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

Proceeding	92056816
Party	Plaintiff Google Inc.
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Date	07/01/2015
Attachments	P's Opposition to Motion to Quash.pdf(645116 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 QUASH

Google hereby opposes the motion of Registrant VIA Technologies, Inc. (“Registrant” or “VIA”) to quash the deposition of Miller Chen.

I. INTRODUCTION

With a potential fraud claim looming, Registrant now seeks to shield a key declarant from being deposed regarding the false representations made in the Statement of Use submitted to procure Registration No. 3,951,287 for the CHROME mark in Class 42. Registrant’s motion is yet another effort to obfuscate discovery to prevent the fraudulent nature of its filings from coming to light.

In fact, Registrant has maneuvered to shield Miller Chen’s testimony from discovery since Google first requested his contact information on July 2, 2013. Instead of disclosing that Miller Chen is Registrant’s CFO, Registrant pretended not to have any contact information for Mr. Chen. Registrant kept up this pretense until the end of March 2014, when Registrant reluctantly admitted that Mr. Chen was a current employee in response to Google’s threatened motion to compel.

Still shirking its discovery obligations, Registrant failed to disclose the fact that Miller Chen was based in its Taiwan office for another seven weeks after admitting that he was a current employee. Registrant's counsel then led Google to incorrectly believe that Registrant would make Mr. Chen available for an in-person deposition in Taipei, avoiding the need for a time-consuming deposition by written question.

Registrant's ongoing evasive discovery conduct regarding document production, however, left Google with no choice but to put off the depositions of fact witnesses while it worked to obtain documents and information needed to prepare for depositions. The proceeding was suspended for a total of nearly six months, first in response to Google's motion to compel, and then to allow a deposition by written question devoted entirely to the subject of Registrant's deficient discovery efforts.

Promptly after the resumption of the proceeding, Google pushed Registrant to search for and collect documents from Mr. Chen, as well as several other custodians inexplicably left out of Registrant's discovery efforts. Registrant waited a month and a half to decline the request. At the same time, Registrant filed a motion to amend the subject registrations. Its motion included an admission that there were materially false declarations in the Statement of Use submitted in support of Registration No. 3,951,287. Registrant's motion, however, provides no explanation for why Mr. Chen signed the declaration submitted with the Statement of Use or what he believed about Registrant's use of the CHROME mark at the time he signed it. This information is critical to the question of whether Registrant committed fraud in obtaining the registration in question.

Miller Chen is the signatory on several declarations submitted to the PTO in connection with Registrant's applications and registrations for CHROME and CHROME-formative marks.¹ Registrant insists, however, that he would have no responsive documents in his possession, and Registrant has not identified a single communication involving Mr. Chen on its privilege log. Now, bizarrely, Registrant's motion to amend the CHROME registrations omits any mention of Mr. Chen.

Registrant has attempted to keep Mr. Chen's testimony and documents from ever seeing the light of day in this proceeding, including through the instant Motion to Quash. Unfortunately for Registrant, however, there is no legal basis for quashing Mr. Chen's deposition, and Google respectfully requests that the Board allow it to proceed.

II. FACTS AND BACKGROUND

On July 2, 2013, Google served its First Set of Interrogatories on Registrant. (Declaration of Rebecca Givner-Forbes ¶ 2) ("Givner-Forbes Decl."). Interrogatory No. 27 requested "all known current and past contact information for Miller Chen, including but not limited to physical address(es), phone number(s), and email address(es)." (*Id.* ¶¶ 2-3, Ex. A.)

Instead of disclosing that Miller Chen was its Chief Financial Officer based in Taiwan, Registrant objected that the request invaded Miller Chen's "constitutionally protected right of privacy," among other objections, and provided no substantive response. (*Id.* ¶¶ 4-5, Ex. B.)

After Google secured Registrant's promise to serve complete, accurate interrogatory responses

¹ See, e.g., Prosecution File of U.S. Reg. No. 3,951,287, Doc. No. 15 (May 4, 2013) (Request for Reconsideration after Final Office Action for CHROME application); Prosecution File of U.S. Reg. No. 3,206,650, Doc. No. 26 (July 30, 2013) (Declaration of Continued Use for ALPHACHROME registration); Prosecution File of U.S. Reg. No. 3,252,281, Doc. No. 29 (May 14, 2013) (Declaration of Continued Use for GAMMA CHROME registration); Prosecution File of U.S. Reg. No. 3,139,509, Doc. No. 22 (Feb. 28, 2013) (Declaration of Continued Use for DELTACHROME (stylized) registration); Prosecution File of U.S. Ser. No. 77/552,111 Doc. No. 15 (May 4, 2010) (Request for Reconsideration after Final Action for CHROMEZONE application).

during a meet and confer, Registrant amended its response to Interrogatory No. 27 to say that “Registrant has no contact information for Miller Chen.” (*Id.* ¶¶ 6-8, Ex. C.)

There is no question that Miller Chen was serving as Registrant’s CFO at this time. On July 30, 2013, just one week before Registrant responded to Google’s Interrogatories, Miller Chen signed the Declaration of Continued Use under Section 8 for Registrant’s ALPHACHROME registration. (Prosecution File of U.S. Reg. No. 3,206,650, Doc. No. 26 (July 30, 2013).) His title is clearly identified as CFO. (*Id.*) Google was unaware of Mr. Chen’s role at the time, however, and continued to rely on Registrant to fulfill its obligations to provide truthful and accurate information in response to Google’s Interrogatories.

Google requested Miller Chen’s contact information at least three more times after Registrant claimed it did not have any: on November 6, 2013, on February 11, 2014, and on March 14, 2014. (Givner-Forbes Decl. ¶¶ 9-13, Exs. D-E.) On March 25, 2014, Google threatened to move to compel this information, along with other missing discovery. (*Id.* ¶ 15.) The following day, Registrant’s counsel wrote Google’s counsel, saying: “I can confirm that Miller Chen is a current employee and can be contacted through [my law firm].” (*Id.* ¶¶ 16-17, Ex. F.)

