

1 COLLEEN BAL, State Bar No. 167637
 2 CHARLES TAIT GRAVES, State Bar No. 197923
 3 WILSON SONSINI GOODRICH & ROSATI
 Professional Corporation
 4 One Market Plaza
 Spear Tower, Suite 3300
 San Francisco, California 94105-1126
 Phone (415) 947-2000
 5 Fax (415) 947-2099
 tgraves@wsgr.com

6 Attorneys for Defendants
 7 Google Inc. and Richard Robinson

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN JOSE DIVISION

12	BE IN, INC., a New York Corporation,)	Case No.: 5:12-cv-03373-LHK
13	Plaintiff,)	DEFENDANT RICHARD
14	v.)	ROBINSON'S ANSWER TO FIRST
15	GOOGLE INC., a California corporation;)	AMENDED COMPLAINT
16	RICHARD ROBINSON, an individual, and Does)	JURY TRIAL DEMANDED
17	1 through 3 inclusive,)	
18	Defendants.)	

19 Defendant Richard Robinson, by and through his undersigned counsel, hereby answers
 20 the First Amended Complaint of Be In, Inc. ("Plaintiff") as follows.

21 **ANSWER TO FIRST AMENDED COMPLAINT**

- 22 1. Mr. Robinson lacks sufficient information to admit or deny the allegations of
 23 Paragraph 1 of the First Amended Complaint, and denies the allegations on that basis.
 24 2. Mr. Robinson lacks sufficient information to admit or deny the allegations of
 25 Paragraph 2 of the First Amended Complaint, and denies the allegations on that basis.
 26 3. Mr. Robinson admits that Defendant Google Inc. provides Internet-related
 27 products and services including its search engine. Mr. Robinson admits that Defendant Google
 28

1 Inc. released a social media platform, Google +. Mr. Robinson denies the remainder of the
2 allegations of Paragraph 3 of the First Amended Complaint.

3 4. Mr. Robinson admits that he met representatives from Plaintiff in London in May
4 2011. Mr. Robinson admits that Plaintiff entered into an agreement regarding use or disclosure
5 of confidential information with Google before the meeting. Mr. Robinson admits that Plaintiff
6 provided a live demonstration of its CamUp product at the meeting and that Plaintiff later sent
7 him a document relating to CamUp by email. Mr. Robinson does not recall that Plaintiff
8 proposed a “Watch with your friends” button to be embedded within all YouTube pages,
9 allowing users to initiate a CamUp session directly from YouTube, and denies the allegations on
10 that basis. Mr. Robinson does not recall whether he asked that further information be sent to him
11 following the meeting, and denies the allegations on that basis. Mr. Robinson denies the
12 remainder of the allegations of Paragraph 4 of the First Amended Complaint.

13 5. Mr. Robinson admits that he did not indicate that “Google was independently
14 developing a product or feature that was identical to CamUp.” Mr. Robinson admits that he did
15 not indicate that “Google had independently determined to embed a “Watch with your friends”
16 button for any of its products or services on YouTube pages.” Mr. Robinson denies the
17 remainder of the allegations of Paragraph 5 of the First Amended Complaint.

18 6. Mr. Robinson admits that he did not respond to follow-up correspondences from
19 Be In. Mr. Robinson denies that there were “several” follow-up correspondences from Be In.
20 Mr. Robinson lacks sufficient information to admit or deny the allegations of the second
21 sentence of Paragraph 6 of the First Amended Complaint, and denies the allegations on that
22 basis.

23 7. Mr. Robinson admits that Defendant Google Inc. released Google+, which includes a
24 feature called Hangouts, in or around June 2011. Mr. Robinson does not recall that Plaintiff
25 proposed a “Watch with your friends” button at the May 2011 meeting in London and denies the
26 allegations on that basis. Mr. Robinson lacks sufficient information to admit or deny the
27 remainder of the allegations of Paragraph 7 of the First Amended Complaint, and denies the
28 allegations on that basis.

1 8. Mr. Robinson admits that Plaintiff is asserting the four causes of action described
2 in Paragraph 8 of the First Amended Complaint. Mr. Robinson denies all allegations of
3 wrongdoing alleged against him.

4 9. Mr. Robinson denies that he engaged in the wrongdoing alleged against him and
5 therefore denies the allegations of Paragraph 9 of the First Amended Complaint to the extent
6 they relate to him.

7 10. Mr. Robinson denies that he engaged in the wrongdoing alleged against him and
8 therefore denies the allegations of Paragraph 9 of the First Amended Complaint to the extent
9 they relate to him.

10 **PARTIES**

11 11. Mr. Robinson lacks sufficient information to admit or deny the allegations of
12 Paragraph 11 of the First Amended Complaint, and denies the allegations on that basis.

