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Attorneys for Defendants  
 GOOGLE INC., AND RICHARD ROBINSON

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE DIVISION

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

v.

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

Defendants.

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

**STIPULATION AND  
 [PROPOSED] ORDER  
 ALLOWING BE IN, INC TO FILE  
 SECOND AMENDED  
 COMPLAINT AND PROVIDING  
 NAMED DEFENDANTS WITH  
 AN EXTENSION TO RESPOND  
 THERETO**

The Honorable Lucy H. Koh

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WHEREAS, pursuant to the May 21, 2013 stipulation of the parties, (D.I. 46), Be In provided Defendants with a draft of its proposed Second Amended Complaint on May 31, 2013;

WHEREAS, no related motion is currently pending;

WHEREAS, Plaintiff Be In, Inc. has agreed that, once service is effected, it will provide all named defendants with a two-week extension beyond the deadline provided under applicable rules to move, answer or otherwise respond to the proposed Second Amended Complaint;

WHEREAS, the parties have agreed that, in the event that Defendants file a motion to dismiss the Second Amended Complaint, (1) Defendants will provide Plaintiff with one additional week beyond that provided by the Local Rules to file its opposition to such motion, (2) Plaintiff will provide the named defendants with an additional week beyond that provided by the Local Rules to file its reply, and (3) Counsel for Defendants will request from the Court the earliest available hearing date for the motion consistent with counsels' availability.

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. Defendants' stipulation to the filing of the proposed Second Amended Complaint is  
5 not and shall not be construed as a waiver of any rights, nor an admission of any of the  
6 allegations in the proposed Second Amended Complaint. Defendants shall retain all  
7 rights, defenses and objections to challenge the proposed Second Amended Complaint  
8 on any ground.
- 9 2. Be In shall file its Second Amended Complaint, attached hereto as Exhibit A, within  
10 10 days of this order.
- 11 3. The named defendants shall have a two-week extension beyond the date provided  
12 under applicable rules to move, answer or otherwise respond to the Second Amended  
13 Complaint.
- 14 4. In the event the named defendants file a motion to dismiss the Second Amended  
15 Complaint, (a) Plaintiff shall file and serve its opposition not more than 21 days after  
16 the motion is filed, and (b) the named defendants shall file and serve their reply not  
17 more than 14 days after the opposition is filed.

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19  
20 Dated: June 7, 2013

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

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

25  
26 Attorneys for Plaintiff  
27 BE IN, INC.

1 Dated: June 7, 2013

COLLEEN BAL  
CHARLES TAIT GRAVES  
WILSON SONSINI GOODRICH & ROSATI

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4 By: /s/ Colleen Bal  
COLLEEN BAL

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6 Attorneys for Defendants  
GOOGLE INC. and RICHARD ROBINSON

7  
8 **ORDER**

9  
10 IT IS SO ORDERED.

11  
12 Dated:

By: \_\_\_\_\_  
The Honorable Lucy H. Koh  
United States District Judge

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Dated: June 7, 2013

By: /s/ Kenneth A. Kuwayti  
KENNETH A. KUWAYTI  
Attorneys for Defendants