

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP  
2 Charles K. Verhoeven (CA Bar No. 170151)  
3 charlesverhoeven@quinnemanuel.com  
4 Sean S. Pak (CA Bar No. 219032)  
5 seanpak@quinnemanuel.com  
6 Jordan R. Jaffe (Cal. Bar No. 254886)  
7 jordanjaffe@quinnemanuel.com  
8 Patrick T. Burns (CA Bar No. 300219)  
9 patrickburns@quinnemanuel.com  
10 50 California Street, 22nd Floor  
11 San Francisco, California 94111  
12 (415) 875-6600  
13 (415) 875-6700 facsimile

14 Attorneys for Defendant GOOGLE INC.

15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA  
17 OAKLAND DIVISION

18 13 MASTEROBJECTS, INC.,

19 14 Plaintiff,

20 15 v.

21 16 GOOGLE INC.,

22 17 Defendants.

23 Case No. 4:15-cv-01775-PJH

24 **GOOGLE INC.'S REPLY IN SUPPORT  
25 OF ITS MOTION FOR SUMMARY  
26 JUDGMENT ON COLLATERAL  
27 ESTOPPEL AND WRITTEN  
28 DESCRIPTION**

Date: February 24, 2016

Time: 9:00 a.m.

Place: Courtroom 3 - 3rd Floor

Judge: Honorable Phyllis J. Hamilton

29 EBAY INC.  
30 EXHIBIT 1018

## TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION.....	1
II. THE CLAIMS OF THE '024 PATENT LACK WRITTEN-DESCRIPTION SUPPORT UNDER MASTEROBJECTS' CONSTRUCTIONS.....	2
A. MasterObjects Misunderstands The Legal Standard.....	3
B. MasterObjects Admits That It Is Seeking To Broaden Its Patent Claims.....	4
C. The Written Description Of The '024 Patent Does Not Disclose Re-sending The Entire Search String With Each Successive Message.....	6
1. The '024 Patent Does Not Expressly Disclose Re-Sending The Entire Search String From A Client To A Server In Successive Messages.....	6
2. The Disclosure Of "Query Messages" Does Not Provide Written-Description Support.....	8
D. MasterObjects' Argument Concerning What A Person Of Skill In The Art "Would Recognize" Is Irrelevant As A Matter Of Law.....	9
1. MasterObjects' and Its Expert's "Obvious Variant" Analysis is Irrelevant as a Matter of Law.....	9
2. MasterObjects' Arguments Misapply The Law of Written Description.....	13
3. The '024 Patent's Statement That The Disclosed Protocol Is "Optimized" Does Not Provide Written Description Support.....	14
4. MasterObjects' Arguments Confuse The Written-Description Requirement With the Separate Enablement Requirement.....	15
III. COLLATERAL ESTOPPEL PRECLUDES MASTEROBJECTS FROM DISPUTING THE LIMITING EFFECT OF THE SPECIFICATION IN THIS CASE.....	16
A. MasterObjects Cannot Re-Litigate The Limiting Effect Of The Identical Specification That Is Now Contained In The '024 Patent.....	17
1. This Case Presents The Identical Issue That Was Previously Litigated In <i>MasterObjects I.</i> .....	17
2. The Issue Presented Here Was Actually Litigated In <i>MasterObjects I.</i> .....	17
3. The Issue Presented Here Was Necessary to Judgment In <i>MasterObjects I.</i> .....	18

1	B.	MasterObjects' Arguments Regarding New Claim Language Miss the	18
2		Mark.....	
3	IV.	CONCLUSION .....	20
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			

