listed in the subject registrations does not render VIA’s response deficient or incomplete. We are not aware of any legal authority requiring a party in cancellation proceedings to avoid using the names of the relevant goods and services in an interrogatory response simply because they also appear in the subject registrations, and you have not provided us with any. Although you cite to Federal Rule of Civil Procedure 33(b)(3), nowhere does that rule provision state that a party is precluded in any way from using the names of relevant goods and services in responding to an interrogatory. Rather, Rule 33(b)(3) provides that interrogatories should be answered separately and fully, to the extent not objected to, which VIA has done.

In response to Interrogatories Nos. 10 and 11, VIA identified the names of various computer devices on which the CHROME MARKS are currently being used and/or have been used in the last four years in the United States: ARTIGO series, AMOS series, ZOTAC and Fujitsu. We are puzzled by your assertion that VIA’s response is deficient because Fujitsu is “a third party provider of IT services and products (and not a computer product),” as Fujitsu has long been a world leader in the field of computer devices. I therefore attach a screenshot from Fujitsu’s website reflecting “Computing Products,” and, specifically, “PCs and Notebooks” among its product offerings to clear up any confusion in this regard.



Katie Krajeck
June 11, 2014
Page 2

Although VIA believes its responses to Interrogatories Nos. 4, 10, and 11 to be adequate, in the interests of avoiding unnecessary motion practice, VIA is further supplementing to add additional computer devices to VIA's responses to Interrogatories Nos. 10 and 11. VIA is also supplementing to add Bates numbers for documents that contain information responsive to Interrogatories Nos. 4, 10, and 11 pursuant to Federal Rule of Civil Procedure 33(d). Accordingly, please find enclosed VIA's third amended responses to Interrogatories Nos. 4, 10, and 11 with this information.

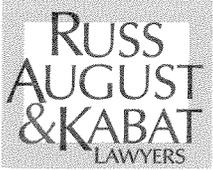
VIA'S DOCUMENT PRODUCTION

Contrary to Google's assertions, VIA has produced more than two strings of internal communications in VIA's production and the produced communications are relevant to the goods and services with which the CHROME MARKS are used.

However, since our production of May 30, 2014, we have received additional documents from VIA. The bulk of these additional documents were previously in the custody of VIA's former Senior Paralegal, Donna Lee. Unfortunately, Ms. Lee passed away unexpectedly a few years ago, and thus her files were not reviewed, and were not brought to our attention until June 6, 2014. We are producing the additional documents today that we have gathered with the Bates Nos. VIA02095-2409, 2496-2532 and VIA02542-2576. Please note that documents with the Bates Nos. VIA02095-2409 are marked CONFIDENTIAL/ATTORNEYS' EYES ONLY and should be treated as such.

We have also noticed an irregularity with the Bates numbering in our May 30, 2014 production that we are correcting in today's production. Specifically, on May 30, 2014, we produced a DVD containing, *inter alia*, documents with the Bates numbers VIA01099-VIA01911. Also, on May 30, 2014, we produced some documents by email, including a second set of documents with the Bates numbers VIA01903-VIA01911 that was sent in an email at 6:16 PM. Because we inadvertently used the Bates numbers VIA01903-VIA01911 twice, we would ask that you delete all copies in your possession of the documents bearing Bates numbers VIA01903-VIA01911 that we sent by email at 6:16 PM on May 30, 2014. These same documents are being reproduced in today's supplemental production with the following new Bates numbers: VIA02533-02541. These documents are marked CONFIDENTIAL/ATTORNEYS' EYES ONLY and should be treated as such.

Lastly, VIA's May 30, 2014 DVD production included a subfolder containing documents (some of which are duplicates of one another) without any Bates numbering. These same documents are being reproduced today (sans duplicates) with the following Bates numbers: VIA02410-2495 and VIA02577-03018.



Katie Krajeck
June 11, 2014
Page 3

PRIVILEGE LOG

Enclosed please find VIA's supplemental privilege log.

With respect to the log served on May 30, 2014, please be advised that Donna Lee was a Senior Paralegal at VIA and Claire Lin is In-House Counsel for VIA.

DEPOSITION

Please advise when you plan to conduct the deposition of VIA's 30(b)(6) witness. As we previously indicated, Mr. Ken Weng will testify on behalf of VIA and in his individual capacity for up to seven hours.

