



Four Embarcadero Center, Suite 2400
San Francisco, CA 94111-4131
PHONE: 415.344.7000
FAX: 415.344.7050
www.perkinscoie.com

Bobbie J. Wilson
PHONE: (415) 344 7000
EMAIL: BWilson@perkinscoie.com

November 1, 2011

VIA ECF

The Honorable Sandra Brown Armstrong
Courtroom 1, 4th Floor
United States District Courthouse
1301 Clay Street
Oakland, California 94612

**Re: *Pimental, et al. v. Google Inc., et al.*, Case No. 11-cv-2585 SBA
Defendants' Administrative Motion for a Temporary Stay of Discovery**

Your Honor:

I write on behalf of Defendants Google Inc. and Slide, Inc. to apprise the Court of recent developments following the filing of Defendants' Administrative Motion for a Temporary Stay of Discovery (Dkt. 34) (the "Motion to Stay"). Specifically, on October 27, 2011, one day after Defendants filed the Motion to Stay, Plaintiffs served Google with two sets of discovery (a) 40 requests for the production of documents, and (b) 14 interrogatories. True and correct copies of these discovery requests are enclosed.

As is evident on their face, these numerous requests are broad and far-reaching, and responding to them will necessarily require significant efforts and expense. As explained in the Motion to Stay, though, Defendants should not have to bear the burden and expense of responding to discovery given that a potentially dispositive motion to dismiss is currently pending. This recent discovery underscores the propriety of temporarily postponing discovery until Plaintiffs have satisfied the Court that they can state a valid claim.

Sincerely,

A handwritten signature in black ink, appearing to be "B" followed by a long horizontal stroke.

Bobbie J. Wilson

The Honorable Sandra Brown Armstrong
November 1, 2011
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Enclosures

cc: Christopher Dore (via ECF)
Joel Elkins (via ECF)
Jordan Lurie (via ECF)
Scott Owens (via ECF)
Sean Reis (via ECF)

SEAN P. REIS - SBN 184004
(sreis@edelson.com)
EDELSON MCGUIRE LLP
30021 Tomas Street, Suite 300
Rancho Santa Margarita, California 92688
Telephone: (949) 459-2124

RAFEY S. BALABANIAN
(rbalabanian@edelson.com)
CHRISTOPHER L. DORE
(cdore@edelson.com)
EDELSON MCGUIRE LLC
350 North LaSalle Street, Suite 1300
Chicago, Illinois 60654
Telephone: (312) 589-6370

Attorneys for Plaintiffs NICOLE PIMENTAL and JESSICA FRANKLIN

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

NICOLE PIMENTAL and JESSICA
FRANKLIN, individually and on behalf of
all others similarly situated,

Plaintiffs,

v.

GOOGLE INC., a Delaware corporation,
and SLIDE, INC., a Delaware corporation,

Defendants.

Case No. 11-cv-02585-SBA

**PLAINTIFF NICOLE PIMENTAL'S FIRST
REQUEST TO PRODUCE DOCUMENTS
TO DEFENDANT GOOGLE, INC.**

1 Plaintiff Nicole Pimental pursuant to Rule 34 of the Federal Rules of Civil Procedure,
2 requests that Defendant Google, Inc. produce the following documents for inspection and
3 copying at the office of Edelson McGuire, LLC, 350 North LaSalle Street, Suite 1300,
4 Chicago, Illinois 60654, within thirty (30) days of service of this request.

5 **DEFINITIONS**

6 1. “AFFIRMATIVE OPT OUT” means a text message sent by a PROPOSED
7 CLASS MEMBER with the words “LEAVE,” “STOP,” or “OFF,” or otherwise indicating
8 unwillingness to receive any messages from DISCO.

9 2. “AND” as well as “OR” shall be construed either disjunctively or
10 conjunctively as necessary to bring within the scope of these requests any information which
11 might otherwise be construed to be outside its scope.

12 3. “ANY” and “ALL” shall be construed to include “each” and “each and every”
13 and vice versa so as to acquire the broadest meaning possible.

