

Google EX1018, p. 001

Pursuant to Rules 26 and 36 of the Federal Rules of Civil Procedure, Defendant Google LLC (“Google”), by and through its undersigned counsel, hereby submits its objections and responses to Plaintiff DDC Technology, LLC’s (“DDC”) First Set of Requests for Admission to Defendant Google LLC.

These responses are based on information currently known and available to Google. Google reserves the right to supplement its responses as further information is obtained in accordance with the Federal Rules of Civil Procedure, but does not acknowledge any duty to supplement beyond the applicable rules. By providing these responses, Google does not waive any objection to admission of these responses, in whole or in part. Information provided in response to any request does not constitute an admission as to the admissibility or relevance of that information. Google provides these written responses to DDC’s requests subject to the objections stated below.

OBJECTIONS TO DEFINITIONS

1. Google objects to the definition of “Defendant” as vague, ambiguous, overly broad, unduly burdensome, not proportional to the needs of the case, and invasive of the attorney-client and attorney-work-product privileges and protections, to the extent that the definition includes counsel. Google further objects to the definition, to the extent that the definition fails to recognize that actions taken by past or current employees outside the scope of their employment and/or actions taken without Google’s knowledge are not attributable to Google. Google objects to the definition to the extent it includes any entity besides Defendant Google LLC, including but not limited to companies that are not parties to this litigation. In responding to these requests, Google will respond on the basis that “Defendant” refers only to the named Defendant Google LLC.

2. Google objects to the definition of “Asserted Patents” as vague and ambiguous,

overly broad, unduly burdensome, and not proportional to the needs of the case to the extent it encompasses patents that are not specifically identified in the Complaint, D.I. 1. In responding to each request, Google will respond on the basis that “Asserted Patents” refers only to United States Patent Nos. 9,420,075 (“the ’075 Patent”); 9,811,184 (“the ’184 Patent”); 10,528,199 (“the ’199 Patent”); 11,093,000 (“the ’000 Patent”); and 11,093,001 (“the ’001 Patent”).

3. Google objects to the definition of “Accused Products” as vague and ambiguous, overly broad, unduly burdensome, and not proportional to the needs of the case to the extent it encompasses products that are not adequately identified in the Complaint, properly charted in DDC’s Infringement Contentions, and/or that were not made, used, offered for sale, or sold in the United States during the relevant time period. In responding to each request, Google will respond on the basis that “Accused Products” refers only to those products adequately identified in the Complaint, including the Google Cardboard V2 Viewer, the Landsberg Cardboard Viewer, Pyrite VR Ltd’s Maxbox Cardboard Viewers, Structural Graphics, LLC’s SleekPeeks Cardboard Viewer, the Homido Grab and Homido V2 Viewers, and Emerge Technologies, Inc.’s Utopia Viewer, for the time period starting from August 16, 2016, to the extent such products are properly charted in DDC’s Infringement Contentions. Google reserves all rights to argue that the relevant time period is shorter because of DDC’s failure to comply with 35 U.S.C. § 287.

4. Google objects to the definition of “Google Accused Products” as vague and ambiguous, overly broad, unduly burdensome, and not proportional to the needs of the case to the extent it encompasses products that are not specifically and adequately identified in the Complaint and/or that were not made, used, offered for sale, or sold in the United States during the relevant time period. In responding to each request, Google will respond on the basis that “Google Accused Products” refers only to the Google Cardboard V2 Viewer, for the time period starting from August

16, 2016. Google reserves all rights to argue that the relevant time period is shorter because of DDC's failure to comply with 35 U.S.C. § 287.

5. Google objects to the definition of "Landsberg Accused Products" as vague and ambiguous, overly broad, unduly burdensome, and not proportional to the needs of the case to the extent it encompasses products that are not specifically and adequately identified in the Complaint, that were not made, used, offered for sale, or sold in the United States during the relevant time period, and/or that were not made, used, offered for sale, or sold in the United States by Landsberg Orora. In responding to each request, Google will respond on the basis that "Landsberg Accused Products" refers only to the Landsberg Cardboard Viewer, for the time period from August 16, 2016. Google reserves all rights to argue that the relevant time period is shorter because of DDC's failure to comply with 35 U.S.C. § 287. Google also objects to discovery requests pertaining to the "Landsberg Accused Products" because those products are not made or sold by Google.

