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 GOOGLE INC.

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN FRANCISCO DIVISION

12 OVERTURE SERVICES, INC.,
 13 Plaintiff and Counterdefendant,
 14 v.
 15 GOOGLE INC.,
 16 Defendant and Counterclaimant.

Case No. C 02-01991 JSW (EDL)

**REQUEST TO FILE DOCUMENTS
 UNDER SEAL; [PROPOSED] ORDER**

Date: August 3, 2004
 Time: 9:00 a.m.
 Courtroom: E, 15th Floor
 Judge: Hon. Elizabeth D. Laporte

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1 Google Inc. (“Google”) hereby submits this Request to File Documents Under Seal in
2 connection with its Motion to Compel Production of Documents and Testimony Re: Prosecution
3 of the ’361 Patent. Google requests that the Court allow Google to file under seal an unredacted
4 version of its Motion, and the Declaration of Christine P. Sun (“Sun Declaration”) in support
5 thereof.

6 **The Declaration of Christine P. Sun and Exhibits thereto**

7 The exhibits to the Sun Declaration contain excerpts from the depositions of Darren
8 Davis, Elaine Lee, and John Rauch that have been designated as confidential by Plaintiff
9 Overture Services, Inc. (“Overture”). The exhibits also contain documents that appear to be
10 Overture draft business plans and internal reports that have been designated as confidential or
11 outside counsel only information by Overture. Under the terms of the protective order entered in
12 this case on December 16, 2002, Google cannot file these materials publicly.¹ See Protective
13 Order ¶ 6.

14 **The Motion to Compel Production of Documents and Testimony Re: Prosecution of**
15 **the ’361 Patent (unredacted version)**

16 The unredacted version of the Motion to Compel Production of Documents and
17 Testimony Re: Prosecution of the ’361 Patent contains quotations and references to the
18 confidential and outside counsel only exhibits to the Sun Declaration. Under the terms of the
19 protective order entered in this case on December 16, 2002, Google cannot file publicly
20 documents containing information designated as confidential or outside counsel only. See
21 Protective Order ¶ 6.

22 The non-confidential exhibits to which Google cites in its Motion are attached to the
23 Declaration of Ravind S. Grewal, which is being publicly filed. A redacted Motion, omitting
24 reference to the exhibits to the Sun Declaration, is also being publicly filed.

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26 ¹ Prior to submitting this request, Google met and conferred with Overture about de-
27 designating certain deposition excerpts and documents that Google believes in good faith may
28 have been unnecessarily designated as confidential. See Declaration of Christine P. Sun ISO
Request To File Documents Under Seal, ¶¶2-3, Ex. A. Resolution of these meet and confer
efforts was impracticable prior to the filing of Google’s Motion To Compel Production of
Documents and Tesimony Re: Prosecution of the ’361 Patent. See *id.* at ¶ 3.

1 In light of the foregoing, Google respectfully submits that this Request to File Documents
2 Under Seal is narrowly tailored within the meaning of Civil Local Rule 79-5. Google therefore
3 requests that the Court permit the sealing of the documents set forth above, and order that the
4 Clerk of the Court maintain them in accordance with the provisions of Local Civil Rule 79-5(e).

5 RESPECTFULLY SUBMITTED,

6 Dated: June 29, 2004

KEKER & VAN NEST, LLP

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9 By: /s/ Christine P. Sun

10 CHRISTINE P. SUN
11 Attorneys for Defendant and
12 Counterclaimant GOOGLE INC.

13 **[PROPOSED] ORDER**

14 Pursuant to Civil Local Rules 7-10 and 79-5, Google has applied to this Court for an
15 order permitting them to file under seal certain documents in connection with its Motion to
16 Compel Production and Testimony Re: Prosecution of the '361 Patent.

17 GOOD CAUSE APPEARING, Google's request is granted. The Clerk is directed to
18 maintain the following documents, submitted by Google on or about June 29, 2004, in
19 accordance with the provisions of Civil Local Rule 79-5(e):

20 (1) Google's Notice of Motion and Motion to Compel Production of Documents and
21 Testimony Re: Prosecution of the '361 Patent; Memorandum of Points and Authorities in
22 Support Thereof (Unredacted Version).

23 (2) The Declaration Of Christine P. Sun in Support of Google's Motion to Compel
24 Production of Documents and Testimony Re: Prosecution of the '361 Patent, and exhibits
25 thereto.

26 IT IS SO ORDERED.

27 Dated: _____

28 HON. ELIZABETH D. LAPORTE
United States Magistrate Judge