



## STIPULATION

The parties submit this stipulation and proposed order allowing Plaintiff Be In, Inc. to file its Second Amended Complaint and providing the named defendants with an extension of time to respond thereto.

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, pursuant to the same stipulation, counsel for Google Inc. and Richard Robinson (“Defendants”) informed Be In on June 5, 2013 that Defendants were willing to stipulate to the filing of Be In’s Second Amended Complaint, as long as the stipulation was not construed as a waiver of any rights, nor an admission of any of the allegations in the proposed Second Amended Complaint. Defendants expressly reserve, and Be In expressly acknowledges Defendants’ reservation of, all rights, defenses and objections to challenge the proposed Second Amended Complaint on any ground;

WHEREAS, no related motion is currently pending;

WHEREAS, the parties have agreed that, once the Second Amended Complaint is filed, counsel for Defendants will accept service of the Second Amended Complaint on behalf of all named defendants, without waiving any rights to challenge the Second Amended Complaint, including any rights to challenge personal jurisdiction; and

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  
25 KENNETH A. KUWAYTI

26 Attorneys for Plaintiff  
27 BE IN, INC.

1 Dated: June 7, 2013

COLLEEN BAL  
CHARLES TAIT GRAVES  
WILSON SONSINI GOODRICH & ROSATI

4 By: /s/ Colleen Bal  
5 COLLEEN BAL

6 Attorneys for Defendants  
7 GOOGLE INC. and RICHARD ROBINSON

8 **ORDER**

9 IT IS SO ORDERED.

11 Dated:

12 By: The Honorable Lucy H. Koh  
13 United States District Judge

## ATTESTATION

2 I, Kenneth A. Kuwayti, am the ECF user whose ID and password are being used to file  
3 this Stipulation and [Proposed] Order Allowing Be In, Inc. to File Second Amended Complaint  
4 and Providing Named Defendants with an Extension to Respond Thereto. In compliance with  
5 General Order 45.X.B, I hereby attest that Plaintiff's counsel, Colleen Bal, has concurred in this  
6 filing.

8 || Dated: June 7, 2013

## MORRISON & FOERSTER LLP

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

## Attorneys for Defendants