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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ORACLE AMERICA, INC.,

No. C 10-03561 WHA

Plaintiff,

v.

GOOGLE INC.,


**ORDER DENYING
LEAVE TO FILE
MOTION FOR
SUMMARY JUDGMENT
ON '104 PATENT**

Defendant.

Defendant requests leave to file a motion for partial summary judgment that the claims of United States patent number RE38,104 are invalid under 35 U.S.C. 251 (Dkt. No. 311). Plaintiff opposes defendant's request (Dkt. No. 318). Having considered both submissions, this order finds that defendant's proposed motion would not be likely to succeed in narrowing the issues for trial. Accordingly, the request is **DENIED**. This denial is without prejudice to the same invalidity arguments being raised at trial.

IT IS SO ORDERED.

Dated: August 19, 2011.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE