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13 Attorneys for Defendant
 14 GOOGLE INC.

15 UNITED STATES DISTRICT COURT
 16 NORTHERN DISTRICT OF CALIFORNIA
 17 SAN FRANCISCO DIVISION

18 ORACLE AMERICA, INC.,
 19 Plaintiff,
 20 v.
 21 GOOGLE INC.,
 22 Defendant.

Case No. 3:10-cv-03561 WHA
**GOOGLE INC.'S PROPOSED
 ADDITIONAL LANGUAGE FOR
 PATENT JURY INSTRUCTION NUMBER
 23**
 Dept.: Courtroom 8, 19th Floor
 Judge: Hon. William Alsup

1 Pursuant to the Court’s invitation at the charging conference, Google proposes that the
2 Court add the following language to patent jury instruction number 23:

3 To establish willful blindness, it is not enough under the law to show that there is
4 merely a “known risk” that the induced acts are infringing, or that Google was
only deliberately indifferent to that risk.

5 The proposed language comes directly from *Global-Tech Appliances, Inc. v. SEB S.A.*,
6 131 S. Ct. 2060 (2011), the case that recognized the possibility of willful blindness being applied
7 to indirect infringement. Specifically, it is drawn from the following passage:

8 The test applied by the Federal Circuit in this case departs from the proper willful
9 blindness standard in two important respects. First, *it permits a finding of*
10 *knowledge when there is merely a “known risk” that the induced acts are*
11 *infringing. Second, in demanding only “deliberate indifference” to that risk, the*
Federal Circuit’s test does not require active efforts by an inducer to avoid
knowing about the infringing nature of the activities.

12 *Id.* at 2071 (emphases added).

13 Dated: May 10, 2012

KEKER & VAN NEST LLP

14 By: /s/ Robert A. Van Nest
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