6. Google objects to the definition of "Pyrite Accused Products" as vague and ambiguous, overly broad, unduly burdensome, and not proportional to the needs of the case to the extent it encompasses products that are not specifically and adequately identified in the Complaint and/or that were not made, used, offered for sale, or sold in the United States during the relevant time period. In responding to each request, Google will respond on the basis that "Pyrite Accused Products" refers only to Pyrite VR Ltd's Maxbox Cardboard Viewers, for the time period from August 16, 2016. Google reserves all rights to argue that the relevant time period is shorter because of DDC's failure to comply with 35 U.S.C. § 287. Google also objects to discovery requests pertaining to the "Pyrite Accused Products" because those products are not made or sold by Google, and DDC has settled and resolved its case with Pyrite.

7. Google objects to the definition of "Homido Accused Products" as vague and

ambiguous, overly broad, unduly burdensome, and not proportional to the needs of the case to the extent it encompasses products that are not specifically and adequately identified in the Complaint and/or that were not made, used, offered for sale, or sold in the United States during the relevant time period. In responding to each request, Google will respond on the basis that “Homido Accused Products” refers only to the Homido Grab and Homido V2 Viewers, for the time period from August 16, 2016. Google reserves all rights to argue that the relevant time period is shorter because of DDC’s failure to comply with 35 U.S.C. § 287. Google also objects to discovery requests pertaining to the “Homido Accused Products” because those products are not made or sold by Google, DDC has settled and resolved its case with Homido, and at least the “Homido V2” viewer is not part of Google’s WWGC program.

8. Google objects to the definition of “Emerge Accused Products” as vague and ambiguous, overly broad, unduly burdensome, and not proportional to the needs of the case to the extent it encompasses products that are not specifically and adequately identified in the Complaint and/or that were not made, used, offered for sale, or sold in the United States during the relevant time period. In responding to each request, Google will respond on the basis that “Emerge Accused Products” refers only to Emerge Technologies, Inc.’s Utopia Viewer, for the time period from August 16, 2016. Google reserves all rights to argue that the relevant time period is shorter because of DDC’s failure to comply with 35 U.S.C. § 287. Google also objects to discovery requests pertaining to the “Emerge Accused Products” because those products are not made or sold by Google, DDC has settled and resolved its case with Emerge, and none of Emerge’s products have been part of Google’s WWGC program.

9. Google objects to the definition of the term “Works With Google Cardboard” or “WWGC” as vague and ambiguous, overly broad, unduly burdensome, and not proportional to the

needs of the case to the extent it encompasses products and/or documents that are not specifically and adequately identified in the Complaint, that were not made, used, offered for sale, or sold in the United States during the relevant time period, and/or do not comply with the Cardboard Version 2 (V2) guidelines or specifications as accused of infringement in the Complaint. Google further objects to the definition of the term “Works With Google Cardboard” or “WWGC” as vague and ambiguous based on the phrase “relating to.”

SPECIFIC OBJECTIONS AND RESPONSES

REQUEST FOR ADMISSION NO. 1:

Admit that Google (or an agent or representative thereof) communicated with MerchSource, LLC (or an agent or representative thereof) regarding the MerchSource PTAB Petitions.

RESPONSE TO REQUEST FOR ADMISSION NO. 1:

In addition to the foregoing Objections to Definitions, Google further objects to this request as vague, ambiguous, and overbroad, including as to the term or phrase “agent or representative thereof.” Google further objects to this request as irrelevant to any party's claims or defenses because information about whether or not “Google (or an agent or representative thereof) communicated with MerchSource, LLC (or an agent or representative thereof) regarding the MerchSource PTAB Petitions” is not reasonably calculated to lead to the discovery of admissible evidence. Google further objects to this request to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. Google further objects to this request to the extent that it seeks information that, if disclosed, would result in the violation of any legal or contractual obligation to third parties, including confidentiality obligations.

Subject to and without waiving its objections, Google responds as follows: Based on Google's reasonable investigation to date, Google denies that Google communicated with MerchSource, LLC regarding the MerchSource PTAB Petitions.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 1:

Subject to the foregoing objections, Google further responds as follows: Google denies that Google communicated with MerchSource, LLC regarding the MerchSource PTAB Petitions.

