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Attorneys for Defendants
 16 GOOGLE, INC., AND RICHARD ROBINSON

17
 18 UNITED STATES DISTRICT COURT
 19 NORTHERN DISTRICT OF CALIFORNIA
 20 SAN JOSE DIVISION

21 BE IN, INC., a New York Corporation,

22 Plaintiff,

23 v.

24 GOOGLE, INC., a California Corporation,
 25 RICHARD ROBINSON, and DOES 1 through 3,
 inclusive,

26 Defendants.

Case No. 5:12-CV-03373-LHK

**STIPULATION AND
 [PROPOSED] ORDER
 EXTENDING TIME TO FILE
 REPLY BRIEF IN SUPPORT OF
 BE IN, INC.'S MOTION FOR
 LEAVE TO FILE SECOND
 AMENDED COMPLAINT**

Date: September 26, 2013
 Time: 1:30 p.m.
 Dept.: 8, 4th Floor
 The Honorable Lucy H. Koh

1 **STIPULATION**

2 The parties submit this stipulation and proposed order to extend the time for Be In, Inc.
3 (“Be In”) to file a reply brief in support of its motion for leave to file second amended complaint
4 or to withdraw that motion.

5 WHEREAS, plaintiff Be In filed a Motion for Leave to File Second Amended Complaint
6 through prior counsel on April 30, 2013 (D.I. 37) pursuant to the Court’s Order dated March 26,
7 2013 (D.I. 35);

8 WHEREAS, defendants Google Inc. and Richard Robinson (“Defendants”) filed
9 Defendants’ Conditional Opposition to Motion for leave to File Second Amended Complaint on
10 May 14, 2013 (D.I. 43);

11 WHEREAS, plaintiff Be In’s reply would otherwise be due on May 21, 2013;

12 WHEREAS, plaintiff Be In filed a substitution of counsel on May 14, 2013 (D.I. 42), and
13 new counsel will be the counsel to file the reply;

14 WHEREAS, counsel for Defendants has stipulated that plaintiff Be In shall have until
15 May 30, 2013 to file its reply brief or to withdraw its motion and provide to Defendants a revised
16 proposed second amended complaint;

17 WHEREAS, the parties agree that if plaintiff Be In withdraws its motion and seeks to file
18 a revised proposed second amended complaint, Defendants shall use their best efforts to inform
19 counsel for plaintiff Be In whether Defendants stipulate to the filing of such revised second
20 amended complaint prior to the case management conference on June 5, 2013;

21 WHEREAS, in the absence of stipulation by Defendants to any proposed revised second
22 amended complaint, plaintiff Be In shall have until June 14, 2013 to file a motion for leave to file
23 the revised second amended complaint;

24 WHEREAS, the hearing date that has currently been set for plaintiff’s Motion for Leave
25 to File Second Amended Complaint is September 26, 2013 and will not be impacted by this
26 extension;

1 NOW, THEREFORE, and in light of the foregoing, IT IS HEREBY STIPULATED AND
2 AGREED by and between the respective attorneys for Plaintiff and Defendants, and subject to
3 approval by this Court, as follows:

- 4 1. The deadline for Be In to file its reply brief in support of its Motion for leave to File
5 Second Amended Complaint or to withdraw such motion and provide to Defendants a
6 revised proposed second amended complaint is Thursday, May 30, 2013;
- 7 2. If plaintiff Be In withdraws its motion and seeks to file a revised second amended
8 complaint, Defendants shall use their best efforts to inform counsel for plaintiff Be In
9 prior to the case management conference on Wednesday, June 5, 2013 whether
10 Defendants stipulate to the filing of such revised second amended complaint; and
- 11 3. In the absence of stipulation by Defendants to plaintiff Be In's proposed revised
12 second amended complaint, plaintiff Be In shall have until Friday, June 14, 2013 to
13 file a motion for leave to file the revised second amended complaint;

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16 Dated: May 21, 2013

CHARLES S. BARQUIST
KENNETH A. KUWAYTI
WENDY J. RAY
MORRISON & FOERSTER LLP

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20 By: /s/ Kenneth A. Kuwayti
KENNETH A. KUWAYTI

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22 Attorneys for Plaintiff
BE IN, INC.

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Dated: May 21, 2013

COLLEEN BAL
CHARLES TAIT GRAVES
WILSON SONSINI GOODRICH & ROSATI

By: /s/ Colleen Bal
COLLEEN BAL

Attorneys for Defendants
GOOGLE, INC. and RICHARD ROBINSON

ORDER

IT IS SO ORDERED.

Dated:

By: _____
The Honorable Lucy H. Koh
United States District Court Judge

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ATTESTATION

I, Kenneth A. Kuwayti, am the ECF user whose ID and password are being used to file this Stipulation and [Proposed] Order Extending Time to File Reply Brief in Support of Be In, Inc.'s Motion for Leave to file Second Amended Complaint. In compliance with General Order 45.X.B, I hereby attest that Plaintiff's counsel, Colleen Bal, has concurred in this filing.

Dated: May 21, 2013

MORRISON & FOERSTER LLP

By: /s/ Kenneth A. Kuwayti
KENNETH A. KUWAYTI

Attorneys for Defendants