Six weeks after revealing that Mr. Chen is a current employee, Registrant’s counsel disclosed that Mr. Chen lives in Taipei and would need to be deposed there. (*Id.* ¶ 19.) She asked Google whether its counsel planned to fly to Taipei to depose him. (*Id.*) Importantly, Registrant’s counsel did not reveal that Registrant would only make Mr. Chen available for a deposition by written question. Google therefore was under the impression that Mr. Chen would be made available for a live deposition in Taipei. (*Id.* ¶¶ 19-20.)

On June 11, 2014, Registrant sent Google a letter giving Google just two days to confirm whether it would depose Mr. Chen. (*Id.* ¶ 22.) On the June 13 deadline unilaterally imposed by

Registrant, Google replied that “[i]n the absence of the relevant universe of responsive documents and communications, as well as complete information regarding the goods and services in connection with which VIA has used its CHROME mark, Google is not in a position to proceed with the deposition of any VIA witnesses, or to determine which witness(es) it will depose.” (*Id.* ¶ 23.) Google repeated this position in another letter sent June 20. (*Id.* ¶ 25.) In the short week between Google’s June 13 and June 20 letters, Registrant had amended its initial disclosures to reveal the existence of *four additional witnesses*, only one of which it appeared to have included at all in its document search, collection, and production efforts. (*Id.* ¶ 24; Pet’r’s Mot. to Compel, Cancellation No. 92056816 (June 24, 2014).)

On June 24, 2014, Google filed a motion to compel needed documents, as well as a 30(b)(6) witness on the topics of Registrant’s document search, collection, preservation, and production efforts, after Registrant refused to make one available. (Pet’r’s Mot. to Compel, Cancellation No. 92056816 (June 24, 2014).) On June 27, 2014, the Board suspended the proceeding. (Order, Cancellation No. 92056816 (June 27, 2015).)

After Google moved to compel, Registrant agreed to provide the requested 30(b)(6) deponent and submitted a sworn declaration to the Board from this deponent averring that Registrant had no more responsive documents to produce. (Givner-Forbes Decl. ¶¶ 26-27; Resp’t’s Opp. to Mot. to Compel, Cancellation No. 92056816 (July 9, 2014), Declaration of Inky Chen ¶ 6.) Google felt it had no choice but to withdraw its motion to compel based on Registrant’s statements. (Givner-Forbes Decl. ¶ 27.)

Google then proceeded with the deposition of the 30(b)(6) deponent, Inky Chen, by written questions. (*Id.* ¶ 28.) During the deposition, Ms. Chen revealed that Registrant had not even asked Miller Chen if he had any documents responsive to Google’s discovery requests. (*Id.* ¶¶ 28-29, Ex. G.)

The Board had suspended the proceeding pending Google's motion to compel, and suspended it again to allow time for Ms. Chen's deposition by written question. (Order, Cancellation No. 92056816 (Sept. 26, 2014).) After the proceeding resumed on February 4, 2015, Google attempted to obtain, among other discovery, documents from Miller Chen. (Givner-Forbes Decl. ¶¶ 30-32.) To this end, it engaged Registrant in at least two telephone conferences in February and March 2015. (*Id.* ¶¶ 31-32, 34.)

The end of March brought two important developments. First, Registrant told Google that it would not produce any more discovery, from which Google inferred its meet and confer efforts had failed. (*Id.* ¶ 34.) Days later, Registrant told the Board that material information in the CHROME registrations was false. (Resp't's Unconsented Mot. To Amend Registrations, Cancellation No. 92056816 (March 31, 2015).) Although the purpose of Registrant's unconsented motion to amend its registrations was to persuade the Board that it had a convenient, readily-available explanation for any inaccuracies in its registrations, a discussion of Miller Chen's role was conspicuously absent from its motion. Moreover, Registrant's statements regarding its use of the CHROME mark in connection with several of the services identified in the Class 42 Registration remained significantly overbroad, even with Registrant's proposed amendments. (Pet'r's Opp. To Unconsented Mot. To Amend Registrations, Cancellation No. 92056816 (Apr. 20, 2015).) Given that Mr. Chen was the signatory of the relevant Statement of Use for the Class 42 Registration, his testimony and documents are vital to an understanding of whether Registrant has innocently provided false information to the PTO or knowingly committed fraud.

Accordingly, these developments revealed that obtaining deposition testimony and documents from Mr. Chen was no longer optional, but imperative. After Google filed its

opposition to Registrant's Motion to Amend the Subject Registrations, as well as its own Motion for Leave to Amend its Petition to Cancel, Google turned to drafting the deposition questions for Mr. Chen, which the Trademark Rules required it to serve simultaneously with the Notice of Deposition. (Givner-Forbes Decl. ¶ 35.) Google also filed and served a motion to compel documents from Mr. Chen's custodial files, among other discovery that Registrant has concealed from Google to date. (Pet'r's Mot. to Compel, Cancellation No. 92056816 (May 28, 2015).)

Although Google would have been justified in waiting for the outcome of its Motion to Compel before deposing Mr. Chen, it decided to initiate the deposition by written question process because it knew the process would be time-consuming. Google inquired as to whether Mr. Chen might be deposed by other means (*e.g.*, in-person in Taipei or via video conference), but Registrant's counsel refused to make him available except by written question. (Givner-Forbes Decl. ¶ 36.)

Google served the Notice of Deposition of Miller Chen, as well as its written deposition questions, on May 26, 2015. (Pet'r's Notice of Deposition, Cancellation No. 92056816 (May 26, 2015).) This was seven days prior to the then-current close of discovery. Google filed its Motion to Compel on May 28, 2015, requesting a suspension of the proceeding and additional time for much-needed discovery. (Pet'r's Mot. to Compel, Cancellation No. 92056816 (May 28, 2015).)

Registrant requested that Google withdraw the Notice on the basis that the parties would not be able to complete the deposition during the discovery period, which Google refused. (Givner-Forbes Decl. ¶ 36.) On June 19, 2015, shortly after Registrant moved to quash Mr. Chen's deposition, the Board suspended the proceeding retroactive to the May 28 filing date of Google's motion to compel. (Order, Cancellation No. 92056816 (June 19, 2015).)

