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9 *Attorneys for Plaintiff*
 MASTEROBJECTS, INC.

10
 11 UNITED STATES DISTRICT COURT
 12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 13 SAN FRANCISCO DIVISION

14 MASTEROBJECTS, INC.,
 15 Plaintiff,
 16 v.
 17 GOOGLE INC.,
 18 Defendant.
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Case No. CV 11-1054 PJH

**THIRD AMENDED COMPLAINT AND
 DEMAND FOR JURY TRIAL**

1 Plaintiff MasterObjects, Inc. (“MasterObjects” or “Plaintiff”) hereby files its
2 complaint against defendant Google Inc. (“Google” or “Defendant”), for patent infringement.
3 For its complaint, Plaintiff alleges, on personal knowledge as to its own acts and on
4 information and belief as to all other matters, as follows:

5 **PARTIES**

6 1. MasterObjects is a corporation organized under the laws of the State of
7 Delaware, with its principal place of business in San Francisco, California, prior to January 1,
8 2010, and now Maarsse, Netherlands.

9 2. Google is a corporation organized under the laws of the State of Delaware,
10 with its principal place of business in Mountain View, California.

11 **JURISDICTION AND VENUE**

12 3. This complaint asserts a cause of action for patent infringement under the
13 Patent Act, 35 U.S.C. § 271. This Court has subject matter jurisdiction over this matter by
14 virtue of 28 U.S.C. § 1338(a). Venue is proper in this Court by virtue of 28 U.S.C. § 1391(b)
15 and (c) and 28 U.S.C. § 1400(b), in that Google may be found in this district, has committed
16 acts of infringement in this district, and a substantial part of the events giving rise to the
17 claim occurred in this district.

18 4. This Court has personal jurisdiction over Google because Google has a place
19 of business in, and provides infringing products and services in, the Northern District of
20 California.

21 **INTRADISTRICT ASSIGNMENT**

22 5. Pursuant to Civil LR 3-2(c), this case should be subject to district-wide
23 assignment because it is an Intellectual Property Action.

1 **I. STATEMENT OF FACTS**

2 **A. The Plaintiff MasterObjects and its Instant Search Technology**

3 6. From the earliest days of Internet search, the search process has been
4 hampered by what is known as the “request-response loop.” The user would type a query
5 into a static input field, click a “submit” or “search” button, wait for the query to be sent to a
6 remote database, wait for the result set to be returned to the server, wait for the server to
7 build an HTML page, wait for the page to load into the browser, and then wait for the client
8 window to be redrawn so that the result set could be viewed.
9

10 7. Inherent in the “request-response loop” is the pragmatic reality that, if the
11 result set did not match user expectations, the entire process had to be repeated, recursively,
12 until the results satisfied the user.

13 8. In 2000, Mark Smit, the founder of Plaintiff MasterObjects, invented a novel
14 approach to search, an approach that solved the “request-response loop” problem. Smit
15 envisioned a system where a dynamic and intelligent search field would immediately begin
16 submitting a search query as soon as the user began typing characters into the query field.
17 Using asynchronous communications technology, as the user typed more characters, the
18 results in the drop-down box would change dynamically, becoming increasingly relevant as
19 the string of characters lengthened. In essence, search would become effective and granular
20 at the *character* level, not the block request *submit* level. More, this would happen real-time,
21 as the user typed in characters, and not be dependent on hitting a “search” or “submit
22 button.”
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25 9. MasterObjects filed its first patent application in August 2001, “System and
26 Method for Asynchronous Client Server Session Communication,” naming Smit and his
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1 colleague Stefan van den Oord as co-inventors. This application issued on February 7, 2012
2 as U.S. Patent No. 8,112,529 (the “’529 Patent”).

3 10. MasterObjects filed its second patent application in 2004, as a continuation-
4 in-part of the 2001 filing. This second application, titled “System and Method for Utilizing
5 Asynchronous Client Server Communications Objects,” issued as U.S. Patent No. 7,752,326
6 in July 2010 (the “’326 Patent”).