14 4. “ATTACHMENTS” means files or data that are physically or logically
15 associated with or embedded into email, and should be identified by mapping to their parent
16 by the Document or Production number. If attachments and embedded files are combined
17 with their parent documents, then “BeginAttach” and “EndAttach” fields listing the unique
18 beginning and end number for each attachment or embedded document must be included.

19 5. “BATES NUMBERING” Each page of a produced document, or media upon
20 which ESI in NATIVE FORMAT is produced, shall have a legible, unique page identifier
21 “Bates Number” electronically “burned” onto or associated with the media, or image in such
22 a manner that information from the source document is not obliterated, concealed, or
23 interfered with. There shall be no other legend or stamp placed on the document image
24 unless a document qualifies for confidential treatment pursuant to the terms of a Protective
25 Order in this litigation, or has been redacted in accordance with applicable law or Court
26 order. In the case of confidential materials as defined in the Protective Order, a designation
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1 may be “burned” onto or otherwise associated with the document’s image at a location that
2 does not obliterate or obscure any information from the source document. For redacted
3 material, the word “Redacted” will be burned onto the document image over the protected
4 information. To the extent native files are produced, the producing party will name the native
5 file with the Bates number.

6 6. “PROPOSED CLASS” or “PROPOSED CLASS MEMBERS” means those
7 PERSONS who fall under the definition of the Disco Mobile App Class set forth in
8 paragraph 38 of the COMPLAINT.

9 7. COLOR. If an original document contains color, the producing party may
10 produce black and white image(s) for each such document. The parties agree that color
11 copies of documents will be produced on an as-needed basis when specified by a party, upon
12 a showing of good cause, and only when the color original is readily accessible. The
13 requesting party will provide a specific Bates range for documents it wishes to be produced
14 in color.

15 8. “COMMUNICATION” means or refers to the transmittal of information, facts
16 or ideas including, but not limited to, communications in the form of any discussion,
17 conversation, inquiry, negotiation, agreement, understanding, meeting telephone
18 conversation, letter, correspondence, note, memorandum, e-mail message, telegram,
19 advertisement or other form of exchange of words, whether oral or written.

20 9. “COMPLAINT” shall mean Plaintiffs’ Consolidated Class Action Complaint
21 filed in the United States District Court for the Northern District of California.

22 10. “COMPUTER or COMPUTER EQUIPMENT” means all data processing
23 equipment, including but not limited to, central processing units (CPUs), whether contained
24 in a server or free standing computer or laptop or PDA or similar device that may contain
25 data storage capabilities, irrespective of whether such computing platform, infrastructure or
26 storage is virtualized, whether that data be structured or unstructured, and also including any
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1 equipment where computer files (including without limitation, records, documents, logs, and
2 any other contiguous or non-contiguous bit strings), hidden system files or metadata
3 presently reside such as hard disk drives, optical disk drives, removable media, such as
4 floppy disk drives, CD-ROM and DVD drives, Zip drives, Jaz drives, Maxtor drives or snap
5 drives, data processing cards, computer magnetic tapes, backup tapes, drum and disk storage
6 devices or any other similar electronic storage media or system of whatever name or
7 description. "Computer or computer equipment" also means all digital image evidence that
8 may be stored on any type of hardware used to store or manipulate electronic images,
9 including but not limited to microfilm, microfiche and their repositories and readers, or
10 design or engineering computer systems and regardless of any digital image's format,
11 including .jpg, .bmp, or some other advanced or proprietary form of digital image format,
12 such as CAD layered drawings. "Computer or computer equipment" also refers to sources of
13 digital evidence that may not presently be in use by your company or may have been deleted
14 from your active systems, whether the source is a backup tape or disk, some other data
15 retention system or some form of disaster recovery system. "Computer or computer
16 equipment" also refers to places where digital evidence may reside that may have been
17 deleted from your active files and which may not be readily recoverable from a backup
18 medium, such as metadata.