Further, please advise by Friday, June 13, 2014 whether you plan to depose Young Kwon, Miller Chen, and Jonathan Chang.

GOOGLE'S DOCUMENT PRODUCTION

Finally, your colleagues have previously indicated that Google has no documents to produce in this proceeding. Particularly, contrary to Google's repeated assertions, Google does not have any documents to support its positions that VIA consented to Google's use of the CHROME mark or VIA has abandoned the CHROME mark. Please confirm in writing by Friday, June 13, 2014 that (i) Google has no such documents to support its position; and (ii) it has no documents to produce in this proceeding.

* * *

In sum, as we have previously indicated to Google on a number of occasions, VIA has consistently worked in good faith to fully comply with its discovery obligations, including by supplementing its productions and interrogatory responses. Accordingly, we do not believe that there are grounds for a motion to compel. If, however, Google continues to believe that a motion to compel is warranted, we are generally available this week to meet and confer regarding the issues Google intends to raise in such a motion.

Sincerely,

Russ, August & Kabat

Jean Rhee

Encls. (w/ Fed. Ex. copy only)

Exhibit F

From: Nathan Meyer <nmeyer@raklaw.com>
Sent: Friday, March 06, 2015 6:51 PM
To: Givner-Forbes, Rebecca
Cc: Irene Lee; Hughes, Brendan; Champion, Morgan; Cullum, Janet
Subject: Re: Google v. VIA Technologies (CHROME) / March 16 supplemental discovery and extension

Rebecca,

Thank you for your e-mail. However, your statement of the agreement does not fully comport with what we agreed. We agreed as follows (changes from your e-mail in **bold**):

1. For each good or service identified in our meet & confer letter: (a) produce **additional** specimens **showing** continuous use in U.S. commerce from the date of the applicable statement of use to the present day; **or** (b) confirm in writing that VIA has never used the CHROME mark in connection with providing the subject good or service, or has only used it for a specific, limited time period supported by specimens showing continuous use throughout such time period, **or (c) VIA will provide neither, which Google should take as VIA's assertion that it disagrees with Google's assertion that additional evidence is required to show continuous use.**
2. For each custodian identified in our meet & confer letter: **State whether additional searches have been conducted (and produce documents), or confirm that they have not been.**
3. Identify each related company or licensee upon whose use of "CHROME" VIA relied to support its Statements of Use and Section 8 & 15 declarations. **[REMAINDER OMITTED]**
4. To the extent any information produced pursuant to items 1-3, above, is inconsistent with VIA's current written responses to Google's Interrogatories, RFAs, or RFPs, VIA will serve amended written responses. VIA will also amend its objections to Google's RFPs to accurately reflect those objections on which VIA is currently relying to withhold documents.

The remainder of your e-mail was accurate.

Thank you,

Nate

Nathan D. Meyer
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On Mar 4, 2015, at 1:34 PM, Givner-Forbes, Rebecca <rgivnerforbes@cooley.com> wrote:

Irene and Nate,

During our meet & confer last Thursday, you agreed that VIA Technologies would produce additional documents and information requested in our meet & confer letter, as follows:

1. For each good or service identified in our meet & confer letter: (a) produce specimens sufficient to show continuous use in U.S. commerce from the date of the applicable statement of use to the present day (and if VIA believes it already has produced a relevant specimen, the bates number for that specimen); **or** (b) confirm in writing that VIA has never used the CHROME mark in connection with providing the subject good or service, or has only used it for a specific, limited time period supported by specimens showing continuous use throughout such time period.
2. For each custodian identified in our meet & confer letter: (a) search the custodian's files and serve all documents and information responsive to Google's RFPs and Interrogatories, as well as a description of the search protocols, including the key words or other processes used to identify responsive documents, whether emails were searched, any date-based restrictions or other restrictions on the scope of the search, and any RFPs or Interrogatories excluded from the scope of the search; **or** (b) confirm in writing that VIA Technologies will not search such custodian's files and state the reason.
3. Identify each related company or licensee upon whose use of "CHROME" VIA relied to support its Statements of Use and Section 8 & 15 declarations. For each such corporate entity: (a) search the entity's files and servers for documents and information responsive to Google's RFPs and Interrogatories, as well as a description of the search protocols, including any key words or other processes used to identify responsive documents, whether emails were searched, any date-based restrictions or other restrictions on the scope of the search, and any RFPs or Interrogatories excluded from the scope of the search; **or** (b) confirm in writing that VIA Technologies will not search the entity's files and state the reason. If the reason is that the entity is a third party or VIA does not have control over the entity, VIA will produce documents showing adequate control over the entity's use of the CHROME mark during the relevant time period, such as a trademark license or documents establishing that the company is a "related company" within the meaning of the Trademark Act, or confirm in writing that no such documents exist.
4. To the extent any information produced pursuant to items 1-3, above, is inconsistent with VIA's current written responses to Google's Interrogatories, RFAs, or RFPs, VIA will serve amended written responses. VIA will also amend its objections to Google's RFPs to accurately reflect those objections on which VIA is currently relying to withhold documents.