13 12. Mr. Robinson admits that Defendant Google Inc.’s principle place of business is
14 Mountain View, California, and that Defendant Google Inc. has products including Google+ and
15 Hangouts. Mr. Robinson lacks sufficient information to admit or deny the allegations of the
16 remainder of Paragraph 12 of the First Amended Complaint, and denies the allegations on that
17 basis.

18 13. Mr. Robinson admits that he is a resident of the United Kingdom. Mr. Robinson
19 denies that his job title is “Google UK’s Head of Business Markets.”

20 14. Mr. Robinson lacks sufficient information to admit or deny the allegations of
21 Paragraph 14 of the First Amended Complaint, and denies the allegations on that basis.

22 15. Mr. Robinson lacks sufficient information to admit or deny the allegations of
23 Paragraph 15 of the First Amended Complaint, and denies the allegations on that basis.

24 16. Mr. Robinson lacks sufficient information to admit or deny the allegations of
25 Paragraph 16 of the First Amended Complaint, and denies the allegations on that basis.

1 **JURISDICTION AND VENUE**

2 17. Mr. Robinson lacks sufficient information to admit or deny the allegations of
3 Paragraph 17 of the First Amended Complaint, which are directed at Defendant Google Inc., and
4 denies the allegations on that basis.

5 18. Mr. Robinson denies that he has engaged in wrongdoing or caused Plaintiff
6 \$75,000 in damages. Mr. Robinson otherwise lacks sufficient information to admit or deny the
7 remaining allegations of Paragraph 18 of the First Amended Complaint. Mr. Robinson does not
8 contest that the Court has jurisdiction with respect to this matter.

9 19. Mr. Robinson admits that Google’s principle place of business is Mountain View
10 California. Mr. Robinson lacks sufficient information to admit or deny the remainder of the
11 allegations of Paragraph 19 of the First Amended Complaint, which are directed at Defendant
12 Google Inc., and denies the allegations on that basis. Mr. Robinson does not contest venue with
13 respect to this matter.

14 **INTRADISTRICT ASSIGNMENT**

15 20. Mr. Robinson lacks sufficient information to admit or deny the allegations of
16 Paragraph 20 of the First Amended Complaint, which are directed at Defendant Google Inc., and
17 denies the allegations on that basis.

18 **FACTS**

19 21. Mr. Robinson lacks sufficient information to admit or deny the allegations of
20 Paragraph 21 of the First Amended Complaint, and denies the allegations on that basis.

21 22. Mr. Robinson lacks sufficient information to admit or deny the allegations of
22 Paragraph 22 of the First Amended Complaint, and denies the allegations on that basis.

23 23. Mr. Robinson lacks sufficient information to admit or deny the allegations of
24 Paragraph 23 of the First Amended Complaint, and denies the allegations on that basis.

25 24. Mr. Robinson lacks sufficient information to admit or deny the allegations of
26 Paragraph 24 of the First Amended Complaint, and denies the allegations on that basis.

1 25. Mr. Robinson lacks sufficient information to admit or deny the allegations of
2 Paragraph 25 of the First Amended Complaint, which are directed at Defendant Google Inc., and
3 denies the allegations on that basis.

4 26. Mr. Robinson lacks sufficient information to admit or deny the allegations of
5 Paragraph 26 of the First Amended Complaint, and denies the allegations on that basis.

6 27. Mr. Robinson admits that on May 12, 2011, he met with Joseph D’Anna and Nik
7 Miskov of Plaintiff in London, and that Plaintiff discussed its CamUp product and expressed
8 interest in a business collaboration with Google. Mr. Robinson admits that Plaintiff entered into
9 a confidentiality agreement with Google in advance of the meeting. Mr. Robinson denies the
10 remainder of the allegations of Paragraph 27 of the First Amended Complaint.

11 28. Because Plaintiff has not yet identified its alleged trade secrets, Mr. Robinson
12 lacks sufficient information to admit or deny the allegations of the first sentence of Paragraph 28
13 of the First Amended Complaint, and denies the allegations on that basis. Mr. Robinson admits
14 that Plaintiff identified YouTube as an area where it desired a partnership. Mr. Robinson does
15 not recall whether Mr. D’Anna was the speaker or used the phrase “most logical,” and denies the
16 allegations on that basis.

17 29. Mr. Robinson does not recall that Plaintiff presented an idea regarding a “Watch
18 with your friends” button and denies the allegations of Paragraph 29 on that basis. Mr. Robinson
19 admits that Plaintiff discussed business plans and monetization during the meeting. Because
20 Plaintiff has not yet identified its alleged trade secrets, Mr. Robinson lacks sufficient information
21 to admit or deny the allegations of the final sentence of Paragraph 29 of the First Amended
22 Complaint, and denies the allegations on that basis.

