

# EXHIBIT A

Google's 4/23/2023 Counterproposal

**PROPOSED STIPULATION: *INTER PARTES* REVIEW DETERMINATIONS**

U.S. Patent No. 7,917,843 (“’843 Patent”) was the subject of a proceeding at the Patent Office called *inter partes* review, also referred to as “IPR.” An IPR permits a petitioner to request cancellation of patent claims as unpatentable on the basis of prior art consisting of patents or printed publications. Specifically:

- On December 2, 2013, Google filed an IPR arguing that the Asserted Claims of the ’843 Patent were unpatentable in light of a few prior art grounds. Those grounds were all different from the prior art grounds that Google is raising in this trial because in an IPR a petitioner like Google cannot raise any prior art systems or products.
- On June 11, 2014, the Patent Office instituted IPR on one of the prior art grounds.
- On June 9, 2015, the Patent Office issued a Final Written Decision in the IPR, holding that the Asserted Claims of the ’843 Patent were unpatentable in light of the instituted prior art ground.
- On August 10, 2016, the United States Court of Appeals for the Federal Circuit, also known as the “Federal Circuit,” held that Google did not prove unpatentability in light of the instituted prior art ground. The basis for the Federal Circuit’s decision is not relevant to any of the invalidity grounds raised by Google in this trial.

The litigation in this court was stayed and therefore became inactive on February 24, 2014 in order to allow for final resolution of the IPR. The case restarted on October 23, 2018 after the IPR proceedings were completed.

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## PROPOSED LIMITING INSTRUCTION

### *Inter Partes* Review Determinations

The '843 Patent was the subject of a proceeding at the Patent Office called *inter partes* review, also referred to as "IPR." An IPR permits a petitioner to request cancellation of patent claims as unpatentable on the basis of prior art consisting of patents or printed publications.

The Patent Office ruled that Google had demonstrated a reasonable likelihood that it would prevail on one of the prior art grounds that it raised in the IPR.

The Patent Office issued a Final Written Decision in the IPR finding that the Asserted Claims of the '843 Patent were unpatentable in view of the instituted prior art reference.

The United States Court of Appeals for the Federal Circuit, also referred to as the "Federal Circuit," determined that Google had not demonstrated that the patent should be cancelled in light of the instituted prior art ground. The basis for the Federal Circuit's decision is not relevant to any of the invalidity grounds raised by Google in this trial.

The prior art grounds that Google raised in the IPR are all different from the prior art grounds that it is raising this trial because in an IPR a petitioner like Google cannot raise any prior art systems or products.

You may consider this evidence for the purposes of assessing: (1) whether Google believed the '843 Patent was invalid for purposes of determining willfulness, if any; and (2) whether or not there is overlap between the prior art references that Google relied upon in the IPR and that Google is relying on in this trial.

You must independently determine whether Google has proven that the patent is invalid.

You may choose to reach a different result for any or all of the following reasons:

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1. The Patent Office and the Federal Circuit did not consider the same prior art grounds that are being presented to you in this case.
2. The Patent Office and the Federal Circuit did not consider the same testimony and all of the same evidence that are being presented to you in this case.
3. The Patent Office and the Federal Circuit did not have the benefit of the live testimony or cross examination that you do.
4. The legal standards applied in the decisions by the Patent Office and Federal Circuit differ from the legal standards that you must apply in this case.

# EXHIBIT B

# Explore Litigation Insights

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