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

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

Case No. 3:10-cv-03561-WHA
 Honorable Judge William H. Alsup
**GOOGLE INC.’S RESPONSE TO THE
 COURT’S ORDER TO SHOW CAUSE**

1 **RESPONSE TO SHOW CAUSE ORDER**

2 On October 28, 2010, the Court ordered Google Inc. to show cause why its pending
3 motion to dismiss count VIII of plaintiff's complaint or, in the alternative, for a more definite
4 statement, filed on October 4, is not moot in view of Oracle America Inc.'s recently-filed
5 Amended Complaint For Patent And Copyright Infringement. Because Oracle's Amended
6 Complaint effectively concedes the merits of Google's motion to dismiss and supersedes the
7 original complaint, Google agrees with the Court's suggestion that the filing of the Amended
8 Complaint renders moot the specific issues raised in Google's motion. Google therefore agrees
9 that its Motion To Dismiss should be denied as moot, without prejudice to Google's right to file
10 a new motion to address issues raised by Oracle's Amended Complaint.

11 In the spirit of proceeding as efficiently as possible through the early stages of this case,
12 Google notes that Oracle's filing of the Amended Complaint will require Google to file a new
13 answer (to the Amended Complaint) and counterclaims, which will replace Google's original
14 Answer And Counterclaims, filed on October 4, and will become Google's operative pleading.
15 Accordingly, Google believes that Oracle's pending motion to dismiss and to strike, filed on
16 October 26, is also moot, or will necessarily become so once Google files its answer to the
17 Amended Complaint. Oracle's motion is directed to Google's answer to Oracle's original
18 complaint and its counterclaims asserted in response to the original complaint, which will in the
19 near future be superseded by a further pleading. Thus, as Oracle argued in opposition to
20 Google's motion to dismiss, Oracle's motion to dismiss and to strike should also be denied on
21 the grounds that it will be moot once Google responds to the Amended Complaint.

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Dispute Resolution Procedures

in the
Northern District
of California

United States District Court



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