

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

AARON C. BORING and CHRISTINE BORING, )  
husband and wife respectively, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
GOOGLE INC., a Delaware corporation, )  
 )  
Defendant. )

Civil Action No. 08-cv-694 (CB)

**RENEWED<sup>1</sup> MOTION OF  
DEFENDANT GOOGLE INC.  
FOR PROTECTIVE ORDER,  
ATTORNEYS' FEES AND  
COSTS**

Upon its Memorandum of Law, dated November 4, 2010, the Declaration of Joshua A. Plaut, dated November 4, 2010 and the Exhibits thereto, its proposed order, and upon all other papers and proceedings had herein, defendant Google Inc., by and through its undersigned counsel, hereby moves this Court, pursuant to Federal Rules 26(b)(2)(A), 26(c)(1)(A),(D), 26(c)(2)(3), 37(a)(5) and 28 U.S.C. § 1927, for an Order: (i) relieving Google of any obligation to respond in any way to plaintiffs' First Set of Requests for Admission which were served on Google on April 2, 2010 ("Requests"), (ii) prohibiting plaintiffs from serving any requests for admissions in this action, or in the alternative providing that if at the upcoming status conference, the Court determines that it is appropriate for plaintiffs to proceed with discovery and that service of requests for admission by plaintiffs is also appropriate, then such requests shall be limited to no more than 30 in number (without subparts) and that such requests shall be addressed solely to the following factual issues, which are the only issues that remain in this action: (a) whether a driver acting on Google's behalf entered plaintiffs' property without license on or about August 5, 2007; (b) the condition of Oakridge Lane and plaintiffs' property on the day of the alleged entry; (c) the local custom

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<sup>1</sup> Google's original motion for a protective order, attorneys' fees and costs and supporting papers were filed and served on May 13, 2010, *see* Docket Nos. 79-83, and were denied as moot and without prejudice to re-file in light of the stay of this action granted at plaintiffs' request, *see* Docket No. 98. Google respectfully renews its motion in light of the Court's lifting of the stay. *See* Docket No. 103.

concerning driving on private roads and turning around in private driveways; and (d) any damages suffered by plaintiffs proximately caused by the alleged entry; and (iii) requiring plaintiffs and their attorneys to reimburse Google for its attorneys' fees and other costs incurred to date in connection with the Requests.

Google seeks this relief because the Requests are unduly burdensome, abusive of the discovery process, and otherwise improper. The total number of Requests propounded — 284 — is presumptively unreasonable given the narrow scope of this action. Furthermore, at least 226 of the 284 Requests are otherwise improper because they are duplicative, argumentative, speculative, irrelevant, or concern pure issues of law.

Pursuant to Local Civil Rules 5.4(B) and 37.2, a copy of the Requests is attached hereto as Exhibit A.

Pursuant to Federal Rule 26(c)(1) and section III.B.3 of this Court's Practices and Procedures, the undersigned counsel hereby certifies that prior to bringing this motion, they conferred with plaintiffs' counsel in good faith for the purpose of attempting to resolve this discovery dispute without court action and that such good-faith efforts have proven unsuccessful. The undersigned counsel further certifies that on May 4, 2010 (nine days prior to the filing of Google's original motion for a protective order, attorneys' fees and costs), the parties appeared telephonically at a Court conference as directed by the Honorable Amy Reynolds Hay, but that conference failed to resolve the present discovery dispute. *See* Docket No. 75.

Respectfully submitted,

Dated: November 4, 2010

s/ Tonia Ouellette Klausner

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*Attorneys for Defendant Google Inc.*

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 4th day of November 2010, I caused (1) **DEFENDANT GOOGLE INC.'S RENEWED MOTION FOR PROTECTIVE ORDER, ATTORNEYS' FEES AND COSTS** and the **EXHIBIT THERETO**, (2) **THE DECLARATION OF JOSHUA A. PLAUT, EXECUTED NOVEMBER 4, 2010** and the **EXHIBITS THERETO**, (3) the **MEMORANDUM OF LAW IN SUPPORT OF GOOGLE INC.'S RENEWED MOTION FOR PROTECTIVE ORDER, ATTORNEYS' FEES AND COSTS**, and (4) **GOOGLE INC.'S PROPOSED ORDER** to be served on the below-identified counsel for the Plaintiffs via ECF:

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Dated: November 4, 2010

s/ Tonia Ouellette Klausner

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