During the meet & confer, we agreed that VIA would serve all of the foregoing by March 16, and we further agreed to extend deadlines by 30 days to allow time for Google to review such discovery and prepare for depositions. Accordingly, please find attached a copy of the consent motion to extend deadlines by 30 days that we filed today with the TTAB. We also agreed that, if for some reason VIA does not serve all of the above-described discovery by March 16, VIA consents to extend deadlines by another 30 days. In such case, VIA would also provide a date certain within a reasonable period of time before discovery closes for providing all of the above to Google.

If you believe our understanding is inaccurate in any way, please let us know as soon as possible.

Best regards,
Rebecca

Rebecca Givner-Forbes

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<USPTO. ESTTA. Stipulated_Consent Motion..pdf>

Exhibit G



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March 20, 2015

VIA ELECTRONIC MAIL

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*Re: Google, Inc. v. VIA Technologies, Inc.
TTAB Proceeding No. 92056816*

Dear Counsel:

I am writing to commence a meet and confer on a potential motion by VIA Technologies, Inc. (“VIA”) to amend the two registrations at issue in this cancellation proceeding pursuant TBMP Rule 514 (the subsection will depend on Google’s position). Specifically, VIA will be moving to amend its registrations as follows.

As to Registration 3,360,331 (“331 Registration”), we will be amending the dates of first use and first use in commerce from 2001 to October 1, 2005 (for both).

As to Registration 3,951,287 (“287 Registration”), we will be striking the following items: “information technology, wireless communication devices, robotics, namely the design and development of new technology in the field of robotics, flexible forward projection and creating, designing and maintaining websites.” The strikethrough version of the services listed is as follows:

“Computer services, namely, providing on-line information available on computer networks, global information networks and wireless communication networks in the fields of the design, development and customization of computer hardware, computer software, computer graphics software, ~~information technology, wireless communication devices,~~ multimedia technology, ~~robotics, namely, the design and development of new technology in the field of robotics,~~ business computing and environmentally-friendly



Cooley LLP
March 20, 2015
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computing, and specifically excluding computer games and video games, using both an interactive and non-interactive format; technical support services, namely, troubleshooting of computer hardware and software problems in person, by telephone, by electronic, computer and communications networks; provision of computer systems analysis and computer diagnostic services; design of computer hardware, integrated circuits, computer networks and communications hardware and software for others; consultancy in the field of design, development, configuration, installation, updating, upgrading or maintenance of computer software - excluding computer game and video game software; computer programming for others; research and development of 3d content, 3d technology and processes, 3d animation technology, 3d processing power, 3d techniques, ~~and flexible forward projection; creating, designing and maintaining web sites."~~

The grounds for amendment of the '331 Registration is that during the period from 2001 to 2005, VIA utilized the family of CHROME marks, including, Alpha Chrome, Delta Chrome and Gamma Chrome, but did not begin using "CHROME" as a standalone mark until October 1, 2005. The inclusion of the 2001 priority date was an inadvertent error by VIA staff in preparing the trademark application.

The grounds for amendment of the '287 Registration is that VIA erroneously included the aforementioned services as being performed under the CHROME mark. Although VIA in fact provided all of the above-described services during the relevant time frame, it turned out that such services were not provided under the CHROME mark.

Please let me know if Google is prepared to consent to the motion to amend, or whether it will be opposed. We are available to discuss in more detail early next week. If Google is going to oppose our proposed motion, or if you would like to discuss further, please advise if you are available for a meet and confer on Monday, March 23, 2015 or Wednesday, March 25, 2015.

We look forward to hearing from you soon.

Very truly yours,

Russ, August & Kabat

Nathan D. Meyer

NDM/ks

cc: Irene Y. Lee (via Electronic Mail)