23 30. Mr. Robinson denies that he was “extremely enthusiastic about the CamUp
24 product.” Mr. Robinson admits that Plaintiff mentioned documents and the education sector
25 during the meeting. Mr. Robinson admits that he told Plaintiff he would mention Plaintiff to
26 others at Google, but denies that he stated that “he would put Be In in touch with individuals
27 from YouTube to explore further possibility of using the technology on its platform.” Mr.
28

1 Robinson denies the remainder of the allegations of Paragraph 30 of the First Amended
2 Complaint.

3 31. Mr. Robinson admits that Mr. Miskov sent follow-up correspondence to Mr.
4 Robinson, to which Mr. Robinson did not respond.

5 32. Mr. Robinson lacks sufficient information to admit or deny the allegations of
6 Paragraph 32 of the First Amended Complaint and denies the allegations on that basis.

7 33. Mr. Robinson admits that in or around June 2011, Defendant Google Inc.
8 launched Google+ and Hangouts. Mr. Robinson lacks sufficient information to admit or deny
9 the remainder of the allegations of Paragraph 33 of the First Amended Complaint, and denies the
10 allegations on that basis.

11 34. Mr. Robinson lacks sufficient information to admit or deny the allegations of
12 Paragraph 34 of the First Amended Complaint, and denies the allegations on that basis.

13 35. Mr. Robinson does not recall that Plaintiff proposed a “Watch with your friends”
14 button during the May 2011 meeting in London and denies the allegations of Paragraph 35 on
15 that basis. Mr. Robinson lacks sufficient information to admit or deny the remainder of the
16 allegations of Paragraph 35 of the First Amended Complaint, including the graphic displayed
17 beneath it, and denies the allegations on that basis.

18 36. Mr. Robinson does not recall that Plaintiff proposed a “Watch with your friends”
19 button during the May 2011 meeting in London and denies the allegations of Paragraph 36 on
20 that basis. Mr. Robinson lacks sufficient information to admit or deny the remainder of the
21 allegations of Paragraph 36 of the First Amended Complaint, including the graphic displayed
22 above it, and denies the allegations on that basis.

23 37. Mr. Robinson lacks sufficient information to admit or deny the allegations of
24 Paragraph 37 of the First Amended Complaint, including the graphic displayed above it, and
25 denies the allegations on that basis.

26 38. Mr. Robinson lacks sufficient information to admit or deny the allegations of
27 Paragraph 38 of the First Amended Complaint, which are directed at Defendant Google Inc.,
28 including the graphics displayed beneath it, and denies the allegations on that basis.

1 **FIRST CAUSE OF ACTION: MISAPPROPRIATION OF TRADE SECRETS**

2 39. Mr. Robinson incorporates by reference his answers to Paragraphs 1 through 38
3 of the First Amended Complaint.

4 40. Because Plaintiff has not yet identified its alleged trade secrets, Mr. Robinson
5 lacks sufficient information to admit or deny the allegations of Paragraph 40 of the First
6 Amended Complaint, and denies the allegations on that basis. Mr. Robinson does not recall that
7 Plaintiff proposed a “Watch with your friends” button during the May 2011 meeting in London
8 and denies the allegations of Paragraph 40 on that basis.

9 41. Mr. Robinson denies the allegations of Paragraph 41 of the First Amended
10 Complaint.

11 42. Mr. Robinson denies the allegations of Paragraph 42 of the First Amended
12 Complaint.

13 **SECOND CAUSE OF ACTION: CIVIL CONSPIRACY**

14 43. Mr. Robinson incorporates by reference his answers to Paragraphs 1 through 42
15 of the First Amended Complaint.

16 44. Mr. Robinson denies the allegations of Paragraph 44 of the First Amended
17 Complaint.

18 45. Mr. Robinson denies the allegations of Paragraph 45 of the First Amended
19 Complaint.

20 46. Mr. Robinson denies the allegations of Paragraph 46 of the First Amended
21 Complaint.

22 **THIRD CAUSE OF ACTION: COPYRIGHT INFRINGEMENT**

23 47. Mr. Robinson incorporates by reference his answers to Paragraphs 1 through 46
24 of the First Amended Complaint.

25 48. Because Mr. Robinson is not named as a defendant for this cause of action, no
26 answer is required to Paragraph 48 of the First Amended Complaint. To the extent this
27 paragraph relates to Mr. Robinson, Mr. Robinson denies the allegations.
28

1 49. Because Mr. Robinson is not named as a defendant for this cause of action, no
2 answer is required to Paragraph 49 of the First Amended Complaint. To the extent this
3 paragraph relates to Mr. Robinson, Mr. Robinson denies the allegations.