19 11. "COMPUTER SYSTEM" refers to free standing servers, computers and
20 laptops, and also refers to the network infrastructure and computer support systems of the
21 Defendant or subject to the Defendant's possession, custody or control, such as its
22 subsidiaries, predecessors, successors, assigns, joint ventures, partners, parents, agents or
23 affiliates (in this country or throughout the world), including but not limited to the following:

- 24 a. Defendant's LAN, WAN or other network systems, regardless of methods of
25 connectivity (e.g., by T1, T3 or optical lines), domains, including PDCs, network
26 OS (such as Novell, Microsoft, UNIX, Citrix or some other similar type) or
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1 protocols, backup and disaster recovery hardware and media, regardless of the
2 physical location of those electronic storage systems.

3 b. Defendant's email servers and any repository of email (including within the
4 inbox, sent box, deleted box or some similar file of the computers of employees or
5 management), or in any backup form whatsoever, regardless of whether you use
6 Microsoft Exchange, Outlook, Outlook Express, Lotus Notes or some
7 combination of email management software or some alternative commercial or
8 proprietary email management software.

9 c. Defendant's IS administrative offices, including backup and disaster recovery
10 restoration plans and repositories, data retention plans and repositories, purge
11 plans and repositories, training plans and repositories, and libraries of hardcopy
12 materials of any description (regardless of where located) and online training and
13 operation manuals that have been scanned to disk.

14 d. All offsite technical and service bureau support systems, including but not
15 limited to ASP (application service provider) support, scanning or data conversion
16 support, offsite data storage or archive support.

17 e. Web hosting and administration services, including intranet and extranet sites,
18 regardless of whether they are now publicly posted or exist in English, or some
19 other language.

20 12. "CORRESPONDENCE" means or refers to all written and unwritten but
21 recorded communications, including non-duplicate drafts, versions not sent, and copies that
22 differ only in margin notes or annotations, including memos, letters analog or digital
23 recordings, voicemail, email, computer files, computer disks, or other correspondence or
24 things sent or received by you to or from any entity, including correspondence or files
25 maintained or exchanged internally within your business or with your employees.

26 13. "DATE" means the exact year, month and date, if known, or, if not known,
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1 your best approximation thereof.

2 14. “DESCRIBE” when used in relation to any process, policy, act or event means
3 explain the process, policy, act or event in complete and reasonable detail, stating the time,
4 date, and location, identifying all persons participating or present, and identifying all
5 documents relating thereto.

6 15. “DISCO” means or refers to the group messaging service jointly developed
7 and provided by Defendants Slide, Inc. and Google, Inc., INCLUDING its website and its
8 mobile application.

9 16. “DOCUMENT” or “DOCUMENTS” includes writings, drawings, graphs,
10 charts, photographs, sound recordings, images, and other data or data compilations, including
11 ESI—stored in any medium from which information can be obtained.

12 17. “DUPLICATES” means exact duplicate ESI documents (based on MD5 or
13 SHA-1 hash values) resident within a party’s data set. Only documents where the main
14 document and the attachments are exactly the same will be considered exact duplicates. ESI
15 with differing file names but identical hash values shall not be considered duplicates. Exact
16 duplicate shall mean bit-for-bit identity with both document content and any associated
17 metadata. Where any such documents have attachments, hash values must be identical for
18 both the document-plus-attachment (including associated metadata) as well as for any
19 attachment (including associated metadata) standing alone.

20 18. “ELECTRONICALLY STORED INFORMATION” or “ESI” as used herein,
21 means and refers to computer generated information or data, of any kind, stored on
22 computers, file servers, disks, tape or other devices or media, or otherwise evidenced by
23 recording on some storage media, whether real virtual, or cloud based.

24 19. “FILE NAMING CONVENTIONS” Where production of .tiff images rather
25 than native format ESI is requested or agreed to, each document image file produced shall be
26 named with the unique Bates Number of the first page of the document, followed by the
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1 extension “.tif” or “.tiff.” To the extent separate text files are provided, text files should be
2 named the same as the first tiff image of the document.

3 20. “HER” means both “his” and “her” and is not limited to the masculine or
4 feminine, but includes both.

5 21. “IDENTIFY,” when used with respect to a natural person, means to state the
6 person’s full name, present or last known business affiliation and position, past and present
7 home address and past position and business affiliation, if any, with any of the parties herein.

