

**NO. 10-16992**

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**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

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**GARY BLACK AND HOLLI BEAM-BLACK**

*Plaintiffs/Appellants,*

v.

**GOOGLE INC.**

*Defendant/Appellee.*

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On Appeal from the United States District Court for the  
Northern District of California  
Case No. 4:10-cv-02381-CW  
The Honorable Claudia Wilken

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**DECLARATION OF BART E. VOLKMER IN  
SUPPORT OF DEFENDANT-APPELLEE GOOGLE  
INC.'S RESPONSE TO APPELLANTS'  
MOTION TO STAY**

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*Attorneys for Defendant/Appellee Google Inc.*

I, Bart E. Volkmer, declare as follows:

I am licensed to practice law in the State of California and am admitted to practice before this Court. I am an associate at the law firm of Wilson Sonsini Goodrich & Rosati, counsel of record for Defendant-Appellee Google Inc. (“Google”) in this action. I submit this declaration in support of Google’s Response to the Appellants’ Motion to Stay. I have personal knowledge of the facts set forth herein and, if called as a witness, I would testify competently to them.

1. On May 28, 2010, Gary Black and Holli Beam-Black filed suit against Google in the Northern District of California. A true and correct of the Blacks’ Complaint is attached hereto as **Exhibit A**.

2. On August 13, 2010, the district court dismissed the Blacks’ Complaint with prejudice pursuant to Rule 12(b)(6) (“Dismissal Order”). A true and correct of the Dismissal Order is attached hereto as **Exhibit B**.

3. On August 25, 2010, the Blacks filed in the district court a paper entitled “Objection.”

4. On September 10, 2010, the Blacks filed in the district court a motion to stay the Dismissal Order. A true and correct copy of that motion is attached hereto as **Exhibit C**.

5. On September 20, 2010, the district court denied the Blacks’ “Objection” and denied their motion to stay. A true and correct copy of that Order is attached hereto as **Exhibit D**.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct. Executed this 23rd day of September 2010, at Palo Alto, California.

/s/ Bart E. Volkmer

Bart E. Volkmer