REQUEST FOR ADMISSION NO. 2:

Admit that Google (or an agent or representative thereof) did not communicate with MerchSource, LLC (or an agent or representative thereof) regarding the MerchSource PTAB Petitions.

RESPONSE TO REQUEST FOR ADMISSION NO. 2:

In addition to the foregoing Objections to Definitions, Google further objects to this request as vague, ambiguous, and overbroad, including as to the term or phrase “agent or representative thereof.” Google further objects to this request as irrelevant to any party's claims or defenses because information about whether or not “Google (or an agent or representative thereof) did not communicate with MerchSource, LLC (or an agent or representative thereof) regarding the MerchSource PTAB Petitions” is not reasonably calculated to lead to the discovery of admissible evidence. Google further objects to this request to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. Google further objects to this request to the extent that it seeks information that, if disclosed, would result in the violation of any legal or contractual obligation to third parties, including confidentiality obligations. Google further objects to this request as unduly burdensome and harassing, because it asks for information that is duplicative of

the information requested in Request for Admission No. 1.

Subject to and without waiving its objections, Google responds as follows: Based on Google's reasonable investigation to date, Google admits that Google did not communicate with MerchSource, LLC regarding the MerchSource PTAB Petitions.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 2:

Subject to the foregoing objections, Google further responds as follows: Google admits that Google did not communicate with MerchSource, LLC regarding the MerchSource PTAB Petitions.

REQUEST FOR ADMISSION NO. 3:

Admit that Google (or an agent or representative thereof) communicated with ThreeSixty Group Ltd. (or an agent or representative thereof) regarding the MerchSource PTAB Petitions.

RESPONSE TO REQUEST FOR ADMISSION NO. 3:

In addition to the foregoing Objections to Definitions, Google further objects to this request as vague, ambiguous, and overbroad, including as to the term or phrase “agent or representative thereof.” Google further objects to this request as irrelevant to any party's claims or defenses because information about whether or not “Google (or an agent or representative thereof) communicated with ThreeSixty Group Ltd. (or an agent or representative thereof) regarding the MerchSource PTAB Petitions” is not reasonably calculated to lead to the discovery of admissible evidence. Google further objects to this request to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. Google further objects to this request to the extent that it seeks information that, if disclosed, would result in the violation of any legal or contractual obligation to third parties, including confidentiality obligations.

Subject to and without waiving its objections, Google responds as follows: Based on Google's reasonable investigation to date, Google denies that Google communicated with ThreeSixty Group Ltd. regarding the MerchSource PTAB Petitions.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 3:

Subject to the foregoing objections, Google further responds as follows: Google denies that Google communicated with ThreeSixty Group Ltd. regarding the MerchSource PTAB Petitions.

REQUEST FOR ADMISSION NO. 4:

Admit that Google (or an agent or representative thereof) did not communicate with ThreeSixty Group Ltd. (or an agent or representative thereof) regarding the MerchSource PTAB Petitions.

RESPONSE TO REQUEST FOR ADMISSION NO. 4:

In addition to the foregoing Objections to Definitions, Google further objects to this request as vague, ambiguous, and overbroad, including as to the term or phrase “agent or representative thereof.” Google further objects to this request as irrelevant to any party's claims or defenses because information about whether or not “Google (or an agent or representative thereof) did not communicate with ThreeSixty Group Ltd. (or an agent or representative thereof) regarding the MerchSource PTAB Petitions” is not reasonably calculated to lead to the discovery of admissible evidence. Google further objects to this request to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. Google further objects to this request to the extent that it seeks information that, if disclosed, would result in the violation of any legal or contractual obligation to third parties, including confidentiality obligations. Google further objects to this request as unduly burdensome and harassing, because it asks for information that is duplicative of

the information requested in Request for Admission No. 3.

Subject to and without waiving its objections, Google responds as follows: Based on Google's reasonable investigation to date, Google admits that Google did not communicate with ThreeSixty Group Ltd. regarding the MerchSource PTAB Petitions.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 4:

Subject to the foregoing objections, Google further responds as follows: Google admits that Google did not communicate with ThreeSixty Group Ltd. regarding the MerchSource PTAB Petitions.

REQUEST FOR ADMISSION NO. 5:

Admit that Google (or an agent or representative thereof) communicated with AEA Investors LP (or an agent or representative thereof) regarding the MerchSource PTAB Petitions.