7 11. The ’326 Abstract summarizes the invention as follows:

8
9 A session-based client-server asynchronous information
10 search and retrieval system for sending character-by-
11 character or multi-character strings of data to an intelligent
12 server, that can be configured to immediately analyze the
13 lengthening string and return to the client increasingly
14 appropriate search information. Embodiments include
15 integration within an Internet, web or other online
16 environment, including applications for use in interactive
17 database searching, data entry, online searching, online
18 purchasing, music purchasing, people-searching, and other
19 applications. In some implementations the system may be
20 used to provide dynamically focused suggestions, auto-
21 completed text, or other input-related assistance, to the
22 user.

17 12. A continuation of the ’326 patent, also titled “System and Method for
18 Utilizing Asynchronous Client Server Communications Objects,” issued on November 15,
19 2011 as U.S. Patent No. 8,060,639 (the “’639 Patent”).

21 13. MasterObjects makes and sells products that practice the ’326, ’639, and ’529
22 patents, and MasterObjects has been selling these products from approximately 2004
23 forward. MasterObjects remains a going concern today, selling products that practice its
24 patented technology.

25 **B. The Infringing Google Products.**
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1 14. Google products infringe the claims of MasterObjects’ ’326, ‘639, and ‘529
2 patents, as set out below.

3 **Google Instant**

4 15. On September 8, 2010, Google launched Google “Instant.”

5 16. Google introduced Google Instant “as a new search enhancement that shows
6 results as you type.” Unlike the prior technology, where “you had to type a full search term,
7 hit return, and hope for the right result,” Google Instant uses asynchronous communication
8 technology to begin sending results to the user as the user types, character-by-character.
9

10 17. Google describes the benefit of Google Instant as follows:

11 The most obvious change is that you get to the right content
12 much faster than before because you don’t have to finish
13 typing your full search term, or even press “search.”
14 Another shift is that seeing results as you type helps you
15 formulate a better search term by providing instant
16 feedback. You can now adapt your search on the fly until
17 the results match exactly what you want. In time, we may
18 wonder how search ever worked in any other way.

16 Google: About Google Instant, <http://www.google.com/instant>.

17 18. In this fashion, Google Instant provides search results to users as the users
18 type the queries. Search results are changed based on the additional characters inputted by
19 the user, that is, as the query character string lengthens.
20

21 19. Google executives described Google Instant as representing “a fundamental
22 shift in search,” and otherwise recognized the innovative features of Google Instant in its
23 release in September 2010.

24 **Google Suggest**

25 20. Google Suggest anticipates a user’s query as the user types in individual
26 characters in the query box, and asynchronously suggests complete queries that match the
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1 partial query being typed. As the user starts typing in the search box, the client
2 asynchronously communicates with the server, and the server surveys records of previous
3 searches to suggest potentially matching queries to the user.

4 21. Google describes its Google Suggest functionality as follows:

5 As you type, Google's algorithm predicts and displays
6 search queries based on other users' search activities.
7 These searches are algorithmically determined based on a
8 number of purely objective factors (including popularity of
9 search terms) without human intervention. All of the
predicted queries shown have been typed previously by
Google users.

10 Google Web Search: Features: Autocomplete.

11 22. The benefits provided by Google Suggest parallel those provided by Google
12 Instant, *e.g.*, speeding the search process, lessening user typing, catching mistakes mid-query,
13 and otherwise increasing user efficiency.

14 **Google Client Access Points for Search**

15 23. Google makes, sells and distributes numerous client applications and
16 platforms to provide access to its search products, including search suggestions. These
17 include the Chrome web browser, the Chrome operating system, the Android operating
18 system, the Google Toolbar web browser application for Internet Explorer and Firefox, and
19 Google Search applications for the iOS and Windows Phone platforms. Each of these client
20 applications and platforms forms part of systems and methods that infringe the Instant Search
21 Patent by, for example, returning increasingly relevant search suggestions in response to
22 lengthening query strings input by a user.