4 50. Because Mr. Robinson is not named as a defendant for this cause of action, no
5 answer is required to Paragraph 50 of the First Amended Complaint. To the extent this
6 paragraph relates to Mr. Robinson, Mr. Robinson denies the allegations.

7 51. Because Mr. Robinson is not named as a defendant for this cause of action, no
8 answer is required to Paragraph 51 of the First Amended Complaint. To the extent this
9 paragraph relates to Mr. Robinson, Mr. Robinson denies the allegations.

10 **FOURTH CAUSE OF ACTION: FEDERAL UNFAIR COMPETITION: TRADE DRESS**

11 **INFRINGEMENT**

12 52. Mr. Robinson incorporates by reference his answers to Paragraphs 1 through 51
13 of the First Amended Complaint.

14 53. Because Mr. Robinson is not named as a defendant for this cause of action, no
15 answer is required to Paragraph 53 of the First Amended Complaint. To the extent this
16 paragraph relates to Mr. Robinson, Mr. Robinson denies the allegations.

17 54. Because Mr. Robinson is not named as a defendant for this cause of action, no
18 answer is required to Paragraph 54 of the First Amended Complaint. To the extent this
19 paragraph relates to Mr. Robinson, Mr. Robinson denies the allegations.

20 55. Because Mr. Robinson is not named as a defendant for this cause of action, no
21 answer is required to Paragraph 55 of the First Amended Complaint. To the extent this
22 paragraph relates to Mr. Robinson, Mr. Robinson denies the allegations.

23 56. Because Mr. Robinson is not named as a defendant for this cause of action, no
24 answer is required to Paragraph 56 of the First Amended Complaint. To the extent this
25 paragraph relates to Mr. Robinson, Mr. Robinson denies the allegations.

26 57. Because Mr. Robinson is not named as a defendant for this cause of action, no
27 answer is required to Paragraph 57 of the First Amended Complaint. To the extent this
28 paragraph relates to Mr. Robinson, Mr. Robinson denies the allegations.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THIRD AFFIRMATIVE DEFENSE

(Unclean Hands)

Plaintiff’s causes of action are barred, in whole or in part, by the doctrine of unclean hands.

FOURTH AFFIRMATIVE DEFENSE

(Ready Ascertainability)

Each of Plaintiff’s alleged trade secrets was or is readily ascertainable.

FIFTH AFFIRMATIVE DEFENSE

(Failure to Mitigate)

Plaintiff’s causes of action are barred, in whole or in part, because to the extent it suffered damages, Plaintiff failed to mitigate such damages.

SIXTH AFFIRMATIVE DEFENSE

(Waiver)

Plaintiff’s causes of action are barred, in whole or in part, under the doctrine of waiver.

SEVENTH AFFIRMATIVE DEFENSE

(Laches)

Plaintiff’s causes of action are barred, in whole or in part, under the doctrine of laches.

RESERVATION OF RIGHTS

Mr. Robinson has insufficient knowledge or information on which to form a belief as to whether he may have additional, as yet unstated, defenses available. Mr. Robinson reserves herein the right to assert additional affirmative defenses in the event discovery indicates they would be appropriate.

STATEMENT OF INTENTION TO PURSUE SECTION 3426.4 REMEDIES

Mr. Robinson alleges that Plaintiff has acted in bad faith within the meaning of California Civil Code section 3426.4 because, among other things, it subjectively and objectively knows that it initiated and maintained its trade secret claim without a basis to do so. Mr. Robinson will pursue discovery regarding bad faith and seek all fees and costs permitted under the statute.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAYER FOR RELIEF

WHEREFORE, Mr. Robinson denies that Plaintiff is entitled to any of the relief requested in its Prayer for Relief, and prays for judgment as follows:

- 1. That Plaintiff take nothing by way of its First Amended Complaint;
- 2. That judgment be entered in favor of Mr. Robinson and against Plaintiff and that Plaintiff's action against Mr. Robinson be dismissed in its entirety;
- 3. For costs incurred herein;
- 4. For reasonable attorneys' fees incurred herein;
- 5. For a finding of bad faith under the California Civil Code section 3426.4; and

For such other and further relief as the Court may deem just and proper.

Dated: September 4, 2012

/s/ Colleen Bal
 Colleen Bal
 Charles Tait Graves
 WILSON SONSINI GOODRICH & ROSATI

Attorneys for Defendants
 Google Inc. and Richard Robinson

REQUEST FOR JURY TRIAL

Richard Robinson demands a jury trial on all claims and issues so triable.

Dated: September 4, 2012

/s/ Colleen Bal
 Colleen Bal
 Charles Tait Graves
 WILSON SONSINI GOODRICH & ROSATI

Attorneys for Defendants
 Google Inc. and Richard Robinson