8 22. “IDENTIFY,” when used with respect to a company or other business entity,
9 means to state the company’s legal name, the names under which it does business, its form
10 (e.g., partnership, corporation, etc.), the address of its principal place of business, and to
11 identify its principal proprietors, officers or directors.

12 23. “IDENTIFY,” when used with respect to a document, means to state the
13 date(s) prepared, drafted or generated, the author(s), intended and actual recipient(s), type of
14 document (e.g., “letter,” “Terms of Service” or “email”), and to identify its last known
15 custodian or location.

16 24. “IDENTIFY,” when used in reference to an event, transaction, or occurrence,
17 means to describe the act in complete and reasonable detail; state the time, date, location;
18 identify all persons participating or present; and identify all documents relating thereto.

19 25. “IDENTIFY,” when used with respect to a communication, means to state
20 type of communication (i.e., telephone discussion, email, face-to-face, etc.), the name and
21 present address of each person present during the communication, or who otherwise observed
22 or heard the communication and to state the subject matter of the communication and the
23 date upon which it occurred. If the communication was in writing, identify all documents
24 that relate or are related to the communication in the manner provided above.

25 26. “INCLUDING” means “including, but not limited to;” “includes” means
26 “includes, but not limited to.”
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1 27. “MEDIA” means an object or device, real or virtual, including but not limited
2 to a disc, tape, computer or other device, on which data is or was stored.

3 28. “METADATA” means and refers to data about data, including without
4 limitation, information embedded in a native file or other data that is not ordinarily viewable
5 or printable from the application that generated, edited, or modified such native file which
6 describes the characteristics, origins, usage and validity of the electronic file as well as
7 information generated automatically by the operation of a computer or other information
8 technology system when a native file is created, modified, transmitted, deleted or otherwise
9 manipulated by a user of such system.

10 29. “METADATA” means, in connection with ESI requested, and includes
11 without limitation, file, application and system metadata. The following list identifies the
12 Metadata fields that referred to (to the extent available):

- 13 • Document number or Production number (including the document start and
14 document end numbers). This should use the standard Bates number in
15 accordance with those used in previous productions.
- 16 • BeginAttach
- 17 • EndAttach
- 18 • Title/Subject
- 19 • Sent/Date and Time (for emails only)
- 20 • Last Modified Date and Time Created Date and Time (for E-docs)
- 21 • Received Date and Time (for emails only)
- 22 • Author
- 23 • Recipients
- 24 • cc:
- 25 • bcc:
- 26 • Source (custodian)

- Hash Value
- File Path
- Media (type of media that the document was stored on when it was collected)
- Page Count
- Original File Name
- Doc extension
- Full Text
- Accessed Date & Time
- Last Print Date

30. “NATIVE DATA FORMAT” means and refers to the format of ESI, whether structured or unstructured, in which it was generated and as used by the producing party in the usual course of its business and in its regularly conducted activities.

31. “PERSON” means or refers to any natural person, corporation, partnership, association, organization, joint ventures, or other entity of any type or nature.

32. “PLAINTIFF” and “PLAINTIFFS” means or refers to the both Plaintiff NICOLE PIMENTAL and Plaintiff JESSICA FRANKLIN.

33. “PRODUCTION OF PAPER DOCUMENTS” means production of paper-based original documents (i.e., documents which were not first generated by a computer, such as hand written memoranda) shall be produced in hard copy manner.

34. “PROPOSED CLASS MEMBERS” means those PERSONS who fall under the definition set forth in paragraph 38 of the COMPLAINT.

35. “REGARDING” or “RELATING TO” means discussing, mentioning, addressing, referring to, analyzing, comprising, underlying, memorializing, describing, or showing the subject indicated.

36. “RELEVANT TIME PERIOD” means or refers to the time period between January 1, 2010 and the present.

37. “SMS MESSAGES” means or refers to “short message service” messages, which includes all text based messages directed to consumers’ cellular telephones.

38. “TCPA” means the Telephone Consumer Protection Act (47 U.S.C. § 227).

39. “TEXT MESSAGE” OR “TEXT MESSAGES” means or refers to the SMS MESSAGE identified in paragraph 25 of the COMPLAINT, inclusive of SMS MESSAGES sent by YOU that are substantially similar (though not word-for-word identical) to the SMS MESSAGE identified in paragraph 25 of the COMPLAINT.