23 **Quick Search Box For Google Android**

24 24. In October 2009, Google released an instant search functionality for its
25 Android mobile phone platform, known as the "Quick Search Box."
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25. As Google describes the function benefits of its quick search box:

Since keystrokes are at a premium when you're typing on your phone, Quick Search Box provides suggestions as you type, making it easy to access whatever you're looking for by typing just a few characters. Rather than giving you one search box for the web and another for your phone, QSB provides one single search box to let you search content on your phone, including apps, contacts, and browser history, as well as content from the web, like personalized search suggestions, local business listings, stock quotes, weather, and flight status, all without opening the browser.

<http://googlemobile.blogspot.com/2009/10/quick-search-box-for-android-search.html>

COUNT I

PATENT INFRINGEMENT
(The '326 Patent)

26. On July 6, 2010, United States Patent No. 7,752,326 entitled "System and Method For Utilizing Asynchronous Client Server Communications Objects" was duly and legally issued. A true and correct copy of the '326 patent is attached as Exhibit A.

27. Mark Smit and Stefan van den Oord are the inventors of the '326 instant search patent. The '326 patent has been assigned to Plaintiff. Plaintiff MasterObjects is the sole legal and rightful owner of the '326 patent.

28. Google makes, uses, and sells products that infringe the '326 patent by providing, in response to lengthening query strings input by a user and without requiring explicit submission by that user, increasingly relevant content such as search suggestions or search results, as alleged above in paragraphs 14 through 25 and incorporated here by reference. This conduct constitutes infringement under 35 U.S.C. § 271(a).

29. Google knows of the '326 patent and its contents. Specifically, Marissa Mayer, Google executive and Vice President responsible for Google's search products, and

1 Kent Walker, Google's General Counsel, were notified by letter in June 2008 by
2 MasterObjects of MasterObjects' patent applications, including the application that led to the
3 '326 patent, as it pertained to Google Suggest, among other products. A true and correct
4 copy of that letter, which included the patent applications, is attached as Exhibit B. In
5 September 2008, MasterObjects again notified Google, this time via email to Google CEO
6 Eric Schmidt, of its patent-pending search technology and its relevance to Google's search
7 products. A true and correct copy of that email is attached as Exhibit C. No response was
8 ever received by MasterObjects to either letter, and Google continued to make, use and sell
9 its infringing products, and introduce new infringing products.
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11 30. Since at least June 2008, Google understood that there was a high probability
12 that the MasterObjects search technology was patented and took deliberate steps to avoid
13 knowing that fact, including ignoring repeated notices of the pending applications, in willful
14 blindness to the infringing nature of the accused products and services.
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16 31. As a result of the infringement by Google, Plaintiff has been damaged, and
17 will continue to be damaged, until this Defendant is enjoined from further acts of
18 infringement.

19 32. Google will continue to infringe unless enjoined by this Court. Plaintiff faces
20 real, substantial and irreparable damage and injury of a continuing nature from infringement
21 for which Plaintiff has no adequate remedy at law.
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COUNT II

PATENT INFRINGEMENT

(The '639 Patent)

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4 33. On November 15, 2011, United States Patent No. 8,060,639 entitled “System
5 and Method For Utilizing Asynchronous Client Server Communications Objects” was duly
6 and legally issued. A true and correct copy of the '639 patent is attached as Exhibit D.

7 34. Mark Smit and Stefan van den Oord are the inventors of the '639 instant
8 search patent. The '639 patent has been assigned to Plaintiff. Plaintiff MasterObjects is the
9 sole legal and rightful owner of the '639 patent.

10 35. Google makes, uses, and sells products that infringe the '639 patent by
11 providing, in response to lengthening query strings input by a user and without requiring
12 explicit submission by that user, increasingly relevant content such as search suggestions or
13 search results, as alleged above in paragraphs 14 through 25 and incorporated here by
14 reference. This conduct constitutes infringement under 35 U.S.C. § 271(a).