RESPONSE TO REQUEST FOR ADMISSION NO. 5:

In addition to the foregoing Objections to Definitions, Google further objects to this request as vague, ambiguous, and overbroad, including as to the term or phrase “agent or representative thereof.” Google further objects to this request as irrelevant to any party's claims or defenses because information about whether or not “Google (or an agent or representative thereof) communicated with AEA Investors LP (or an agent or representative thereof) regarding the MerchSource PTAB Petitions” is not reasonably calculated to lead to the discovery of admissible evidence. Google further objects to this request to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. Google further objects to this request to the extent that it seeks information that, if disclosed, would result in the violation of any legal or contractual obligation to third parties, including confidentiality obligations.

Subject to and without waiving its objections, Google responds as follows: Based on Google's reasonable investigation to date, Google denies that Google communicated with AEA Investors LP regarding the MerchSource PTAB Petitions.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 5:

Subject to the foregoing objections, Google further responds as follows: Google denies that Google communicated with AEA Investors LP regarding the MerchSource PTAB Petitions.

REQUEST FOR ADMISSION NO. 6:

Admit that Google (or an agent or representative thereof) did not communicate with AEA Investors LP (or an agent or representative thereof) regarding the MerchSource PTAB Petitions.

RESPONSE TO REQUEST FOR ADMISSION NO. 6:

In addition to the foregoing Objections to Definitions, Google further objects to this request as vague, ambiguous, and overbroad, including as to the term or phrase “agent or representative thereof.” Google further objects to this request as irrelevant to any party's claims or defenses because information about whether or not “Google (or an agent or representative thereof) did not communicate with AEA Investors LP (or an agent or representative thereof) regarding the MerchSource PTAB Petitions” is not reasonably calculated to lead to the discovery of admissible evidence. Google further objects to this request to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. Google further objects to this request to the extent that it seeks information that, if disclosed, would result in the violation of any legal or contractual obligation to third parties, including confidentiality obligations. Google further objects to this request as unduly burdensome and harassing, because it asks for information that is duplicative of the information requested in Request for Admission No. 5.

Subject to and without waiving its objections, Google responds as follows: Based on Google's reasonable investigation to date, Google admits that Google did not communicate with AEA Investors LP regarding the MerchSource PTAB Petitions.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 6:

Subject to the foregoing objections, Google further responds as follows: Google admits that Google did not communicate with AEA Investors LP regarding the MerchSource PTAB Petitions.

REQUEST FOR ADMISSION NO. 7:

Admit that Google (or an agent or representative thereof) communicated with MerchSource, LLC (or an agent or representative thereof) regarding any of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018.

RESPONSE TO REQUEST FOR ADMISSION NO. 7:

In addition to the foregoing Objections to Definitions, Google further objects to this request as vague, ambiguous, and overbroad, including as to the term or phrase “agent or representative thereof.” Google further objects to this request as irrelevant to any party's claims or defenses because information about whether or not “Google (or an agent or representative thereof) communicated with MerchSource, LLC (or an agent or representative thereof) regarding any of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018” is not reasonably calculated to lead to the discovery of admissible evidence. Google further objects to this request to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. Google further objects to this request to the extent that it seeks information that, if disclosed, would result in the violation of any legal or contractual obligation to third parties,

including confidentiality obligations.

Subject to and without waiving its objections, Google responds as follows: Based on Google's reasonable investigation to date, Google denies that Google communicated with MerchSource, LLC regarding any of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 7:

Subject to the foregoing objections, Google further responds as follows: Google denies that Google communicated with MerchSource, LLC regarding any of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018.

REQUEST FOR ADMISSION NO. 8:

Admit that Google (or an agent or representative thereof) did not communicate with MerchSource, LLC (or an agent or representative thereof) regarding any of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018.

RESPONSE TO REQUEST FOR ADMISSION NO. 8:

In addition to the foregoing Objections to Definitions, Google further objects to this request as vague, ambiguous, and overbroad, including as to the term or phrase "agent or representative thereof." Google further objects to this request as irrelevant to any party's claims or defenses because information about whether or not "Google (or an agent or representative thereof) did not communicate with MerchSource, LLC (or an agent or representative thereof) regarding any of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018" is not reasonably calculated to lead to the discovery of admissible evidence. Google further objects to this request to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity

doctrines. Google further objects to this request to the extent that it seeks information that, if disclosed, would result in the violation of any legal or contractual obligation to third parties, including confidentiality obligations. Google further objects to this request as unduly burdensome and harassing, because it asks for information that is duplicative of the information requested in Request for Admission No. 7.