40. “TRANSMIT” or “TRANSMITTED” shall mean any act leading to the eventual distribution of a text message to a wireless or cellular telephone user.

“TRANSMIT” or “TRANSMITTED” shall not be limited to the final act prior to reception by a cellular telephone user, but shall include all acts materially advancing the distribution of a text message to a cellular telephone user.

41. “YOU,” “YOUR,” “DEFENDANT,” or “GOOGLE” means or refers to Defendant GOOGLE, INC. and its divisions, subsidiaries, related companies, predecessors, and successors, all present and former officers, directors, agents, attorneys, employees, and all persons acting or purporting to act on behalf of any of them.

INSTRUCTIONS

1. If, in responding to these requests, YOU encounter any ambiguity in construing either the request or any instruction relevant to the request, YOU should nonetheless respond to the request, set forth the matter deemed ambiguous, and shall set forth the construction used in responding to the request.

2. These are intended as continuing requests having within them a duty to timely supplement the responses until and during the course of trial. Information sought by these requests that YOU obtain after YOU serve YOUR responses must be disclosed to the PLAINTIFFS by supplementary responses.

3. If YOU object to answering all or any part of any request on the grounds of

1 privilege or work product, it is required to identify the privileged DOCUMENTS(S) or
2 COMMUNICATION(S), and with respect to each such privileged responsive DOCUMENT
3 or COMMUNICATION identify:

- 4 (a) the date appearing on such DOCUMENT, or if no date appears, the
5 date on which such DOCUMENT or ESI was prepared;
- 6 (b) ESI metadata creation, revision, transmission, receipt, and last access
7 dates;
- 8 (c) the name of each PERSON to whom such DOCUMENT or ESI was
9 addressed;
- 10 (d) the name of each PERSON, other than the addressee(s) identified in
11 subparagraph (b) above, to whom such DOCUMENT or ESI, or copy
12 thereof was sent, or with whom such DOCUMENT was discussed;
- 13 (e) the name of each PERSON who signed such DOCUMENT or ESI, if
14 not signed, the name of each person who prepared it;
- 15 (f) the name of each PERSON making any contribution to the authorship
16 of such DOCUMENT or ESI;
- 17 (g) the job title or position of each PERSON identified in subparagraph
18 (b), (c), (d), and (e) above;
- 19 (h) the date such DOCUMENT or ESI was received or discussed by each
20 PERSON identified in subparagraphs (b) or (c) above;
- 21 (i) the general nature or description of such DOCUMENT or ESI, and,
22 where applicable, its number of pages;
- 23 (j) the name of each PERSON who currently has custody of such
24 DOCUMENT or ESI; and
- 25 (k) the specific ground(s) upon which the privilege or work product rests.

26 Each demand herein shall be construed independently and shall not be
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1 limited by reference to any other demand.

2 4. When producing the requested DOCUMENTS, YOU are to designate for
3 which specific request or requests the document is responsive or produce the documents as
4 they are kept in the ordinary course of business. All DOCUMENTS are to be produced in
5 the form, order, and manner in which they are generated and maintained by YOU in the usual
6 course of YOUR everyday routine business activities. Where structured data (e.g., data from
7 a database) is requested, appropriate queries will be used to extract relevant data from any
8 such database, which data shall match specified criteria, and returning specified fields, in a
9 form and format that is verifiable and readable by the use of commonly available tools.
10 DOCUMENTS are to be produced in folders, cartons, or containers, in which they have been
11 maintained, stored, clipped, stapled, or otherwise arranged in the same form and manner in
12 which they were found and in such manner that the office and location from which they were
13 produced is readily identifiable. Whenever a DOCUMENT or a group of documents is taken
14 out of a file folder, file drawer, file box, or notebook, before the same is produced, attach
15 thereto a copy of the label on the file folder, file box, or notebook from which the document
16 or group of documents was removed. All ESI should be produced in native format,
17 reasonably usable, and verifiably responsive to the pertinent request(s) and processable using
18 readily available tools.