TABLE OF AUTHORITIES

	<u>Page</u>
Cases	
<i>Anascape, Ltd. v. Nintendo of Am., Inc.</i> , 601 F.3d 1333 (Fed. Cir. 2010).....	11
<i>Antares Pharma, Inc. v. Medac Pharma Inc.</i> , 771 F.3d 1354 (Fed. Cir. 2014).....	17
<i>Ariad Pharms., Inc. v. Eli Lilly &amp; Co.</i> , 598 F.3d 1336 (Fed. Cir. 2010) ( <i>en banc</i> ).....	3, 10, 13
<i>Bayer AG v. Biovail Corp.</i> , 279 F.3d 1340 (Fed. Cir. 2002).....	18
<i>Capon v. Eshar</i> , 418 F.3d 1349 (Fed. Cir. 2005).....	3
<i>Carnegie Mellon Univ. v. Hoffmann-La Roche Inc.</i> , 541 F.3d 1115 (Fed. Cir. 2008).....	7, 12
<i>Collins v. D.R. Horton, Inc.</i> , 505 F.3d 874 (9th Cir. 2007).....	16
<i>CreAgri, Inc. v. Pinnaclife, Inc.</i> , Case No. 11-cv-6635, 2013 WL 6673676 (N.D. Cal. Dec. 18, 2013) .....	4
<i>e.Digital Corp. v. Futurewei Techs., Inc.</i> , 772 F.3d 723 (Fed. Cir. 2014).....	16
<i>Gentry Gallery, Inc. v. Berkline Corp.</i> , 134 F.3d 1473 (Fed. Cir. 1998).....	3
<i>GPNE Corp. v. Apple, Inc.</i> , Case No. 12-cv-2885, 2014 WL 1390039 (N.D. Cal. Apr. 9, 2014) .....	4
<i>Honeywell Int'l, Inc. v. ITT Indus., Inc.</i> , 452 F.3d 1312 (Fed. Cir. 2006).....	8, 19, 20
<i>Hydranautics v. FilmTec Corp.</i> , 204 F. 3d 880 (9th Cir. 2000).....	16
<i>ICU Medical, Inc. v. Alaris Medical Systems, Inc.</i> , 558 F.3d 1368 (Fed. Cir. 2009).....	5
<i>ICU Med., Inc. v. Alaris Med. Sys., Inc.</i> , No. 04-cv-00689 MRP, 2007 WL 8081360 (C.D. Cal. Jan. 22, 2007) <i>aff'd</i> , 558 F.3d 1368 (Fed. Cir. 2009) .....	3
<i>Invitrogen Corp. v. Clontech Labs., Inc.</i> , 429 F.3d 1052 (Fed. Cir. 2005).....	4

1	<i>LizardTech, Inc. v. Earth Resource Mapping, Inc.</i> , 424 F.3d 1336 (Fed. Cir. 2005).....	14
2	<i>Lockwood v. Am Airlines, Inc.</i> , 107 F.3d 1565 (Fed. Cir. 1997).....	4, 10
3		
4	<i>Mallinckrodt, Inc. v. Masimo Corp.</i> , 254 F. Supp. 2d 1140 (C.D. Cal. 2003).....	19
5		
6	<i>Martek Biosciences Corp. v. Nutrinova, Inc.</i> , 579 F.3d 1363 (Fed. Cir. 2009).....	13, 14
7		
8	<i>MasterObjects, Inc. v. Google Inc.</i> , 582 Fed. App'x 893 (Fed. Cir. 2014).....	1, 20
9		
10	<i>MasterObjects, Inc. v. Google Inc.</i> , Case No. 4:11-cv-01054-PJH (N.D. Cal.), <i>aff'd, MasterObjects, Inc. v. Google Inc.</i> , 582 Fed. App'x 893 (Fed. Cir. 2014).....	1, 2, 4-7, 14, 17-20
11		
12	<i>Nazomi Comm'ns, Inc. v. Nokia Corp.</i> , No. C-10-04686, 2013 WL 2951039 (N.D. Cal. Jun. 14, 2013).....	18-19
13		
14	<i>In re NTP, Inc.</i> , 654 F.3d 1268 (Fed. Cir. 2011).....	9
15		
16	<i>PowerOasis, Inc. v. T-Mobile USA, Inc.</i> , 522 F.3d 1299 (Fed. Cir. 2008).....	4, 10, 11
17		
18	<i>ScriptPro, LLC v. Innovation Assocs.</i> , 762 F.3d 1355 (Fed. Cir. 2014).....	13, 14
19		
20	<i>Space Systems/Loral, Inc. v. Lockheed Martin Corp.</i> , 405 F.3d 985 (Fed. Cir. 2005).....	14
21		
22	<i>Textscape LLC v. Adobe Sys. Inc.</i> , Case No. C 09-4550, 2010 WL 2293266 (N.D. Cal. June 7, 2010).....	10
23		
24	<i>Trading Techs. Int'l, Inc. v. eSpeed, Inc.</i> , 595 F.3d 1340 (Fed. Cir. 2010).....	8, 19, 20
25		
26	<i>Tronzo v. Biomet, Inc.</i> , 156 F.3d 1154 (Fed. Cir. 1998).....	10, 15
27		
28	<i>TurboCare Div. of Demag Delaval Turbomachinery Corp. v. Gen. Elec. Co.</i> , 264 F.3d 1111 (Fed. Cir. 2001).....	13
	<i>Univ. of Rochester v. G.D. Searle &amp; Co., Inc.</i> , 358 F.3d 916 (Fed. Cir. 2004).....	16
	<i>In re Westgate-Cal. Corp.</i> , 642 F.2d 1174 (9th Cir. 1981).....	2, 18
	<i>Wyeth v. Abbot Labs.</i> , Case No. 08-1021, 2012 WL 175023 (D.N.J. 2012).....	4

# Explore Litigation Insights



Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

### API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

### LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

### FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

### E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.