

EXHIBIT K



January 17, 2019

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Hon. Paul G. Gardephe
United States District Court
Southern District of New York
40 Foley Square, Room 2204
New York, New York 10007

**Re: Network-1 Technologies, Inc. v. Google Inc., et al.,
Case Nos. 1:14-cv-2396-PGG & 1:14-cv-9558-PGG**

Dear Judge Gardephe:

Pursuant to the Court's January 2, 2019 Order Regarding Lifting of Stays in Case No. 1:14-cv-2396-PGG ("Case I") and the Court's January 2, 2019 Order Regarding Lifting of Stays and Order Setting Status Conference in Case No. 1:14-cv-9558-PGG ("Case II"), the parties respectfully submit the following information and the enclosed proposed Case Management Plan and Scheduling Order in advance of the status conference scheduled for January 24, 2019.

(1) An update on the status of the proceedings:

Network-1 initiated Case I on April 4, 2014 by filing a complaint alleging that YouTube's Content ID system infringes U.S. Patent Nos. 8,010,988; 8,205,237; 8,640,179; and 8,656,441. On December 3, 2014, Network-1 initiated Case II by filing a complaint alleging that the same system also infringes a fifth U.S. Patent that issued the day before (December 2, 2014): No. 8,904,464.

After the complaints were filed, Google petitioned the U.S. Patent and Trademark Office (PTO) to institute post-grant reviews of the five patents asserted by Network-1. While Google's petitions were pending before the PTO, the parties began fact discovery in Case I and "agree[d] that discovery material produced or provided in [Case I] shall be deemed to be produced or provided in [Case II]." Case II, Dkt. 23-1 at 2-3. On July 2, 2015, after the PTO began instituting post-grant reviews of the above-referenced patents, all proceedings before this Court were stayed "pursuant to agreement between the parties." Case I, Dkt. 85; Case II, Dkt. 35.

The PTO subsequently issued five final written decisions. For the '988, '179, '441, and '464 patents, the PTO held that all of the claims for which review was instituted had not been shown to be unpatentable. For the '237 patent, the PTO held that some of the claims had been shown to be unpatentable, but that several of the claims challenged by Google had not been shown to be unpatentable. Google appealed at least a portion of each of the five PTO final written decisions to the U.S. Court of Appeals for the Federal Circuit, which affirmed the PTO's decision with respect to the '464 patent, vacated-in-part the PTO's decisions with respect to the other four patents, and remanded the cases to the PTO for further proceedings concerning those four patents. Among



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other claims, Google did not appeal the PTO's decision regarding claim 17 of the '988 patent and claims 33-35 of the '237 patent.

In December 2018, while the remanded proceedings were pending before the PTO, the parties stipulated that the stays in Case I and Case II may be lifted, and that in Case I, Network-1 would only assert claim 17 of the '988 patent and three claims of the '237 patent that it had not previously asserted, claims 33-35. Case I, Dkt. 133; Case II, Dkt. 77. The parties further agreed that Network-1 would not assert certain other claims against Google and that Google would terminate the remanded proceedings before the PTO. On January 2, 2019, the Court entered the Joint Stipulation and Order Regarding Stays. Case I, Dkt. 134; Case II, Dkt. 79. On January 4, 2019, the PTO terminated the remanded proceedings.

(2) Consolidation of Case I and Case II and Proposed Schedule

The parties have agreed to the consolidation of Case I and Case II. The parties have also reached agreement as to a suitable schedule for the consolidated cases, as reflected in the attached Joint Proposed Civil Case Management Plan and Scheduling Order.

The parties look forward to meeting with the Court at the January 24 Status Conference.



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Dated: January 17, 2019

Respectfully submitted,

RUSS, AUGUST & KABAT

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NETWORK-1 TECHNOLOGIES, INC.

Plaintiff,

- against -

GOOGLE LLC and YOUTUBE LLC

Defendants.

**JOINT PROPOSED
CIVIL CASE MANAGEMENT PLAN
AND SCHEDULING ORDER**

14 Civ. 2396 (PGG)

14 Civ. 9558 (PGG)

PAUL G. GARDEPHE, U.S.D.J.:

After consultation with counsel for the parties, the Court adopts the following Civil Case Management Plan and Scheduling Order, in accordance with Federal Rules of Civil Procedure 16 and 26(f).

1. All parties **do not** consent to conducting further proceedings before a Magistrate Judge, including motions and trial, pursuant to 28 U.S.C. § 636(c).
2. This case **is** to be tried to a jury.
3. No additional parties may be joined except with leave of the Court. Except for good cause shown, any motion to join additional parties must be filed within 30 days from the date of this Order.
4. A party may not amend its pleadings except with leave of the Court. Except for good cause shown, any motion to amend pleadings must be filed within 30 days from the date of this Order.
5. Pursuant to Local Patent Rule 6, Plaintiff shall supplement its Disclosure of Asserted Claims and Infringement Contentions which identifies for each opposing party, each claim of each patent-in-suit that is allegedly infringed and each product or process of each opposing party of which the party claiming infringement is aware that allegedly infringes each identified claim no later than **January 31, 2019**.
6. Pursuant to Local Patent Rule 7, Defendants shall supplement any Invalidity Contentions which identify each item of prior art that the party contends allegedly anticipates or renders obvious each asserted claim, and any other grounds of invalidity, including any under 35 U.S.C. § 101 or § 112, or unenforceability of any of the asserted claims no later than **March 15, 2019**.
7. The parties must complete fact discovery no later than **September 30, 2019**.

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