19 5. If any DOCUMENT requested has been lost or destroyed since its creation,
20 identify the nature of the DOCUMENT (e.g., letter, email, etc.), the date of the
21 DOCUMENT, the PERSONS who sent and received the original and copies of the
22 document, a summary of the content of the document and describe when, where, how, and by
23 whom said DOCUMENT was lost or destroyed, and state the name of the PERSON(S) who
24 last had custody thereof.

25 6. Singular and plural words should be read so as to bring within the scope of
26 these requests any information that might otherwise be construed to be outside their scope.
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1 7. For any term used herein, which is not otherwise specifically defined, the
2 common and usual meaning of such term is intended. Any ambiguity in these requests shall
3 be resolved so as to construe these requests as broadly as possible.

4 8. Unless otherwise stated, all document requests pertain to the RELEVANT
5 TIME PERIOD.

6 **DOCUMENT PRODUCTION REQUESTS**

7 **DOCUMENT REQUEST NO. 1**

8 All DOCUMENTS and ESI RELATING TO the TRANSMISSION of the TEXT
9 MESSAGES to PROPOSED CLASS MEMBERS by YOU, or on YOUR behalf.

10 **DOCUMENT REQUEST NO. 2**

11 All DOCUMENTS and ESI that refer or RELATE TO the development and
12 TRANSMISSION of the TEXT MESSAGES.

13 **DOCUMENT REQUEST NO. 3**

14 All DOCUMENTS and ESI that RELATE TO the distribution of the TEXT
15 MESSAGES.

16 **DOCUMENT REQUEST NO. 4**

17 All DOCUMENTS and ESI that contain the URL <http://disco.com/d> and RELATE
18 TO the development or TRANSMISSION of the TEXT MESSAGES.

19 **DOCUMENT REQUEST NO. 5**

20 All DOCUMENTS and ESI that contain the URL <http://disco.com/daZZ> and
21 RELATE TO the development or TRANSMISSION of the TEXT MESSAGES.

22 **DOCUMENT REQUEST NO. 6**

23 All DOCUMENTS and ESI that contain the following text, “Disco is a group texting
24 service. Standard SMS rates may apply or chat for FREE w/ our app,” and RELATE TO the
25 development or TRANSMISSION of the TEXT MESSAGES.

1 **DOCUMENT REQUEST NO. 7**

2 All COMMUNICATIONS that RELATE TO the development and implementation of
3 the TEXT MESSAGES.

4 **DOCUMENT REQUEST NO. 8**

5 All COMMUNICATIONS that RELATE TO the distribution of the TEXT
6 MESSAGES.

7 **DOCUMENT REQUEST NO. 9**

8 All COMMUNICATIONS that contain the URL <http://disco.com/d> and RELATE TO
9 the development or TRANSMISSION of the TEXT MESSAGES.

10 **DOCUMENT REQUEST NO. 10**

11 All COMMUNICATIONS that contain the URL <http://disco.com/daZZ> and RELATE
12 TO the development or TRANSMISSION of the TEXT MESSAGES.

13 **DOCUMENT REQUEST NO. 11**

14 All COMMUNICATIONS that contain the following text, “Disco is a group texting
15 service. Standard SMS rates may apply or chat for FREE w/ our app,” and RELATE TO the
16 development or TRANSMISSION of the TEXT MESSAGES.

17 **DOCUMENT REQUEST NO. 12**

18 All DOCUMENTS and COMMUNICATIONS that RELATE TO sending the TEXT
19 MESSAGES to the cellular phones of PLAINTIFFS and the PROPOSED CLASS.

20 **DOCUMENT REQUEST NO. 13**

21 All DOCUMENTS and COMMUNICATIONS that RELATE TO sending the
22 PROPOSED CLASS a link to download the DISCO mobile application.