II. THERE IS NO LEGITIMATE BASIS TO QUASH THE DEPOSITION OF MILLER CHEN.

A party seeking to quash a deposition bears the burden of showing good cause therefor. 37 CFR § 2.120(f); TBMP § 412.06(a). Registrant has asserted that Google's Notice of Deposition by Written Question of Miller Chen is untimely because Google delayed in serving it and, as a result, the deposition cannot be taken prior to the close of discovery.

Registrant, however, knew when it filed its Motion to Quash that the Board would suspend this proceeding with discovery still open – either retroactively to the filing date of Google's Motion to Compel in accordance with 37 C.F.R. § 2.120(e)(2) or to the date of the filing of the Notice of Deposition in accordance with standard Board practice (and prior practice in this very proceeding).² Indeed, the Board has recently issued such an order.

As described below, delay is not a valid basis for a motion to quash. Even if it were a legitimate reason to quash, Registrant is clearly responsible for the very delay of which it now complains by evading its discovery obligations at every juncture.

A. The Deposition Will Be Timely Taken.

It was reasonable for Google to assume that the Board would suspend the proceeding retroactively to the filing date of its Motion to Compel and proceed with its discovery efforts based on that assumption. *See* 37 C.F.R. § 2.120(e); *Uncommon Ground, Inc. v. Uncommon Grounds Coffee & Tea, Inc.*, 1999 TTAB LEXIS 682, *4 (TTAB Nov. 29, 1999) (“the most recent amendments to the Trademark Rules, which became effective October 9, 1998, provide that when a party files a motion to compel, the case will be suspended by the Board, and the suspension operates retroactively.”). It would also have been consistent with prior practice for the Board to suspend the proceeding in response to Google's notice of a deposition by written

² *See* Order, Cancellation No. 92056816 (Sept. 26, 2014) (suspending proceeding on filing of Notice of Deposition on Written Questions of Inky Chen).

question. *See, e.g.*, Order, Cancellation No. 92056816 (Sept. 26, 2014). As such, Google had ample basis to believe that the Board would grant it time to depose Mr. Chen by written question, even though Registrant had attempted to run out the clock in an effort to avoid its discovery obligations.

The Board has repeatedly held that it is reasonable for a party to act as if a proceeding has been actually suspended upon the filing of any motion that typically results in a suspension. *See, e.g., Leeds Techs. Ltd. v. Topaz Communs., Ltd.*, 65 USPQ2D 1303, 1305-1306 (TTAB 2002) (“[s]ince the parties are presumed to know that the filing of a potentially dispositive motion will result in a suspension order, the filing of such a motion generally will provide parties with good cause” to act as if the suspension had occurred); *Build-A-Bear Workshop v. Silver Dollar City, Inc.*, 2003 TTAB LEXIS 567, *4 (TTAB Dec. 1, 2003) (same); *H.D. Hudson Mfg. Co. v. Gardens Alive, Inc.*, 1999 TTAB LEXIS 340 (TTAB July 30, 1999) (holding that “the proceedings were effectively suspended when opposer filed its motion” despite the fact that the Board neglected to ever issue a notice formally suspending the proceeding).

Significantly, while the Board has warned parties that the filing of such a motion does not *automatically* suspend the proceeding, it has never applied this technicality to the disadvantage of a party seeking legitimate discovery, only against a party abusing suspensions to avoid its discovery obligations. *Compare Super Bakery Inc. v. Benedict*, 96 USPQ2d 1134, 1135 (TTAB 2010) (the filing of a motion for summary judgment did not toll the time for the moving party to comply with the Board’s order compelling discovery) *with Phillies v. Phila. Consol. Holding Corp.*, 107 USPQ2D 2149, 2154, (TTAB 2013) (extending the discovery period to allow the moving party to carry out additional discovery even though a suspension order did not issue until after the close of discovery).

The Board has considered – and rejected – a motion to quash a deposition on written question on the basis that it could not be timely completed at least once before. In *Health-Tex Inc. v. Okabashi (U.S.) Corp.*, 18 USPQ2D 1409 (TTAB 1990), the Board admonished the party moving to quash that its “objection to the deposition on written questions on the ground of untimeliness is not well taken” in light of the Board’s “usual practice to suspend proceedings” and denied the motion. *Id.* at 1411.

Registrant’s assertion that the deposition cannot be taken prior to the close of discovery relied on the Board’s delay in issuing a suspension order. Registrant has provided no support for the proposition that this mere technicality is grounds for protective relief, especially now that the Board has issued such an order.

The absurdity of Registrant’s untimeliness argument becomes all the more obvious in light of the fact that, even if Google had noticed Miller Chen’s deposition on the *very same day* that Registrant’s counsel finally revealed he lived in Taiwan – May 16, 2014 – Google would not have had adequate time to complete a deposition by written question during the discovery period because the then-current close of discovery was June 26, 2014. In fact, even if Google had noticed Miller Chen’s deposition on the very same day that Registrant’s counsel revealed him to be a current employee who could be contacted through Registrant’s counsel of record in this proceeding – March 26, 2014 – Google could not have completed a deposition by written question prior to the close of discovery then in effect of April 27, 2014.

B. Noticing a Deposition Near the End of a Discovery Period Is Not a Valid Basis for Quashal.

The Board’s rules unambiguously state that a party’s delay in noticing a deposition is not a valid basis for moving to quash. TBMP § 412.06(a); *C.f. Marshall Field & Co. v. Mrs. Field's Cookies*, 17 USPQ2d 1652 (TTAB 1990) (eight months’ delay in noticing thirteen testimonial

depositions on written questions was not a valid basis to quash those depositions). Further, it is not unreasonable for a party to notice a discovery deposition near the end of the discovery period, as long as the other party has enough notice in advance of the deposition date to prepare for the deposition. *Duke University v. Haggard Clothing Co.*, 54 USPQ2d 1443 (TTAB 2000).

The Board has held that a 30(b)(6) deposition noticed *six days* prior to the close of discovery was reasonable “even though applicant would be required to obtain and prepare the appropriate witness(es) to appear pursuant to Rule 30(b)(6) during this time.” *Esurance Inc. v. Stamps.com Inc.*, 2001 TTAB LEXIS 777, *2 (TTAB Oct. 30, 2001). Here, Google noticed the deposition of Miller Chen *seven days* prior to the close of discovery and before the filing of a motion to compel, which suspended the entire proceeding except for previously served discovery and noticed depositions. Registrant has now been in possession of Google’s direct examination questions for well over a month. There is no concern here that Registrant does not have adequate notice or time to prepare for the deposition.

