

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NETWORK-1 TECHNOLOGIES, INC.,

Plaintiff,

- against -

GOOGLE, INC., and YOUTUBE, LLC,

Defendants.

14 Civ. 2396 (PGG)

**PLAINTIFF NETWORK-1 TECHNOLOGIES, INC.'S RESPONSES TO
DEFENDANTS GOOGLE, INC. AND YOUTUBE, LLC'S
FIRST SET OF INTERROGATORIES (NOS. 1-4)**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Plaintiff Network-1 Technologies, Inc. (“Network-1”), by and through its undersigned counsel, hereby responds to Defendants Google, Inc. and YouTube, LLC’s (collectively “Defendants” or “Google”), First Set of Interrogatories (Nos. 1-4) to Plaintiff Network-1, as follows:

PRELIMINARY STATEMENT

These responses are made solely for the purposes of this action. These responses are subject to, and without waiver of, any objections as to the competency, propriety, authenticity, relevancy, materiality, privilege, and admissibility, and to any and all other objections on any grounds that would require the exclusion of statements contained herein.

The following responses are based upon the facts and information currently known and available to Network-1 and given without prejudice to Network-1’s right to amend and/or supplement to add any facts or information that it may later recall or discover as discovery and Network-1’s investigation continues. Network-1 further reserves the right to amend and/or supplement any or all of the matters contained in these responses with facts or information that it

learns were omitted by inadvertence, mistake, or excusable neglect; as additional facts are ascertained and contentions are made in this litigation; and as terms used in the asserted claims of the patents-in-suit are construed.

Specific objections to each Interrogatory are made on an individual basis in Network-1's responses below. In addition to the specific objections, Network-1 makes certain general objections (the "General Objections") to the Interrogatories. These General Objections are hereby incorporated by reference into the specific response made to each separate Interrogatory. For particular emphasis, Network-1 has, from time to time, expressly included one or more of the General Objections as specific objections in the responses below. Network-1's response to each individual Interrogatory is submitted without prejudice to, and without in any respect waiving, any General Objections not expressly set forth in that response. Accordingly, the inclusion in any response below of any specific objection to a specific Interrogatory is neither intended as, nor shall in any way be deemed, waiver of any General Objection or of any other specific objection made.

The assertion of any objection to any of the Interrogatories is neither intended as, nor shall in any way be deemed, a waiver of Network-1's right to assert that or any other objection at a later date. No incidental or implied admissions are intended by the responses below. These responses are neither intended as, nor shall in any way be deemed, an admission or representation that further information relevant to the subject matter of the Interrogatories does not exist. Furthermore, these responses are given without prejudice to Network-1's right to use or rely on additional information at any time, including at trial.

GENERAL OBJECTIONS

1. Network-1 objects to the Interrogatories, DEFINITIONS, and INSTRUCTIONS to the extent that they purport to impose on Network-1 obligations that differ from or exceed

those required by Federal Rule of Civil Procedure 26(b) or any other of the Federal Rules of Civil Procedure, the Local Civil Rules of the United States District Court for the Southern District of New York (“Local Civil Rules”), or any order or ruling by the Court in this action.

2. Network-1 objects to the Interrogatories to the extent that they seek information protected by any privilege of Network-1 or its attorneys, including, but not limited to, the attorney-client privilege and the work product doctrine. To the extent Network-1 responds to these Interrogatories, its responses will not include information protected by the attorney-client privilege, the work product doctrine, and/or other applicable privileges or protections. All objections on the grounds of the attorney-client privilege and the work product doctrine are expressly preserved. Moreover, the inadvertent disclosure of information protected by such privileges and protections shall not constitute a waiver of the applicable privilege or protection either as to the information inadvertently disclosed or as to any other information.

3. Network-1 reserves the right to object that some information is so confidential and sensitive that it should not be provided absent additional protections adequate to ensure its confidentiality.

