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9 Attorneys for Plaintiff  
craigslist, Inc.

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

14 CRAIGSLIST, INC., a Delaware  
15 corporation,

16 Plaintiff,

17 v.

18 THOMAS G. MCGUIRE, a Florida  
19 resident,

20 Defendant.

Case No. CV-10-5830 CRB

**STIPULATION AND [PROPOSED] ORDER  
TO PRODUCE DEFENDANT THOMAS G.  
MCGUIRE'S EMAILS, RECORDS, AND  
COMMUNICATIONS PURSUANT TO USER  
CONSENT**

1           WHEREAS, on December 22, 2010, craigslist, Inc. (“craigslist”) filed this lawsuit against  
2 Defendant Thomas G. McGuire (“Defendant”) asserting various causes of action arising from,  
3 among other things, Defendant’s purchase and sale of craigslist phone verified accounts  
4 (“PVAs”);

5           WHEREAS, on December 22, 2010 Defendant was served with the Complaint in this  
6 action;

7           WHEREAS, on January 7, 2011, Defendant informed craigslist that shortly after he was  
8 served with craigslist's Complaint, but before he had engaged counsel, Defendant deleted the  
9 Google email account (“[tommyselverify@gmail.com](mailto:tommyselverify@gmail.com)”) he had been using in connection with his  
10 purchases and sales of PVAs. He also deleted another account, “[itstommysc@gmail.com](mailto:itstommysc@gmail.com)”, that  
11 was linked to the aforementioned account;

12           WHEREAS, the Stored Communications Act, 18 U.S.C. § 2702 (“SCA”), provides that a  
13 provider of an electronic communication service or remote computer service may not divulge the  
14 contents of a communication unless one of eight listed exceptions apply;

15           WHEREAS, the SCA, at 18 U.S.C. § 2702(b)(3), provides that a provider of an electronic  
16 communication service or remote computer service may divulge the contents of communications  
17 with the lawful consent of the originator or an addressee or intended recipient of such  
18 communication;

19           WHEREAS, pursuant to the Declaration attached as Exhibit A hereto and incorporated  
20 into this Stipulation by reference in its entirety, Defendant consents to the production by Google,  
21 to Defendant's counsel, of all records, communications, and emails from all folders which are  
22 readily accessible and which were contained in the Google gmail accounts  
23 “[tommyselverify@gmail.com](mailto:tommyselverify@gmail.com)” and “[itstommysc@gmail.com](mailto:itstommysc@gmail.com)” on or about December 22, 2010,  
24 and any other content associated with other Google accounts (e.g., Google Checkout, Google  
25 Docs, Google sites, etc.) created or held by Defendant Thomas G. McGuire;

26           NOW THEREFORE, the parties, by and through their undersigned counsel, hereby agree  
27 and stipulate as follows:  
28

1           1.       Many of the emails contained in the Google email accounts  
2       “[tommyselverify@gmail.com](mailto:tommyselverify@gmail.com)” and “[itstommysc@gmail.com](mailto:itstommysc@gmail.com)”, including the complete content  
3       and header information for all sent, received, draft, and archived emails, are likely to contain  
4       information highly relevant to the claims and issues presented in this lawsuit. The records,  
5       contents, and header information for communications in other Google accounts held by  
6       Defendant, if any, may also contain relevant information.

7           2.       Given the possibility that relevant information in the hands of third parties may be  
8       permanently deleted or lost if steps are not taken promptly by the parties to recover and secure  
9       that information, the parties agree that it is necessary and appropriate to commence discovery,  
10      including third party discovery, immediately, as permitted by Federal Rule of Civil Procedure  
11      26(d) governing the timing of discovery.

12          3.       Defendant has provided his “lawful consent” within the meaning of the SCA, to  
13      the production by Google, to Defendant's counsel, of all records, communications, and emails  
14      contained in the Google email accounts “[tommyselverify@gmail.com](mailto:tommyselverify@gmail.com)” and  
15      “[itstommysc@gmail.com](mailto:itstommysc@gmail.com)”, and all other Google email, Checkout, or other accounts held by  
16      Defendant Thomas G. McGuire, including the complete content and header information for all  
17      emails sent, received, held as drafts, and/or archived in such accounts.

18                   **IT IS SO STIPULATED.**

19  
20      DATED: January 19, 2011

**PERKINS COIE LLP**

21  
22                   By: /s/ Brian Hennessy  
                              Brian Hennessy (SBN 226721)  
                              BHennessy@perkinscoie.com

23  
24                   Attorneys for Plaintiff  
                              craigslist, Inc.