C. Delay in Noticing a Deposition Is Not a Valid Basis for Quashal.

As noted above, delay alone is an insufficient basis for a motion to quash. This argument is particularly inappropriate here because Registrant is responsible for any delay. Registrant waited nearly nine months after Google first asked for Mr. Chen’s contact information to disclose that he was a current employee and another seven weeks to reveal that he lived in Taipei. Even then, Registrant’s counsel suggested that Mr. Chen could be deposed in person by Google’s counsel in Taiwan.

It took another six months after that belated disclosure for Registrant to confirm that Mr. Chen was never even asked if he might be in possession of documents responsive to Google’s production requests. After Google requested that Registrant at least search Mr. Chen’s custodial

files for responsive, non-privileged documents, Registrant took another month and a half to summarily reject Google's reasonable request.

On March 31, 2015, Registrant moved the Board to amend the CHROME registrations. The deposition of Mr. Chen took on much greater significance at that time, given Registrant's admissions in its motion. Registrant not only admitted that the Statement of Use Mr. Chen signed contained materially false declarations, but made alarmingly inconsistent representations regarding the extent of such falsity.³ Moreover, Registrant offered absolutely no representations regarding Mr. Chen's role as the signatory of the Statement of Use in question.

Registrant's motion thus represents another in a long line of its attempts to shield Mr. Chen from any kind of discovery in this proceeding. Registrant first hid Mr. Chen's employment, and then refused to search, or even ask Mr. Chen to search, for responsive documents. Registrant identified no communications to or from Mr. Chen on its privilege log. Finally, Registrant did not even mention Mr. Chen's name one time in its meager explanation to the Board as to why Mr. Chen's verified declaration had been submitted to the PTO with materially false information.

Google, on the other hand, has promptly responded to these latest maneuvers. After Registrant filed its motion on March 31, 2015, Google set to preparing (1) a motion for leave to amend its petition to cancel to add a claim of fraud; (2) a motion to compel; (3) an opposition to Registrant's motion to amend its registration (pointing out how bizarre and inconsistent Registrant's representations regarding use remained); (4) Requests for Admissions focused on identifying with specificity the goods and services with which Registrant had used its marks, in light of its recent, inconsistent representations; and (5) direct examination questions for Miller Chen's deposition, which the Board's rules required Google to serve at the same time as the

³ See Pet'r's Opp. To Resp't's Unconsented Mot. To Amend the Registrations.

deposition notice. Google completed and served all of these papers promptly within two months, prior to the close of discovery.

Registrant's assertions of untimeliness not only provide a legally insufficient basis to move to quash, but reveal an obvious strategy of trying to avoid discovery by running out the clock. Registrant thus lacks any good cause to support its motion.

IV. CONCLUSION

Registrant has provided no valid basis for quashing the deposition of Miller Chen. Accordingly, the Board should deny the Motion to Quash and permit Google adequate time to complete the deposition by written question of Miller Chen.

Respectfully submitted,

Date: July 1, 2015

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **OPPOSITION TO MOTION TO QUASH**, along with a true and correct copy of the supporting declaration of 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 Registrant's address of record:

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**DECLARATION OF REBECCA GIVNER-FORBES IN SUPPORT OF
GOOGLE’S OPPOSITION TO REGISTRANT’S MOTION TO QUASH**

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 Opposition to Registrant’s Motion to Quash.

2. Google propounded its First Set of Special Interrogatories on Registrant on July 2, 2013. Interrogatory No. 27 requested “all known current and past contact information for Miller Chen, including but not limited to physical address(es), phone number(s), and email address(es).”

3. Attached hereto as Exhibit A is a true and correct copy of Interrogatory No. 27.

4. Registrant served its responses to Google Interrogatories on August 6, 2013. It objected to Interrogatory No. 27 and provided no substantive response.

5. Attached hereto as Exhibit B is a true and correct copy of Registrant’s response to Google’s Interrogatory No. 27.

6. On August 26, 2013, Mr. Jeffrey Norberg, a former associate at Cooley LLP, and Mr. Robert Gookin, counsel for Registrant, met and conferred. Mr. Gookin agreed that Registrant would submit amended responses to Google's Interrogatories, using its best efforts to answer each question as fully and accurately as possible.

7. On September 9, 2013, Registrant served its First Amended Responses to Google's Interrogatories. Its response to Interrogatory No. 27 was changed to read "Registrant has no contact information for Miller Chen."

8. Attached hereto as Exhibit C is a true and correct copy of Registrant's First Amended Response to Google's Interrogatory No. 27.

9. On November 6, 2013, Mr. Norberg met and conferred by telephone with Mr. Gookin regarding, among other things, Registrant's responses to Google's Interrogatories. Mr. Norberg requested that Registrant provide *any* current or past contact information it had for Miller Chen in response to Interrogatory No. 27, including Registrant's *last known* contact information for Miller Chen. Mr. Gookin said he would ask his client for this and respond to Mr. Norberg at the end of the following week.

10. On February 11, 2014, Mr. Norberg wrote to Mr. Gookin noting that Registrant had not yet provided any contact information for Miller Chen as promised during the parties' November 2013 meet and confer.

11. Attached hereto as Exhibit D is a true and correct copy of the letter Mr. Norberg sent to Mr. Gookin on February 11, 2014.

12. On March 14, 2014, Ms. Katie Krajeck, a former associate at Cooley LLP, wrote to Mr. Gookin stating that Registrant had yet to provide the contact information requested by Interrogatory No. 27, among other discovery.

13. Attached hereto as Exhibit E is a true and correct copy of the letter Ms. Krajeck sent to Mr. Gookin on March 14, 2014.

14. On March 19, 2014, Mr. Gookin responded to Ms. Krajeck with a brief letter, but provided no contact information for Miller Chen.

15. On March 25, 2014, Ms. Krajeck wrote to Mr. Gookin noting that Registrant had yet to address the deficiencies outlined in her March 14, 2014 letter and Mr. Norberg's February 11, 2014 letter. Ms. Krajeck's letter stated that Google would move to compel unless Registrant rectified its deficiencies.