4. Network-1 objects to the Interrogatories to the extent they are vague and ambiguous.

5. Network-1 objects to the Interrogatories to the extent that they contain express or implied assumptions of fact or law with respect to matters at issue in this case. Network-1’s responses to the Interrogatories are not intended to be, and shall not be construed as, an agreement or concurrence by Network-1 with Defendants’ characterization of any facts, circumstances, and/or legal obligations, and Network-1 expressly reserves the right to contest any such characterizations.

6. Network-1 objects to the Interrogatories to the extent that they are compound, having multiple separate subparts. Each subpart will be counted as an individual interrogatory in determining the number of Interrogatories served upon Network-1.

7. Network-1 objects to the Interrogatories, DEFINITIONS, and INSTRUCTIONS to the extent that they purport to require Network-1 to search for and provide information that is not within its possession, custody, or control.

8. Network-1 objects to the Interrogatories to the extent that they are harassing, overbroad, unduly burdensome, oppressive, unintelligible, argumentative, duplicative, and/or require Network-1 to speculate as to the meaning intended.

9. Network-1 objects to the Interrogatories to the extent that they seek information that is neither relevant to the subject matter of this action, nor reasonably calculated to lead to the discovery of admissible evidence. Network-1's responses to the Interrogatories are not intended to be, and shall not be construed as, an admission by Network-1 that any matter referenced in the Interrogatories is relevant to any issue in this action.

10. Network-1 objects to the definition of "NETWORK-1," "PLAINTIFF," "you,"¹ and "your" to the extent it purports to impose duties beyond those imposed by the Federal Rules of Civil Procedure, the Local Civil Rules, or any order or ruling by the Court in this action. Further, Network-1 objects to the definition of "NETWORK-1," "PLAINTIFF," "you," and "your" as broader than permissible under Local Civil Rule 26.3(c)(5). Network-1 also objects to this definition as unduly burdensome, harassing, oppressive and overbroad to the extent it purports to include entities other than Network-1 or to seek discovery from individuals or entities over whom or which Network-1 has no control. Network-1 also objects to the definition of

¹ Defendants' "DEFINITIONS" capitalize certain defined terms and do not capitalize others. For purposes of Network-1's responses, Network-1 will treat both the capitalized and lowercase versions of the terms "you" and "your" as defined terms.

“NETWORK-1,” “PLAINTIFF,” “you,” and “your” as vague and overbroad with respect to its inclusion of “affiliates, parents, divisions, joint ventures, licensees, franchisees, assigns, predecessors and successors in interest, and any other legal entities, whether foreign or domestic, that are owned or controlled by PLAINTIFF, and all predecessors and successors in interest to such entities or to the PATENTS-IN-SUIT, and any entity owned in whole or in part by, affiliated with, or controlled in whole or in part.” Network-1 also objects to the definition of “NETWORK-1,” “PLAINTIFF,” “you,” and “your” as including “without limitation, Network-1 Security Solutions, Inc.; Mirror Worlds Technologies, LLC; and Mirror Worlds LLC” as overbroad by placing discovery obligations on entities that are either unrelated to this litigation and/or third parties. Network-1 will treat the terms “NETWORK-1,” “PLAINTIFF,” “you,” and “your” according to the definition set forth in Local Civil Rule 26.3(c)(5).

11. Network-1 objects to the definition of “NEC” to the extent it purports to impose duties beyond those imposed by the Federal Rules of Civil Procedure, the Local Civil Rules, or any order or ruling by the Court in this action. Network-1 also objects to the definition of “NEC” as unduly burdensome and overbroad to the extent it purports to include entities other than Network-1 or to seek discovery from individuals or entities over whom or which Network-1 has no control. Specifically the definition of “NEC” impermissibly includes “officers, directors, current and former employees, counsel, agents, consultants, representatives, and any other PERSONS acting on behalf of any of the foregoing, and NEC Corporation and NEC Research Institute's affiliates, parents, divisions, joint ventures, licensees, franchisees, assigns, predecessors and successors in interest, and any other legal entities, whether foreign or domestic, that are owned or controlled by NEC, and any entity owned in whole or in part by, affiliated with, or controlled in whole or in part by NEC Corporation and NEC Research Institute.”

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