23 **DOCUMENT REQUEST NO. 14**

24 All contracts, agreements, or written understandings between YOU and
25 PLAINTIFFS.

1 **DOCUMENT REQUEST NO. 15**

2 All contracts, agreements, or written understandings between YOU and the
3 PROPOSED CLASS.

4 **DOCUMENT REQUEST NO. 16**

5 All COMMUNICATIONS by, or between, YOU and PLAINTIFFS.

6 **DOCUMENT REQUEST NO. 17**

7 All COMMUNICATIONS by, or between, YOU and the PROPOSED CLASS
8 MEMBERS.

9 **DOCUMENT REQUEST NO. 18**

10 All COMMUNICATIONS by, or between, YOUR Officers, Directors, or other
11 employees RELATING TO PLAINTIFFS.

12 **DOCUMENT REQUEST NO. 19**

13 All COMMUNICATIONS by, or between, YOUR Officers, Directors, or employees
14 and any third-parties RELATING TO PLAINTIFFS.

15 **DOCUMENT REQUEST NO. 20**

16 All DOCUMENTS and ESI identifying, describing, RELATING TO the purpose,
17 context, conduct, methodology and/or procedures for YOU placing or causing to be placed
18 on YOUR behalf, the TEXT MESSAGES, to promote YOUR products and/or services,
19 including but not limited to DOCUMENTS disclosing, discussing, RELATING TO:

- 20 a. the identity of the entity and/or PERSON(S) who sent the TEXT
21 MESSAGES,
22 b. how and from whom the phone numbers to which the TEXT MESSAGES
23 were sent were obtained,
24 c. how it was determined to which numbers the TEXT MESSAGES were to be
25 sent,
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- 1 d. the total number of phone numbers to which the TEXT MESSAGES were
2 sent,
3 e. the total number of the TEXT MESSAGES sent,
4 f. the identity of all such phone numbers that received the TEXT MESSAGES,
5 g. the name of the PERSONS who received the TEXT
6 MESSAGES,
7 h. the time, date, manner and method by which the TEXT MESSAGES were
8 sent,
9 i. the content of said TEXT MESSAGES,
10 j. each entity or PERSON that placed or transmitted the TEXT MESSAGES,
11 k. the identity of all PERSONS involved in the planning, preparation, and
12 approving of the content of the TEXT MESSAGES.

13 **DOCUMENT REQUEST NO. 21**

14 All DOCUMENTS and ESI that represent, refer, or RELATE TO any potential
15 contractual relationship between YOU and PLAINTIFFS or YOU and the PROPOSED
16 CLASS.

17 **DOCUMENT REQUEST NO. 22**

18 All DOCUMENTS and ESI that RELATE TO any prior express consent by
19 PLAINTIFFS or the PROPOSED CLASS to receive the TEXT MESSAGES.

20 **DOCUMENT REQUEST NO. 23**

21 All COMMUNICATIONS that RELATE TO any prior express consent to receive the
22 TEXT MESSAGES by PLAINTIFFS or the PROPOSED CLASS.

23 **DOCUMENT REQUEST NO. 24**

24 All DOCUMENTS and ESI identifying, describing or referring to the purpose,
25 context, conduct, and methodology used to verify prior and continuing express consent from
26 the PLAINTIFFS or any PROPOSED CLASS MEMBER to receive the TEXT MESSAGES.
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1 **DOCUMENT REQUEST NO. 25**

2 All DOCUMENTS and ESI that refer or RELATE TO any complaints against YOU,
3 INCLUDING consumer complaints and government investigations, REGARDING the
4 TEXT MESSAGES, or REGARDING any alleged violations of the TCPA, regardless of
5 whether lawsuits arose out of such complaints.

6 **DOCUMENT REQUEST NO. 26**

7 All DOCUMENTS and ESI that refer to, RELATE TO, or reflect YOUR decision to
8 TRANSMIT the TEXT MESSAGES, including all DOCUMENTS and ESI that RELATE
9 TO YOUR TRANSMITTING, causing to be TRANSMITTED, or requesting others to
10 TRANSMIT the TEXT MESSAGES.

11 **DOCUMENT REQUEST NO. 27**

12 All COMMUNICATIONS that refer to, RELATE TO, or reflect YOUR decision to
13 TRANSMIT the TEXT MESSAGES, including all DOCUMENTS and ESI that RELATE
14 TO YOUR TRANSMITTING, causing to be TRANSMITTED, or requesting others to
15 TRANSMIT the TEXT MESSAGES.