16. On March 26, 2014, Mr. Gookin wrote to Ms. Krajeck stating that "...with respect to Interrogatory No. 27, I can confirm that Miller Chen is a VIA employee and can be contacted through [Mr. Gookin's law firm]."

17. Attached hereto as Exhibit F is a true and correct copy of the letter Mr. Gookin sent Ms. Krajeck on March 26, 2014.

18. At the time Mr. Gookin revealed that Miller Chen was a current employee of Registrant's and could be contacted through Mr. Gookin himself, there was only one month and one day remaining in the discovery period then in effect. Mr. Gookin said nothing about Google needing to complete a deposition on written questions within that period of time.

19. On May 16, 2014, Ms. Krajeck met and conferred via telephone with Ms. Irene Lee, counsel for Registrant. Ms. Lee disclosed that Miller Chen lived in Taipei and would need to be deposed there. She said that Mr. Chen had not yet provided any dates when he would be available for a deposition. She asked if Ms. Krajeck was planning to fly to Taipei to depose him. Ms. Krajeck told Ms. Lee she would need to know Mr. Chen's availability and would need to confer with her client. Ms. Lee discouraged Ms. Krajeck from deposing Mr. Chen by telling her

that Mr. Chen “doesn’t know anything,” and a deposition “would not be worthwhile.”

20. On May 17 and May 23, 2014, Ms. Lee asked Ms. Krajeck how Google planned to proceed with Mr. Chen’s deposition, again implying that how to depose Mr. Chen was *Google’s choice*. In neither of these communications did Ms. Lee suggest Mr. Chen would be available for a deposition by written question only.

21. As of May 16, 2014, the then-current close of discovery in this proceeding was June 26, 2014. Thus, even if Google had noticed Miller Chen’s deposition the same day that it found out that Miller Chen worked in Registrant’s Taiwan office, it would not have had adequate time to complete a deposition by written question.

22. On June 11, 2014, Ms. Jean Rhee, counsel for Registrant, wrote Ms. Katie Krajeck and requested that, among other things, Google confirm by June 13, 2014 whether it planned to depose Miller Chen.

23. On June 13, 2014, Ms. Krajeck responded to Ms. Rhee in a letter describing Registrant’s ongoing deficiencies in its document production and noting that “In the absence of the relevant universe of responsive documents and communications, as well as complete information regarding the goods and services in connection with which VIA has used its CHROME mark, Google is not in a position to proceed with the deposition of any VIA witnesses, or to determine which witness(es) it will depose.”

24. On June 17, 2014, Registrant served amended initial disclosures in which it revealed four additional witnesses. None of these was Miller Chen.

25. On June 20, 2014, Ms. Krajeck sent Ms. Rhee a letter stating that Google fully intends to depose all relevant witnesses, but only after it is assured that such persons have been identified and the relevant universe of documents have been produced.

26. Following Google's filing of its Motion to Compel on June 24, 2014, Registrant offered to provide Inky Chen as a 30(b)(6) witness regarding Registrant's document search, collection, review and production efforts in an effort to resolve the parties' dispute. Registrant refused Google's request to make Ms. Chen available for deposition in person or by video conference, however.

27. On July 9, 2014, Registrant opposed Google's Motion to Compel. Inky Chen, Registrant's in-house legal specialist, stated in a sworn declaration that she did not believe Registrant had any additional documents to produce. Based on this declaration and Registrant's agreement that Google could depose Ms. Chen as the 30(b)(6) witness requested by the Motion to Compel, as well as another fact witness in Registrant's California office, Google withdrew its Motion to Compel on July 28, 2014.

28. After Google withdrew its Motion to Compel, Google prepared written direct, re-direct, and substitute deposition questions for the 30(b)(6) deposition of Inky Chen. Throughout late summer and fall of 2014, Registrant and Google engaged in meet & confers and exchanged correspondence regarding the parties' deposition questions and various objections thereto. Following this months-long process of finalizing deposition questions, Google deposed Inky Chen in Taipei, Taiwan on November 25, 2014.

29. Attached hereto as Exhibit G is a relevant excerpt of the deposition testimony of Inky Chen in which she confirms that no one asked Miller Chen if he had any documents responsive to Google's document requests.

30. On February 4, 2015, the Board resumed the proceeding. On February 13, 2015, Mr. Brendan Hughes, a partner at Cooley LLP, wrote a letter to Ms. Lee requesting, among other things, that Registrant search for and produce documents from Miller Chen.

31. On or around February 19, 2015, Ms. Morgan Champion, an associate at Cooley LLP, and I met and conferred with Ms. Lee regarding the topics raised in Mr. Hughes' February 13 correspondence. Ms. Lee informed us that she had not yet had a chance to discuss this letter with her client and so we would need to reschedule our meet and confer.

32. On or around February 26, 2015, Ms. Champion and I met and conferred via telephone with Ms. Lee and Mr. Nathan Meyer, counsel for Registrant. Among other topics, Ms. Champion and I requested that Registrant conduct searches and produce documents from all such persons identified in Mr. Hughes's letter, including but not limited to Miller Chen. Ms. Lee and Mr. Meyer confirmed that Registrant would either search the files of and collect documents from such custodians or would affirmatively confirm that it would not do so by March 16, 2015.

33. On March 16, 2015, Registrant served some documents and amended its responses to Google's Interrogatories for the fifth time, but did not provide any information regarding whether it would search for and produce documents from Miller Chen or any of the other specific custodians identified in Mr. Hughes's letter. Registrant's counsel stated in an email sent that day that Registrant may make one additional production of documents, but would not thereafter produce any additional documents. Registrant made this additional production on March 23, 2015.

34. On March 27, 2015, Mr. Hughes and I met and conferred with Ms. Lee and Mr. Meyer. We informed Registrant's counsel that Registrant's production had failed to address the deficiencies identified in our February 13 letter and discussed during our February 26 meet and confer. Registrant did not agree to undertake any effort to rectify the remaining deficiencies.