Subject to and without waiving its objections, Google responds as follows: Based on Google's reasonable investigation to date, Google admits that Google did not communicate with MerchSource, LLC regarding any of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 8:

Subject to the foregoing objections, Google further responds as follows: Google admits that Google did not communicate with MerchSource, LLC regarding any of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018.

REQUEST FOR ADMISSION NO. 9:

Admit that Google (or an agent or representative thereof) communicated with ThreeSixty Group Ltd. (or an agent or representative thereof) regarding any of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018.

RESPONSE TO REQUEST FOR ADMISSION NO. 9:

In addition to the foregoing Objections to Definitions, Google further objects to this request as vague, ambiguous, and overbroad, including as to the term or phrase "agent or representative thereof." Google further objects to this request as irrelevant to any party's claims or defenses because information about whether or not "Google (or an agent or representative thereof) communicated with ThreeSixty Group Ltd. (or an agent or representative thereof) regarding any

of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018” is not reasonably calculated to lead to the discovery of admissible evidence. Google further objects to this request to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. Google further objects to this request to the extent that it seeks information that, if disclosed, would result in the violation of any legal or contractual obligation to third parties, including confidentiality obligations.

Subject to and without waiving its objections, Google responds as follows: Based on Google's reasonable investigation to date, Google denies that Google communicated with ThreeSixty Group Ltd. regarding any of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 9:

Subject to the foregoing objections, Google further responds as follows: Google denies that Google communicated with ThreeSixty Group Ltd. regarding any of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018.

REQUEST FOR ADMISSION NO. 10:

Admit that Google (or an agent or representative thereof) did not communicate with ThreeSixty Group Ltd. (or an agent or representative thereof) regarding any of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018.

RESPONSE TO REQUEST FOR ADMISSION NO. 10:

In addition to the foregoing Objections to Definitions, Google further objects to this request as vague, ambiguous, and overbroad, including as to the term or phrase “agent or representative thereof.” Google further objects to this request as irrelevant to any party's claims or defenses

because information about whether or not “Google (or an agent or representative thereof) did not communicate with ThreeSixty Group Ltd. (or an agent or representative thereof) regarding any of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018” is not reasonably calculated to lead to the discovery of admissible evidence. Google further objects to this request to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. Google further objects to this request to the extent that it seeks information that, if disclosed, would result in the violation of any legal or contractual obligation to third parties, including confidentiality obligations. Google further objects to this request as unduly burdensome and harassing, because it asks for information that is duplicative of the information requested in Request for Admission No. 9.

Subject to and without waiving its objections, Google responds as follows: Based on Google's reasonable investigation to date, Google admits that Google did not communicate with ThreeSixty Group Ltd. regarding any of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 10:

Subject to the foregoing objections, Google further responds as follows: Google admits that Google did not communicate with ThreeSixty Group Ltd. regarding any of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018.

REQUEST FOR ADMISSION NO. 11:

Admit that Google (or an agent or representative thereof) communicated with AEA Investors LP (or an agent or representative thereof) regarding any of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018.

RESPONSE TO REQUEST FOR ADMISSION NO. 11:

In addition to the foregoing Objections to Definitions, Google further objects to this request as vague, ambiguous, and overbroad, including as to the term or phrase “agent or representative thereof.” Google further objects to this request as irrelevant to any party's claims or defenses because information about whether or not “Google (or an agent or representative thereof) communicated with AEA Investors LP (or an agent or representative thereof) regarding any of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018” is not reasonably calculated to lead to the discovery of admissible evidence. Google further objects to this request to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. Google further objects to this request to the extent that it seeks information that, if disclosed, would result in the violation of any legal or contractual obligation to third parties, including confidentiality obligations.

Subject to and without waiving its objections, Google responds as follows: Based on Google's reasonable investigation to date, Google denies that Google communicated with AEA Investors LP regarding any of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 11:

Subject to the foregoing objections, Google further responds as follows: Google denies that Google communicated with AEA Investors LP regarding any of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018.

