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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”) he had been using in connection with his
10 purchases and sales of PVAs. He also deleted another account, “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” and “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” and “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” and
15 “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
23 Brian Hennessy (SBN 226721)
 BHennessy@perkinscoie.com

24 Attorneys for Plaintiff
25 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:**

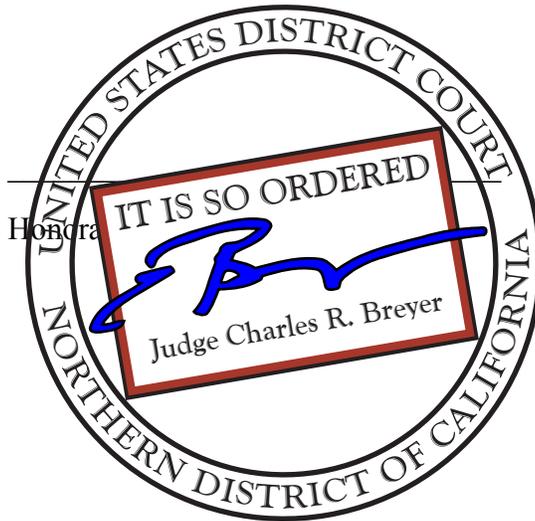
19 1. Given the possibility that relevant information in the hands of third parties may be
20 deleted or lost if steps are not taken promptly by the parties to secure that information, the parties
21 may commence discovery, including third party discovery, immediately, as permitted by Federal
22 Rule 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 "tommyselverify@gmail.com" and "itstommysc@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: Jan. 25, 2011



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