35. On March 31, 2015 Registrant filed an Unconsented Motion to Amend the Registrations. Google thereafter turned to drafting (1) its Opposition to Registrant's Motion, which it filed April 20, 2015, (2) a Motion for Leave to Amend its Petition to Cancel, as well as a Reply in support thereof, which it filed April 21, 2015 and June 1, 2015, respectively, (3) written deposition questions for Miller Chen, which it served on May 26, 2015, (4) Requests for Admissions, which it served May 26, 2015, and (5) a Motion to Compel, which it filed May 28, 2015.

36. On June 8 and 9, 2015, Registrant requested that Google withdraw the Notice of Deposition of Miller Chen on the grounds that the parties would not be able to complete the deposition during the discovery period, which Google declined to do. Google's counsel inquired as to whether Miller Chen might be deposed by other means, but Registrant's counsel refused to make him available except by written questions. In turning down Google's request that Mr. Chen appear for a deposition by video conference, Registrant's counsel explained only that Mr. Chen had "rights to appear for a deposition by written question [because] he works and resides in Taiwan," and that Registrant would not "waive Mr. Chen's rights."

Date: July 1, 2015

/Rebecca Givner-Forbes/
Rebecca Givner-Forbes
COOLEY LLP
1299 Pennsylvania Avenue, NW, Suite 700
Washington, DC 20004
Tel: 202-776-2382
Email: rgivnerforbes@cooley.com

Exhibit A

INTERROGATORY NO. 27:

Provide all known current and past contact information for Miller Chen, including but not limited to physical address(es), phone number(s), and e-mail address(es).

COOLEY LLP
JANET L. CULLUM
ANNE H. PECK
JEFFREY NORBERG

Date: July 2, 2013

By: /s/ Jeffrey Norberg
Jeffrey Norberg
Attorneys for Petitioner Google, Inc.

Exhibit B

INTERROGATORY NO. 25:

Provide all known current and past contact information for Ken Weng, including but not limited to physical address(es), phone number(s), and e-mail address(es).

RESPONSE TO INTERROGATORY NO. 25

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. Registrant further objects further objects to this Interrogatory to the extent it invades any constitutionally protected right of privacy.

INTERROGATORY NO. 26:

Provide all known current and past contact information for Jonathan Chang, including but not limited to physical address(es), phone number(s), and e-mail address(es).

RESPONSE TO INTERROGATORY NO. 26

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. Registrant further objects further objects to this Interrogatory to the extent it invades any constitutionally protected right of privacy.

INTERROGATORY NO. 27:

Provide all known current and past contact information for Miller Chen, including but not limited to physical address(es), phone number(s), and e-mail address(es).

RESPONSE TO INTERROGATORY NO. 27

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. Registrant further objects further objects to this Interrogatory to the extent it invades any constitutionally protected right of privacy.

Dated: August 6, 2013

Respectfully submitted,

/s/ Robert F. Gookin

Robert F. Gookin
RUSS, AUGUST & KABAT
Twelfth Floor
12424 Wilshire Boulevard
Los Angeles, California 90025
Telephone: (310) 826-7474
Facsimile: (310) 826-6991

*Attorneys for Registrant
VIA Technologies, Inc.*

Exhibit C

it invades any constitutionally protected right of privacy.

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

Registrant has no contact information for Jonathon Chang.

INTERROGATORY NO. 27:

Provide all known current and past contact information for Miller Chen, including but not limited to physical address(es), phone number(s), and e-mail address(es).

RESPONSE TO INTERROGATORY NO. 27

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. Registrant further objects further objects to this Interrogatory to the extent it invades any constitutionally protected right of privacy.

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

Registrant has no contact information for Miller Chen.

Dated: September 9, 2013

/s/ Robert F. Gookin

Robert F. Gookin
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12424 Wilshire Boulevard
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*Attorneys for Registrant
VIA Technologies, Inc.*

Exhibit D



Jeffrey T. Norberg
T: +1 415 693 2089
jnorberg@cooley.com

VIA EMAIL

February 11, 2014

Robert Gookin
Russ August & Kabat
12424 Wilshire Boulevard, 12th Floor
Los Angeles, CA 90025

RE: Via's Discovery Response Deficiencies
Google Inc. v. VIA Technologies, Inc., Cancellation No. 92056816

Dear Robert:

I write regarding continued deficiencies in the responses by Via Technologies, Inc. ("Via") to Google's discovery requests.

Document Requests

Via's document production remains incomplete despite months of efforts by Google to obtain a complete production. During our meet and confer calls in August and November last year, Via represented that it would be gathering and producing additional documents to remedy the deficiencies Google raised in correspondence and during those calls. Via later made small productions in December and February, neither of which resolved the issues raised by Google.

To date, Via has produced a mere 735 pages consisting primarily of photographs and web screenshots, most of which appear to have been generated solely for use in this litigation. Since Via has claimed that it used the CHROME mark since 2001, it strains credulity that Via has only been able to produce this small volume of documents.

In particular, the document productions are obviously incomplete relative to e-mails. Via has either failed to conduct an adequate search for e-mail or failed to institute an appropriate litigation hold to preserve records. Via's document production contains only a small number of internal communications regarding this dispute, even though the dispute has been outstanding between the parties for many years, and no communications regarding the use of the CHROME mark in connection with any specific products despite Via's position that it has used the mark for many years (Requests for Production 6, 12-15 and 20-22). We would expect that Via's documents would include, for example, communications relating to Via's decision to add the "Chrome" label that appears on some (but not all) of the Artigo products depicted on Via's website and in its document production. Via's production contained no such documents. Rather, Via's most recent production contains only a few internal communications, most of which appear to be the communications from the Taiwanese dispute, which were apparently kept in hard copy.



Robert Gookin
February 11, 2014
Page Two

Moreover, none of the documents produced by Via appear to have come from any systematic collection and review of e-mail or other documents. Please confirm whether Via has engaged in the required systematic search of e-mail and back up repositories of emails and other documents (i.e. using keyword searches). Please also confirm that Via has preserved emails and other documents relating to this dispute and, if you cannot make that representation, then please provide a detailed account of why such materials were not preserved.

Via has also failed to produce any documents relating to the selection and development of the CHROME mark (Request No. 3), and Via's production also lacks any documents relating to the target markets of any products bearing a CHROME mark (Request Nos. 28 and 29). Given Via's claim to use of the mark, and given the time that Via has allegedly been offering products under the CHROME mark, Via cannot legitimately claim that no such documents were generated at any time.

