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8 Class Counsel

9
 10 **UNITED STATES DISTRICT COURT**
 11 **CENTRAL DISTRICT OF CALIFORNIA**

12 In Re QUANTCAST ADVERTISING
 13 COOKIE LITIGATION, and

No. 2:10-cv-05484-GW-JCG

No. 2:10-cv-05948-GW-JCG

14 In Re CLEARSPRING FLASH
 15 COOKIE LITIGATION

[Assigned to the Hon. George H. Wu]

16 **DECLARATION OF SCOTT A**
 17 **KAMBER IN SUPPORT OF**
 18 **SUPPLEMENT TO PLAINTIFFS’**
 19 **MOTION FOR FINAL APPROVAL**
 20 **OF CLASS ACTION SETTLEMENT**

21 Date: June 13, 2011
 22 Location: Courtroom 10
 312 N. Spring Street
 Los Angeles, CA 90012
 Time: 9:30 a.m.

1 I, Scott A. Kamber, declare as follows:

2 1. I am an attorney-at-law duly licensed to practice before all of the
3 courts of the State of New York and am admitted *pro hac vice* before this court
4 for these consolidated actions. I am a managing member of KamberLaw, LLC
5 (“KamberLaw”). I am the attorney primarily responsible for the handling of this
6 litigation on behalf of KamberLaw LLC. I make this declaration based upon my
7 own personal knowledge. If called to testify, I could and would testify to the facts
8 contained herein.

9 2. I hereby represent that Exhibit A attached hereto is a true and accu-
10 rate copy of an e-mail dated May 13, 2011 from Jeffrey S. Jacobson, counsel for
11 several defendants in the above-captioned cases, to objector Sam Cannata regard-
12 ing certain facts about the terms of the Settlement Agreements in these cases, with
13 an attachment (Dkt. 63).

14 I declare under penalty perjury under the laws of the United States of Amer-
15 ica that the foregoing is true and correct.

16 Executed on May 31, 2011 at New York, New York.

17
18 Dated May 31, 2011

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20
21 /s Scott A. Kamber
22 Scott A. Kamber (*pro hac vice*)
skamber@kamberlaw.com

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27 Class Counsel

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EXHIBIT A

From: "Jacobson, Jeffrey S." <jsjacobson@debevoise.com>
Subject: **Quantcast/Clearspring**
Date: May 13, 2011 7:22:29 PM EDT
To: "'samcannata@cannataphillipslaw.com'" <samcannata@cannataphillipslaw.com>
▶ 1 Attachment, 153 KB

Dear Mr. Cannata,

My firm represents several of the defendants in the Quantcast and Clearspring cases. (We don't represent Quantcast or Clearspring; our clients were customers of theirs who are entitled to indemnification from them.) I've studied the objection you have just filed, and I'm writing, in the spirit of cooperation, to advise you of certain facts about the settlement that are available online but which I think you may not have seen.

First, plaintiffs' counsel already have identified the organizations that will receive *cy pres* funds if the Court approves the proposed settlement. Plaintiffs' counsel filed the attached letter with the Court on January 20, 2011 — prior to the Court's preliminary approval of the settlement — and the Class Notice included this information. These documents all have been available for months on the settlement website, www.flashcookiesettlement.com. As you will see, plaintiffs' counsel chose an impressive array of organizations, and Judge Wu carefully scrutinized plaintiffs' list before he granted preliminary approval. Indeed, Judge Wu held five separate hearings before preliminarily approving the settlement, making sure the notice accurately describes all aspects of the settlement, so you can be assured that he is giving this case the heightened scrutiny you think warranted.

Second, there was no dispute between the parties in the case that Quantcast and Clearspring both had stopped the practice of using Flash cookie information to "respawn" HTTP deleted HTTP cookies before plaintiffs' counsel commenced their lawsuits. Plaintiffs' counsel and their outside experts took detailed steps to confirm this fact before agreeing to the settlement. There also was no dispute between the parties technical experts that the conduct, even while Quantcast and Clearspring allegedly engaged in it, had no potential to cause monetary damages to computer users. For these reasons, there was nothing to "discover," and the relief plaintiffs' counsel extracted, which consists of (1) enforceable promises from Quantcast and Clearspring not to resume this conduct, (2) lobbying by the customer defendants to enact meaningful reforms to the industry's self-regulatory guidelines, and (3) sizable contributions by Quantcast and Clearspring to organizations dedicated to the improvement of online privacy, is a very good result for the class. As further evidence that the class did very well, consider that, when another defendant in Quantcast's position chose to fight identical allegations rather than settle, the same judge who is considering our settlement entered an order dismissing the plaintiffs' complaint for failure to state a claim.

Third, although it is customary for all relief in a proposed settlement to await the settlement's becoming "final" (*i.e.*, after final approval and the running of any appellate deadlines), this settlement uniquely offered many of its benefits early. You can see descriptions of what the defendants already have done in our papers in support of final approval.

I would urge you to take a look at these materials, consider this information (which I recognize you may be hearing for the first time), and give some thought to withdrawing your objection. I have the utmost respect for good-faith objectors, but I sense that you may very well have a different impression of this settlement than actually is warranted.

I would be more than happy to discuss the settlement with you. Please feel free to call me in my office on Monday.

Thank you very much, and have a great weekend.

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