REQUEST FOR ADMISSION NO. 12:

Admit that Google (or an agent or representative thereof) did not communicate with AEA

Investors LP (or an agent or representative thereof) regarding any of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018.

RESPONSE TO REQUEST FOR ADMISSION NO. 12:

In addition to the foregoing Objections to Definitions, Google further objects to this request as vague, ambiguous, and overbroad, including as to the term or phrase “agent or representative thereof.” Google further objects to this request as irrelevant to any party's claims or defenses because information about whether or not “Google (or an agent or representative thereof) did not communicate with AEA Investors LP (or an agent or representative thereof) regarding any of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018” is not reasonably calculated to lead to the discovery of admissible evidence. Google further objects to this request to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. Google further objects to this request to the extent that it seeks information that, if disclosed, would result in the violation of any legal or contractual obligation to third parties, including confidentiality obligations. Google further objects to this request as unduly burdensome and harassing, because it asks for information that is duplicative of the information requested in Request for Admission No. 11.

Subject to and without waiving its objections, Google Based on Google's reasonable investigation to date, Google admits that Google did not communicate with AEA Investors LP regarding any of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 12:

Subject to the foregoing objections, Google further responds as follows: Google admits

that Google did not communicate with AEA Investors LP regarding any of the Asserted Patents prior to the filing of the MerchSource PTAB Petitions on January 15, 2018.

REQUEST FOR ADMISSION NO. 13:

Admit that Google (or an agent or representative thereof) communicated with Adam Gromfin (former representative of MerchSource, LLC) in the second half of 2017.

RESPONSE TO REQUEST FOR ADMISSION NO. 13:

In addition to the foregoing Objections to Definitions, Google further objects to this request as vague, ambiguous, and overbroad, including as to the term or phrase “agent or representative thereof.” Google further objects to this request as irrelevant to any party's claims or defenses because information about whether or not “Google (or an agent or representative thereof) communicated with Adam Gromfin (former representative of MerchSource, LLC) in the second half of 2017” is not reasonably calculated to lead to the discovery of admissible evidence. Google further objects to this request to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. Google further objects to this request as overly broad, unduly burdensome, and not proportional to the needs of the case, to the extent it includes any/all communications with Adam Gromfin in the second half of 2017. Google further objects to this request to the extent that it seeks information that, if disclosed, would result in the violation of any legal or contractual obligation to third parties, including confidentiality obligations.

Subject to and without waiving its objections, Google responds as follows: Based on Google's reasonable investigation to date, Google denies that Google communicated with Adam Gromfin in the second half of 2017.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 13:

Subject to the foregoing objections, Google further responds as follows: Google denies that Google communicated with Adam Gromfin in the second half of 2017.

REQUEST FOR ADMISSION NO. 14:

Admit that Google (or an agent or representative thereof) did not communicate with Adam Gromfin (former representative of MerchSource, LLC) in the second half of 2017.

RESPONSE TO REQUEST FOR ADMISSION NO. 14:

In addition to the foregoing Objections to Definitions, Google further objects to this request as vague, ambiguous, and overbroad, including as to the term or phrase “agent or representative thereof.” Google further objects to this request as irrelevant to any party's claims or defenses because information about whether or not “Google (or an agent or representative thereof) did not communicate with Adam Gromfin (former representative of MerchSource, LLC) in the second half of 2017” is not reasonably calculated to lead to the discovery of admissible evidence. Google further objects to this request to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. Google further objects to this request as overly broad, unduly burdensome, and not proportional to the needs of the case, to the extent it includes any/all communications with Adam Gromfin in the second half of 2017. Google further objects to this request to the extent that it seeks information that, if disclosed, would result in the violation of any legal or contractual obligation to third parties, including confidentiality obligations. Google further objects to this request as unduly burdensome and harassing, because it asks for information that is duplicative of the information requested in Request for Admission No. 13.

Subject to and without waiving its objections, Google responds as follows: Based on Google's reasonable investigation to date, Google admits that Google did not communicate with

Adam Gromfin in the second half of 2017.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 14:

Subject to the foregoing objections, Google further responds as follows: Google admits that Google did not communicate with Adam Gromfin in the second half of 2017.