Privilege Log

Via has also failed to provide a privilege log. During our prior meet and confer calls, you mentioned that you believed that many of the documents sought by Google are likely privileged. To the extent Via is withholding any documents based on a claim of privilege, it must immediately provide a privilege log to support such claim.

Interrogatories

Via has also failed to provide complete information in response to Interrogatories 10 and 11 (relating to the products on which Via has allegedly used the CHROME mark), and 25-27 (which seek the *last known* contact information for certain former Via employees). During our call in November, you told me that you would confer with your client and get back to me on this obviously relevant information. Please let me know if Via will be providing supplemental responses, or if we will need to seek an order compelling these responses.

After months of meet and confer efforts, we are now just 15 days from the close of discovery in this case, and Via has yet to comply with its discovery obligations. Via's failure to provide complete responses is creating needless expense for both sides, and will likely necessitate a further extension of the schedule. Please let me know your availability for a meet and confer call to discuss these issues no later than tomorrow (Wednesday).

Sincerely,

Cooley LLP

/s/ Jeffrey T. Norberg

cc: Irene Lee

Exhibit E



Katie M. Krajcek
T +1 858 550 6123
kkrajcek@cooley.com

BY EMAIL

March 14, 2014

Robert Gookin
Russ August & Kabat
12424 Wilshire Boulevard, 12th Floor
Los Angeles, CA 90025

**RE: VIA's Ongoing Discovery Response Deficiencies
Google Inc. v. VIA Technologies, Inc., Cancellation No. 92056816**

Dear Robert:

I write on behalf of Petitioner Google Inc. ("Google") regarding the discovery deficiencies of VIA Technologies, Inc. ("VIA"), and as a follow-up to our February 11, 2014 letter to you and the meet-and-confer telephone conversation on February 12, 2014.

VIA's Failure to Produce Documents

In your February 15, 2014 email, you indicated that your client is "continuing their search for responsive documents." However, nearly four weeks have now elapsed and VIA has failed to produce any additional documents.

VIA's ongoing discovery deficiencies are inexcusable. As set forth in our February 11, 2014 letter, VIA's prior document production is wholly deficient. In particular, despite agreeing to produce documents and communications: (1) referring to or evidencing the origination, selection and development of VIA's CHROME marks; (2) referring to the use or planned use of these marks; and (3) addressing VIA's target market for products bearing the CHROME Marks, VIA has produced no responsive internal email correspondence.

During the parties' meet-and-confer, you indicated that VIA is relying in large part on a self-directed document search process. You failed, however, to confirm whether VIA has performed the required systematic search of its email servers and electronic databases, to detail any collection efforts that VIA has undertaken, or to indicate what, if any, search terms VIA has run across its electronically-stored information.

In light of VIA's failure to produce the requested documents and communications, Google is very concerned that VIA has either failed to perform the required searches (including searches of its electronic files and email servers) or that VIA has spoliated relevant evidence. At the very least, VIA's continued failure to produce any of these requested documents and communications is at odds with its claim of continuous use of the CHROME mark for over a decade.

As you are well aware, documents demonstrating VIA's use of the CHROME marks are vital



Robert Gookin
March 14, 2014
Page Two

components of discovery in this Cancellation Proceeding. In the absence of any immediate action on the part of VIA, Google will be left with no choice but to move the Board to compel this key discovery.

VIA's Failure to Produce a Privilege Log

During the meet-and-confer on February 12, you acknowledged that VIA is in the possession of privileged documents, including emails, between VIA and your firm that are responsive to Google's document requests. Nonetheless, VIA has also failed to produce a privilege log of these communications. In the absence of VIA's prompt production of a log of documents withheld on the basis of applicable privileges, Google intends to move to compel production of these documents.

VIA's Failure to Provide Complete Interrogatory Responses

Finally, despite assurances during the meet-and-confer that information was forthcoming, VIA has still failed to provide complete responses to Google's Interrogatories 10 and 11 (relating to the particular products on which VIA has allegedly used the CHROME marks) and 25-27 (seeking last known information for certain former employees). Unless this information is provided in the timeframe set forth below, Google intends to file a motion to compel complete responses to these interrogatories.

Depositions

Accompanying this letter, under separate cover, are discovery deposition notices for Ken Weng and Young Kwan, as well as a 30(b)(6) notice to VIA. While Google is willing to work with you to schedule these depositions, Google requires that all responsive documents, as well as a complete privilege log, be produced well in advance of each deposition.

Accordingly, we hereby request that by Friday, March 21, 2014 you: (1) produce all responsive, non-privileged documents and communications within VIA's possession, custody or control; (2) provide a privilege log identifying each document that you assert is protected by the attorney-client privilege or work product doctrine, including an explanation of the basis for the privilege claim for each document; and (3) provide complete interrogatory responses. Please confirm that you will do so.

In sum, while we would of course prefer to move the discovery process forward without putting these matters before the Board, VIA's continued failure to comply with the rules of discovery will leave us with no option but to file a motion to compel and request sanctions.

Sincerely,

A handwritten signature in black ink that reads "Katie Krajeck".

Katie Krajeck



Robert Gookin
March 14, 2014
Page Three

cc: Irene Lee
Counsel for VIA Technologies, Inc.

Janet L. Cullum
Brendan J. Hughes
Counsel for Google Inc.

Exhibit F



12424
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March 26, 2014

Via Email

Katie Krajeck
Cooley LLP
4401 Eastgate Mall
San Diego, CA 92121

Re: Google/VIA: TTAB Proceeding No. 92056816

Dear Ms. Krajeck:

I am writing in response to your March 25, 2014 letter.

As a threshold matter, and as I discussed on a number of occasions with Jeff Norberg, the fact that VIA is based in Taipei, with an American base of operations in San Jose, has made the discovery process in this proceeding unusually difficult and cumbersome. VIA's investigations and productions need to be coordinated on two continents and are further complicated by language barriers. In spite of that, and in direct contrast to the assertions in your letter, VIA has diligently complied with its discovery obligations and will continue to do so.

