EX PARTE OR LATE FILED

DOCKET FILE COPY ORIGINAL

Google Inc.
Public Policy Department
1101 New York Avenue, NW
Second Floor
Washington, DC 20005

Google™

Phone 202.346.1100
Fax 202.346.1101
www.google.com

ORIGINAL

CONFIDENTIAL MATERIAL REDACTED

August 21, 2009

FILED/ACCEPTED

AUG 2 1 2009

Federal Communications Commission
Office of the Secretary

Via Hand Delivery

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street SW
Washington, DC 20554

Re: Written Ex Parte Notice - RM-11361, *Skype Communications S.A.R.L. Petition to Confirm a Consumer's Right to Use Internet Software and Attach Devices to Wireless Networks;* RM-11497, *Rural Cellular Association Petition for Rulemaking Regarding Exclusivity Arrangements Between Commercial Wireless Carriers and Handset Manufacturers*

Dear Ms. Dortch:

Attached please find an original and three (3) copies of Google's response to the FCC letter of July 31, 2009, DA 09-1739, regarding Apple's Rejection of the Google Voice for iPhone Application. To the extent Google's response pertains to issues pending in the above-referenced rulemaking proceedings, and consistent with the Commission's *ex parte* rules, Google hereby files copies of its redacted and public response in each of these proceedings.

Respectfully submitted,

Richard S. Whitt, Esq.
Washington Telecom and Media Counsel
Google Inc.

Attachment

No. of Copies rec'd 0+3
List ABCDE

Google Inc.
Public Policy Department
1101 New York Avenue, NW
Second Floor
Washington, DC 20005

Phone 202.346.1100
Fax 202.346.1101
www.google.com

REDACTED – FOR PUBLIC INSPECTION

August 21, 2009

FILED/ACCEPTED
AUG 2 1 2009
Federal Communications Commission
Office of the Secretary

Via Hand Delivery

James D. Schlichting
Senior Deputy Bureau Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Apple's Rejection of the Google Voice for iPhone Application

Dear Mr. Schlichting:

Google Inc. ("Google") thanks the Commission for its letter of July 31, 2009, DA 09-1739, seeking information regarding the recent decision by Apple Inc. ("Apple") not to allow the Google Voice application for the iPhone. Below please find your original questions and our responses, which include descriptions of our products and services, and communications undertaken with other parties, up to the date of your letter. In light of the sensitive nature of commercial discussions, and as explained in the attached letter, we respectfully request confidential treatment for our response to Question 2 (communications between Google and others on this topic), pursuant to section 0.459 of the Commission's rules.

FCC Question 1. **Please provide a description of the proposed Google Voice application for iPhone. What are the key features, and how does it operate (over a voice or data network, etc.)?**

Google Response 1. Google Voice is an enhanced voice and data messaging application that provides number management and related services to users who have one or more existing wireline or mobile phone services. The proposed Google Voice for iPhone is a software application designed to allow Google Voice users to utilize their iPhone to manage their phone numbers and voicemail, integrate contacts, place outbound calls, and send SMS messages from their Google Voice phone number. The application does not provide the underlying communications pathway, or the separate SMS service. The application can be fully integrated with the users' stored iPhone contacts to

make calling and messaging easier. The application can only be utilized by users with an active Google Voice account, which currently is an invitation-only service. Whether the application utilizes the voice or data capabilities of a wireless network depends on the particular feature utilized by the user, as will be described further below.

Accessing the Inbox

The Inbox provides direct access to all Google Voice voicemail and SMS messages. Users can:

- Read voicemail transcriptions;
- Play a recording of the message;
- Read SMS sent to their Google Voice number;
- Add someone to their Contacts list; and
- Respond to any of the messages in the Inbox by placing a call or sending a text message.

This feature utilizes the carrier data network from the application, and requires underlying telephone and SMS services.

Using Contacts

Through the Contacts tab, users can display all of their iPhone contacts, select any contact on the list, and call them or send an SMS message through their Google Voice number.

Placing a Call

Users can place outbound calls that display their Google Voice phone number by:

- Typing any phone number in the application dialer;
- Tapping the Call button while viewing any of the voicemails or SMS messages in the Inbox; or
- Tapping the Contacts tab and selecting one of their iPhone contacts.

This feature utilizes the carrier voice network from the application.

Sending SMS Messages

Users can send SMS messages that display their Google Voice phone number by:

REDACTED – FOR PUBLIC INSPECTION

- Typing any phone number in the application dialer;
- Selecting the person's number in their iPhone Contacts; or
- Responding to messages in their Inbox via SMS.

This feature utilizes the carrier data network from the application.

FCC Question 2. **What explanation was given (if any) for Apple's rejection of the Google Voice application (and for any other Google applications for iPhone that have been rejected, such as Google Latitude)? Please describe any communications between Google and AT&T or Apple on this topic and a summary of any meetings or discussion.**

Google Response 2. **[BEGIN CONFIDENTIAL]**

REDACTED – FOR PUBLIC INSPECTION

[END CONFIDENTIAL]

FCC Question 3. **Has Apple approved any Google applications for the Apple App Store? If so, what services do they provide, and, in Google's opinion, are they similar to any Apple/AT&T-provided applications?**

Google Response 3. Apple has approved the Google Earth application and the Google Mobile application for the Apple App Store. Google Earth allows users to view satellite images, maps, and terrain of the Earth, which provides images similar to the maps application on the iPhone (it should be noted that the maps application on the iPhone is a mapping service provided by Google). Google Mobile Application allows users to search by text or voice, and access other Google services. This application provides web search capability that can also be found on Apple's Safari browser.