REQUEST FOR ADMISSION NO. 15:

Admit that Google (or an agent or representative thereof) discussed alleged invalidating prior art relating to one or more of the Asserted Patents with Adam Gromfin (former representative of MerchSource, LLC).

RESPONSE TO REQUEST FOR ADMISSION NO. 15:

In addition to the foregoing Objections to Definitions, Google further objects to this request as vague, ambiguous, and overbroad, including as to the term or phrase “agent or representative thereof.” Google further objects to this request as irrelevant to any party's claims or defenses because information about whether or not “Google (or an agent or representative thereof) discussed alleged invalidating prior art relating to one or more of the Asserted Patents with Adam Gromfin (former representative of MerchSource, LLC)” is not reasonably calculated to lead to the discovery of admissible evidence. Google further objects to this request to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. Google further objects to this request to the extent that it seeks information that, if disclosed, would result in the violation of any legal or contractual obligation to third parties, including confidentiality obligations.

Subject to and without waiving its objections, Google responds as follows: Based on Google's reasonable investigation to date, Google denies that Google discussed prior art relating to one or more of the Asserted Patents with Adam Gromfin.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 15:

Subject to the foregoing objections, Google further responds as follows: Google denies that Google discussed prior art relating to one or more of the Asserted Patents with Adam Gromfin.

REQUEST FOR ADMISSION NO. 16:

Admit that Google (or an agent or representative thereof) did not discuss alleged invalidating prior art relating to one or more of the Asserted Patents with Adam Gromfin (former representative of MerchSource, LLC).

RESPONSE TO REQUEST FOR ADMISSION NO. 16:

In addition to the foregoing Objections to Definitions, Google further objects to this request as vague, ambiguous, and overbroad, including as to the term or phrase “agent or representative thereof.” Google further objects to this request as irrelevant to any party's claims or defenses because information about whether or not “Google (or an agent or representative thereof) did not discuss alleged invalidating prior art relating to one or more of the Asserted Patents with Adam Gromfin (former representative of MerchSource, LLC)” is not reasonably calculated to lead to the discovery of admissible evidence. Google further objects to this request to the extent it seeks information protected by attorney-client privilege, the work product doctrine, the common interest privilege, or any other applicable privilege or immunity doctrines. Google further objects to this request to the extent that it seeks information that, if disclosed, would result in the violation of any legal or contractual obligation to third parties, including confidentiality obligations. Google further objects to this request as unduly burdensome and harassing, because it asks for information that is duplicative of the information requested in Request for Admission No. 15.

Subject to and without waiving its objections, Google responds as follows: Based on Google's reasonable investigation to date, Google admits that Google did not discuss prior art

relating to one or more of the Asserted Patents with Adam Gromfin.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 16:

Subject to the foregoing objections, Google further responds as follows: Google admits that Google did not discuss prior art relating to one or more of the Asserted Patents with Adam Gromfin.

Dated: January 6, 2023

By: /s/ Mark Liang

Darin W. Snyder (*Pro Hac Vice*)

Email: dsnyder@omm.com

Luann L. Simmons (*Pro Hac Vice*)

Email: lsimmons@omm.com

Mark Liang (*Pro Hac Vice*)

Email: mliang@omm.com

Amy K. Liang (*Pro Hac Vice*)

Email: aliang@omm.com

O'MELVENY & MYERS LLP

Two Embarcadero Center, 28th Floor

San Francisco, CA 94111

Telephone: (415) 984-8700

Facsimile: (415) 984-8701

Kristin Cope

Email: kcope@omm.com

Frances Mackay

Email: fmackay@omm.com

O'MELVENY & MYERS LLP

2501 North Harwood Street, Suite 1700

Dallas, TX 75201-1663

Telephone: (972) 360-1900

Facsimile: (972) 360-1901

Andrew S. Bledsoe (*Pro Hac Vice*)

Email: abledsoe@omm.com

O'MELVENY & MYERS LLP

610 Newport Center Drive, 17th Floor

Newport Beach, CA 92660

Telephone: (949) 823-6900

Facsimile: (949) 823-6994

***ATTORNEYS FOR DEFENDANT
GOOGLE LLC***

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who have consented to electronic service are being served with a copy of this document via email on January 6, 2023.

/s/ Michael O'Donnell

Michael O'Donnell