With respect to the specific assertions in your letter, your assertion that VIA's most recent production "consists almost wholly of third-party website screenshots" is simply incorrect. Contrary to that assertion, the bulk of those documents are confidential internal VIA documents that clearly establish VIA's strategic partnerships with some of the largest computer manufacturers in the world, including but not limited to Fujitsu, HP, IBM, Sony, Toshiba, Dell, Sharp, Samsung and Lenovo. In fact, based on those documents, which we only just received, we have instructed our client to undertake additional investigation with respect to those corporate partners and are confident that VIA will discover and produce additional responsive documents prior to the discovery cut off.

Please be advised that I have attached VIA's privilege log to this email.

With respect to VIA's responses to Google's Interrogatories, pursuant to your March 14, 2014 letter, there appear to be four interrogatories at issue: Numbers 10, 11, 26 and 27. Interrogatories 10 and 11 seek information regarding "any personal computer, desktop computer, portable computer, notebook computer, laptop computer, or any other computer device: on which the CHROME Marks are currently being used, or on which they have been used within the past four years. As set forth above, we continue to investigate the broad scope of VIA's strategic partnerships and are working to create a comprehensive list of computers and "computing devices," including model numbers, in response to those interrogatories. Be advised that we will amend our earlier response as soon as that information has been compiled. With



Katie Krajeck
March 26, 2014
Page 2

respect to Interrogatory No. 26, I can confirm that Jonathon Chang is a VIA employee who is currently on a leave of absence. Accordingly, Mr. Chang can be contacted through RAK. And finally with respect to Interrogatory No. 27, I can confirm that Miller Chen is a VIA employee and can be contacted through RAK.

Accordingly, and consistent with VIA's good faith efforts to comply with its discovery obligations and resolve any purported differences with Google, we do not believe that Google has any good faith basis to proceed with the threatened motion to compel at this time and we will so advise the Board if you decide to move to compel. *See, e.g., Hot Tamale Mama...and More, LLC v. SF Investments, Inc., Opposition No. 91209030 (March 20, 2014).*

While your March 25, 2014 letter does not address schedule of the upcoming depositions, we have spoken with our client and are attempting to clear dates for those depositions, as well as to determine the identity and location of VIA's 30(b)(6) deponent(s). That said, please be advised that Ken Weng has substantial duties with respect to VIA's tax reporting and, as such, will not be available on April 16, 2014, as noticed. Mr. Weng has indicated that the earliest he can be available is the last week in April or the first week in May. I will advise further as soon as we obtain additional information.

In light of all the above, and in order to avoid burdening the Board with an unnecessary Motion to Compel, VIA would suggest that the Parties request a continuance of all deadlines by 30 days, which extension will hopefully obviate the issues raised in your letters and allow the process to proceed smoothly and efficiently. Please advise if Google agrees to request that extension and VIA will prepare and file a consented motion with the Board.

As always, please feel free to contact me if you have any questions.

Sincerely,

Russ, August & Kabat

A handwritten signature in black ink, appearing to read 'Bob F. Gookin'.

Robert F. Gookin

RFJ/jm

Enclosure.

cc: Irene Lee, Esq.

Exhibit G



Transcript of **CHI-YING (INKY) CHEN**

Date: November 25, 2014

Case: GOOGLE v. VIA TECHNOLOGIES

Planet Depos Asia
Phone: 888-433-3767
Fax: 888-503-3767
Email: transcripts@planetdepos.com
Internet: www.planetdepos.com/asia

Court Reporting | Videography | Videoconferencing | Interpretation | Transcription

1	so, who?	13:23:35
2	MS. LEE: Objection. Compound.	13:23:48
3	THE WITNESS: Jonathan Chang did not	13:23:53
4	respond to any of VIA's efforts to contact him	13:23:55
5	regarding these proceedings. However, he would not	13:23:58
6	have any documents responsive to Google's document	13:24:01
7	requests. He's a very high level executive.	13:24:04
8	Although his name may appear on some paperwork, he	13:24:09
9	never directly worked on any CHROME-related	13:24:12
10	operations.	13:24:17
11	Q. Question 307: Is VIA in possession of	13:24:18
12	Mr. Chang's custodial files from his employment with	13:24:26
13	VIA?	13:24:32
14	MS. LEE: Objection. Vague as to the term	13:24:37
15	"custodial files."	13:24:39
16	THE WITNESS: Yes.	13:24:43
17	Q. Question 308: Did anyone ask Miller Chen	13:24:45
18	if he possesses documents responsive to Google's	13:24:50
19	Requests for Production of Documents? If so, who?	13:24:54
20	MS. LEE: Objection. Compound.	13:25:08
21	THE WITNESS: No, because Miller Chen would	13:25:13
22	not have any documents responsive to Google's	13:25:15
23	document requests. He's the CFO of VIA-Taiwan.	13:25:18
24	Although his name may appear on some paperwork, he	13:25:23
25	never directly worked on any CHROME-related	13:25:28

1	operations -- operations.	13:25:33
2	Q. Question 311: Is VIA in possession of	13:25:35
3	Mr. Chen's custodial files from his employment with	13:25:40
4	VIA?	13:25:44
5	MS. LEE: Objection. Vague as to	13:25:54
6	"custodial files."	13:25:55
7	THE WITNESS: Yes.	13:26:00
8	Q. Question 312. Looking at Exhibit 5, what	13:26:02
9	steps did VIA take to search for and collect	13:26:08
10	documents responsive to Google's Request for	13:26:11
11	Production Number 33?	13:26:17
12	A. This request asks for documents sufficient	13:26:43
13	to show sales in the U.S. by volume and dollars	13:26:44
14	amount of all products, all services relating to	13:26:49
15	CHROME, but VIA does not maintain such documents in	13:26:54
16	its normal course of business. VIA did create and	13:26:57
17	produce documents sufficient to show sales of certain	13:27:01
18	CHROME products over -- over certain time frames.	13:27:04
19	Q. Question 313: Looking at Exhibit 5, what	13:27:08
20	steps did VIA take to search for and collect	13:27:12
21	documents responsive to Google's Request for	13:27:16
22	Production Number 30?	13:27:22
23	A. VIA does not maintain any summary lists of	13:27:29
24	all purchasers and users of CHROME products and	13:27:40
25	services in the normal course of its business.	13:27:44