FCC Question 4. **Does Google have any other proposed applications pending with Apple, and if so, what services do they provide?**

Google Response 4. No.

FCC Question 5. **Are there other mechanisms by which an iPhone user will be able to access either some or all of the features of Google Voice? If so, please explain how and to what extent iPhone users can utilize Google Voice despite the fact that it is not available through Apple's App Store.**

Google Response 5. While Google Voice can be accessed either from the Google Voice website or by calling the Google Voice number, the App Store version of

the Google Voice application offers some significant advantages over those alternatives means of accessing Google Voice. The Google Voice features accessible by the mobile website are more limited than those features found in the App Store version of Google Voice. For instance, only the App Store version of Google Voice can directly access the iPhone address book and dial directly from the application, thus providing a more seamless experience to the iPhone user. Finally, the App Store version of Google Voice offers a distribution advantage over the web-based version as iTunes has become the most popular way of accessing applications on the iPhone.

FCC Question 6. **Please provide a description of the standards for considering and approving applications with respect to Google's Android platform. What is the approval process for such applications (timing, reasons for rejection, appeal process, etc.)? What is the percentage of applications that are rejected? What are the major reasons for rejecting an application?**

Google Response 6. The Android Market is an open distribution channel for developers seeking to get their Android applications into the hands of users. As such, there is no pre-approval process conducted by Google or any third-party before applications submitted by a registered developer (*i.e.*, developers who have provided verified credit card information) are available for download by users. There is a limited automated analysis that is performed on all uploaded applications at the time of submission, to identify technical issues that would prevent installation by the user and to notify the developer of these issues. (For example, this process ensures that applications are not displayed to users whose devices lack features required by those applications, and ensure that the application complies with the Android security model.) This automated process does not screen or reject applications on the basis of content or functionality. In addition, it is important to note that the Android Market is not the exclusive method for distribution of Android applications. Developers are free to make their applications available through alternative channels instead of, or in addition to, the Android Market, and users are free to install Android applications from any source they choose.

Once an application has been uploaded by the developer and made available for users of Android-powered handsets, the Android Market community is relied upon to flag applications that do not abide by our policies. An application that has received a threshold number of user flags

REDACTED – FOR PUBLIC INSPECTION

is reviewed by Google staff and a determination as to whether the application violates our policies is made within approximately three days.

An application could be removed from the Android Market if it is found to violate Google's Developer Distribution Agreement (*available at* http://www.android.com/us/developer-distribution-agreement.html) or Google's Content Policies (*available at* http://www.android.com/market/terms/developer-content-policy.html). Approximately 1 percent of all applications that have been uploaded to Android Market and made available to consumers subsequently have been taken down by Google. The majority of these applications have been removed after being flagged by users for containing impermissible adult content, or in response to valid Digital Millennium Copyright Act ("DMCA") notices from rights-holders. In operating this review process, Google relies upon its experience hosting other forms of user-generated content, and in all cases aims to protect openness.

****

Please feel free to contact the undersigned should the Commission have any further questions regarding this matter.

Respectfully submitted,

Richard S. Whitt, Esq.
Washington Telecom and Media Counsel
Google Inc.

cc: Paul Malmud, Wireless Telecommunications Bureau

Google Inc.
Public Policy Department
1101 New York Avenue, NW
Second Floor
Washington, DC 20005

Phone 202.346.1100
Fax 202.346.1101
www.google.com

August 21, 2009

Via Hand Delivery

James D. Schlichting
Senior Deputy Bureau Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: **REQUEST FOR CONFIDENTIAL TREATMENT**
Response of Google Inc. to Wireless Telecommunications Bureau
Letter of July 31, 2009 (DA 09-1739)

Dear Mr. Schlichting:

Google Inc., pursuant to section 0.459 of the Commission's Rules, hereby requests confidential treatment of the unredacted version of the attached August 21, 2009 letter of Richard S. Whitt, Google Inc., to James D. Schlichting, Senior Deputy Chief of the Wireless Telecommunications Bureau, FCC ("Google Response"). Specifically, and as reflected in the attached redacted and public version of the Google Response, Google requests confidential treatment of its response to FCC Question 2.

Under section 0.459(a) of the Commission's Rules, entities submitting information to the Commission may request confidential treatment of sensitive commercial information. 47 C.F.R. § 0.459(a). The redacted information relates specifically to private business discussions between Apple and Google regarding the Google Voice application and, as such, it constitutes commercial data "which would customarily be guarded from competitors." *See id.*, at § 0.457(d)(2). Google does not routinely disclose such material to third parties, and Google has established procedures to protect such commercially sensitive information internally. The Internet service industry is highly competitive, and the redacted material relates to business and operations of Google, warranting protection from disclosure under the Commission's Rules.

Further, Google respectfully requests notification by the Commission if there is a request for release of the redacted material pursuant to the Freedom of Information Act ("FOIA") or otherwise, so that Google may have an opportunity to oppose grant of the disclosure request. *See* 47 C.F.R. § 0.459(d)(1).

Respectfully submitted,

Richard S. Whitt, Esq.
Washington Telecom and Media Counsel
Google Inc.

Attachment