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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)

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

Date: August 10, 2004
 Time: 9:00 a.m.
 Courtroom: E, 15th Floor
 Judge: Hon. Elizabeth D. Laporte

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1 Google Inc. hereby submits this *Second Amended* Request to File Documents Under Seal
2 in connection with its Motion to Compel Production of Documents and Testimony Re:
3 Prosecution of the '361 Patent. By letter dated July 1, 2004, Overture Services, Inc. informed
4 Google that it would de-designate certain exhibits lodged on June 29, 2004 in support of
5 Google's Motion. This amendment narrows the scope of Google's June 29, 2004 request and
6 specifies the information that Google requests that the Court file under seal.

7 **The Exhibits to the Amended Declaration of Christine P. Sun**

8 The exhibits to the Sun Declaration are documents that appear to be Overture draft
9 business plans and internal reports that have been designated as confidential or outside counsel
10 only information by Overture. Specifically,

- 11 • Exhibit A is a document entitled "GoTo.com Business Plan February 1998." It
12 appears to contain confidential business information belonging to Overture.
- 13 • Exhibit B is a report entitled "Line Ad Totals: Clients by Name, May 1998." It
14 appears to be an internal report containing confidential business information
15 belonging to Overture.
- 16 • Exhibit C is a report entitled "Toyota, May 1998." It appears to be an internal
17 report containing confidential business information belonging to Overture.

18 Under the terms of the protective order entered in this case on December 16, 2002, Google
19 cannot file publicly documents containing information designated as confidential or outside
20 counsel only. *See* Protective Order ¶ 6.

21 **The Motion to Compel Production of Documents and Testimony Re: Prosecution of**
22 **the '361 Patent (amended unredacted version)**

23 The *amended* unredacted version of the Motion to Compel Production of Documents and
24 Testimony Re: Prosecution of the '361 Patent contains quotations and references to a
25 confidential exhibit to the Sun Declaration. Specifically,

- 26 • Page 2, line 25 to page 3, line 8 contains quotations and references to Exhibit A,
27 the document entitled "GoTo.com Business Plan February 1998."
- 28 • Page 8, at the bottom of the page as part of footnote 8, contains a quotation from

1 Exhibit A, the document entitled "GoTo.com Business Plan February 1998."
2 Under the terms of the protective order entered in this case on December 16, 2002, Google
3 cannot file publicly documents containing information designated as confidential or outside
4 counsel only. See Protective Order ¶ 6.

5 The non-confidential exhibits to which Google cites in its Motion are attached to the
6 Declaration of Ravind S. Grewal and the Supplemental Declaration of Ravind S. Grewal, which
7 were publicly filed. An *amended* redacted Motion, omitting the quotations and references to
8 Exhibit A to the Sun Declaration, was also publicly filed. In addition, Google will publicly file
9 the Sun Declaration but omitting the exhibits thereto.

10 In light of the foregoing, Google requests that the Court allow Google to file under seal
11 the *amended* unredacted version of its Motion, and the exhibits to the *Amended* Declaration of
12 Christine P. Sun in support thereof. Google respectfully submits that this Request to File
13 Documents Under Seal is narrowly tailored within the meaning of Civil Local Rule 79-5.
14 Google therefore requests that the Court permit the sealing of the documents set forth above, and
15 order that the Clerk of the Court maintain them in accordance with the provisions of Local Civil
16 Rule 79-5(e).

17 RESPECTFULLY SUBMITTED,
18 Dated: July 8, 2004 KEKER & VAN NEST, LLP

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21 By: _____/s/ Christine P. Sun
22 CHRISTINE P. SUN
23 Attorneys for Defendant and
24 Counterclaimant GOOGLE INC.

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27 **[PROPOSED] ORDER**

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

GOOD CAUSE APPEARING, Google's request is granted. The Clerk is directed to

1 maintain the following documents, submitted by Google on or about July 6, 2004, in accordance
2 with the provisions of Civil Local Rule 79-5(e):

3 (1) Google's Notice of Motion and Motion to Compel Production of Documents and
4 Testimony Re: Prosecution of the '361 Patent; Memorandum of Points and Authorities in
5 Support Thereof (*Amended Unredacted Version*).

6 (2) The exhibits to the *Amended Declaration Of Christine P. Sun in Support of*
7 *Google's Motion to Compel Production of Documents and Testimony Re: Prosecution of the*
8 *'361 Patent.*

9 IT IS SO ORDERED.

10 Dated: _____

HON. ELIZABETH D. LAPORTE
United States Magistrate Judge

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