1 DATED: January 19, 2011

**HINCH NEWMAN LLP**

2  
3 By: /s/ Richard Newman  
4 Richard Newman (SBN 195191)  
newman@hinchnewman.com

5 Attorneys for Defendant  
6 Thomas G. McGuire

7  
8 I, Brian Hennessy, hereby attest, pursuant to N.D. Cal. General Order No. 45, that the  
9 concurrence to the filing of this document has been obtained from each signatory hereto.

10 DATED: January 19, 2011

**PERKINS COIE LLP**

11 By: /s/ Brian Hennessy  
12 Brian Hennessy (SBN 226721)  
13 BHennessy@perkinscoie.com

14 Attorneys for Plaintiff  
15 craigslist, Inc.

16 **ORDER**

17 **PURSUANT TO THE FOREGOING STIPULATION, IT ORDERED AS**  
18 **FOLLOWS:**

19 1. Given the possibility that relevant information in the hands of third parties may be  
20 deleted or lost if steps are not taken promptly by the parties to secure that information, the parties  
21 may commence discovery, including third party discovery, immediately, as permitted by Federal  
22 Rule of Civil Procedure 26(d) governing the timing of discovery.

23 2. Within 21 days of the receipt of this Order, Google shall produce to Defendant's  
24 counsel, Richard Newman, all emails in the Google email accounts  
25 "[tommysilverify@gmail.com](mailto:tommysilverify@gmail.com)" and "[itstommy@gmail.com](mailto:itstommy@gmail.com)", and all records and  
26 communications in any other Google email, Checkout, or other account held by Defendant  
27  
28

1 Thomas G. McGuire, including the complete content and header information for all sent,  
2 received, draft, and archived emails.

3 3. Within 10 days thereafter, or such other time as may be agreed upon by counsel,  
4 counsel for Defendant shall produce to counsel for craigslist all relevant, non-privileged  
5 documents received from Google, as requested by craigslist. Any relevant and responsive  
6 documents withheld on privilege grounds must be listed on a privilege log containing information  
7 (date, author, recipients, communication type, etc.) sufficient to permit counsel to assess the  
8 validity of the privilege claim.

9

10 Dated: \_\_\_\_\_

11 \_\_\_\_\_  
Honorable Charles R. Breyer

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# **EXHIBIT A**

1 Brian Hennessy (SBN 226721)  
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9 Attorneys for Plaintiff  
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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION  
13

14 CRAIGSLIST, INC., a Delaware  
15 corporation,

16 Plaintiff,

17 v.

18 THOMAS G. MCGUIRE, a Florida  
19 resident,

20 Defendant.  
21

Case No. CV-10-5830 CRB

**DECLARATION OF THOMAS G.  
MCGUIRE PROVIDING USER CONSENT  
TO PRODUCE RECORDS,  
COMMUNICATIONS, EMAIL HEADER  
INFORMATION AND CONTENT  
PURSUANT TO THE STORED  
COMMUNICATIONS ACT, 18 U.S.C. § 2701,  
ET SEQ.**

1 I, Thomas G. McGuire, declare as follows:

2 1. I am over 18 years of age and make this Declaration based upon personal  
3 knowledge of the facts set forth below except as to those matters stated on information and belief,  
4 and as to those matters, I believe them to be true. If called upon to testify, I could and would  
5 testify competently as to the matters set forth herein.

6 2. I am the Defendant in the above-referenced action.

7 3. On or about December 26, I deleted my Google email accounts  
8 "tommysclverify@gmail.com" and "itstommysc@gmail.com" ("Accounts") [and the Google  
9 account(s) associated with those email accounts].

10 4. I am the primary account holder of the Accounts. The Accounts listed the  
11 following information: (i) "tommysclverify@gmail.com" and "itstommysc@gmail.com" as the  
12 Account names; (ii) for each Account, Thomas McGuire as the first and last name of the Account  
13 holder; (iii) kdsusa78 as the password for the account "tommysclverify@gmail.com"; and  
14 (iv) kdsusa78 as the password for the account "itstommysc@gmail.com".

15 5. I hereby consent to Google immediately producing all records and emails for the  
16 Accounts, including the complete content and header information for all sent, received, draft, and  
17 archived emails, to my counsel in the above-referenced action, Richard Newman.

18 6. I further consent to Google immediately producing to my counsel, Mr. Newman,  
19 all records, communications, content, and header information for any other Google email,  
20 Checkout, or other type of account for which I am or have been the primary account holder.

21 I declare under penalty of perjury under the laws of the United States that the foregoing is  
22 true and correct.

23 DATED: January 20, 2011

**THOMAS G. MCGUIRE**

By:   
Thomas G. McGuire

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