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16 36. Google knows of the '639 patent and its contents. Specifically, Google's
17 counsel was notified by letter in August 2011 of the notice of allowance for the '639 patent.
18 A true and correct copy of that letter is attached as Exhibit E.

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20 37. As a result of the infringement by Google, Plaintiff has been damaged, and
21 will continue to be damaged, until this Defendant is enjoined from further acts of
22 infringement.

23 38. Google will continue to infringe unless enjoined by this Court. Plaintiff faces
24 real, substantial and irreparable damage and injury of a continuing nature from infringement
25 for which Plaintiff has no adequate remedy at law.
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COUNT III

PATENT INFRINGEMENT

(The '529 Patent)

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4 39. On February 7, 2012, United States Patent No. 8,112,529, entitled "System
5 and Method for Asynchronous Client Server Session Communication," was duly and legally
6 issued. A true and correct copy of the '529 patent is attached as Exhibit F.

7 40. Mark Smit and Stefan van den Oord are the inventors of the '529 instant
8 search patent. The '529 patent has been assigned to Plaintiff. Plaintiff MasterObjects is the
9 sole legal and rightful owner of the '529 patent.

10 41. Google makes, uses, and sells products that infringe the '529 patent by
11 providing, in response to lengthening query strings input by a user and without requiring
12 explicit submission by that user, increasingly relevant content such as search suggestions or
13 search results, as alleged above in paragraphs 14 through 25 and incorporated here by
14 reference. This conduct constitutes infringement under 35 U.S.C. § 271(a).

15 42. Google knows of the '529 patent and its contents. Specifically, Google's
16 counsel was notified by letter in December 2011 of the notice of allowance for the '529
17 patent. A true and correct copy of that letter is attached as Exhibit G.

18 43. As a result of the infringement by Google, Plaintiff has been damaged, and
19 will continue to be damaged, until this Defendant is enjoined from further acts of
20 infringement.

21 44. Google will continue to infringe unless enjoined by this Court. Plaintiff faces
22 real, substantial and irreparable damage and injury of a continuing nature from infringement
23 for which Plaintiff has no adequate remedy at law.
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PRAYER FOR RELIEF

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WHEREFORE, Plaintiff prays for entry of judgment:

A. that the Patents-in-Suit are valid and enforceable;

B. that Defendant has infringed one or more claims of the Patents-in-Suit;

C. that Defendant account for and pay to Plaintiff all damages caused by the infringement of the Patents-in-Suit, which by statute can be no less than a reasonable royalty;

D. that this Court issue a preliminary and final injunction enjoining Google, its officers, agents, servants, employees and attorneys, and any other person in active concert or participation with them, from continuing the acts herein complained of, and more particularly, that Google and such other persons be permanently enjoined and restrained from further infringing the instant search patent;

E. that Plaintiff be granted pre-judgment and post-judgment interest on the damages caused to them by reason of Defendant's infringement of the Patents-in-Suit;

F. that this Court require Defendant to file with this Court, within thirty (30) days after entry of final judgment, a written statement under oath setting forth in detail the manner in which Defendant has complied with the injunction;

G. that this be adjudged an exceptional case and the Plaintiff be awarded its attorney's fees in this action pursuant to 35 U.S.C. § 285;

H. that this Court award Plaintiff its costs and disbursements in this civil action, including reasonable attorney's fees; and

I. that Plaintiff be granted such other and further relief as the Court may deem just and proper under the current circumstances.

1 Dated: March 30, 2012

Respectfully submitted,

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3
4 /s/ Spencer Hosie

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12 *Attorneys for Plaintiff*

MASTEROBJECTS, INC.

DEMAND FOR JURY TRIAL

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Plaintiff, by its undersigned attorneys, demands a trial by jury on all issues so triable.

Dated: March 30, 2012

Respectfully submitted,

/s/ Spencer Hosie
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