16 **DOCUMENT REQUEST NO. 28**

17 All DOCUMENTS and ESI that identify any PERSON, PERSONS, entity or entities
18 involved in the TRANSMISSION of the TEXT MESSAGES.

19 **DOCUMENT REQUEST NO. 29**

20 Any joint defense agreement between YOU and any other PERSON or entity
21 RELATING TO the subject matter of this lawsuit.

22 **DOCUMENT REQUEST NO. 30**

23 All DOCUMENTS related to insurance policies that may provide, or upon which
24 YOU may make claims for, coverage RELATING TO the subject matter of this lawsuit,
25 INCLUDING all such policies themselves.

1 **DOCUMENT REQUEST NO. 31**

2 Any insurance agreement under which any PERSON carrying on an insurance
3 business may be liable to satisfy part or all of a judgment which may be entered in this action
4 or to indemnify or reimburse for payments made to satisfy the judgment.

5 **DOCUMENT REQUEST NO. 32**

6 All DOCUMENTS and ESI that refer or RELATE TO YOUR relationship with Slide,
7 Inc.

8 **DOCUMENT REQUEST NO. 33**

9 All COMMUNICATIONS by, or between, YOU and Slide, Inc. RELATING TO the
10 TEXT MESSAGES.

11 **DOCUMENT REQUEST NO. 34**

12 All DOCUMENTS that RELATE TO or demonstrate when and how YOU became
13 aware of the TCPA.

14 **DOCUMENT REQUEST NO. 35**

15 All DOCUMENTS and ESI that IDENTIFY the total number of the TEXT
16 MESSAGES YOU TRANSMITTED or were TRANSMITTED on YOUR behalf to
17 PROPOSED CLASS MEMBERS.

18 **DOCUMENT REQUEST NO. 36**

19 All DOCUMENTS IDENTIFYING, describing, or referring to the purpose, context,
20 conduct, and methodology used to identify, document, store, and honor any AFFIRMATIVE
21 OPT OUTS received from PLAINTIFFS and members of the PROPOSED CLASS,
22 including all AFFIRMATIVE OPT OUTS received by YOU.

23 **DOCUMENT REQUEST NO. 37**

24 ALL DOCUMENTS and ESI that IDENTIFY the total number of SMS MESSAGES
25 YOU TRANSMITTED, or were TRANSMITTED on YOUR behalf, to PROPOSED CLASS
26 MEMBERS after they had sent an AFFIRMATIVE OPT OUT.

1 **DOCUMENT REQUEST NO. 38**

2 All DOCUMENTS THAT IDENTIFY the COMPUTER or COMPUTER
3 EQUIPMENT, and COMPUTER SYSTEMS [should conform with definition section] used
4 by YOU and YOUR agents in the architecting, design, coding, testing, creation, placing,
5 sending, TRANSMISSION, broadcasting, receipt, and/or processing of the TEXT
6 MESSAGES.

7 **DOCUMENT REQUEST NO. 39**

8 All DOCUMENTS RELATED TO how YOU and YOUR agents transmitted the
9 TEXT MESSAGES to PLAINTIFFS and the PROPOSED CLASS, INCLUDING
10 DOCUMENTS DESCRIBING or IDENTIFYING how the phone numbers of PROPOSED
11 CLASS MEMBERS were inputted, processed, and stored.

12 **DOCUMENT REQUEST NO. 40**

13 All DOCUMENTS YOU relied on in answering, or RELATED TO, YOUR answers,
14 to Plaintiff Pimental's s First Set of Interrogatories and First Set of Requests to Admit Facts
15 to Google, Inc.

16
17 Respectfully Submitted,

18 Dated: October 27, 2011

EDELSON MCGUIRE, LLP

19
20 By: /s/ Sean P. Reis

Sean P. Reis

21 Attorneys for Plaintiff
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the foregoing as designated below and addressed to the following counsel of record on October 27, 2011:

Bobbie Jean Wilson
Debra Rae Bernard
PERKINS COIE LLP
Four Embarcadero Center, 24th Floor
San Francisco, CA 94111-4024
bwilson@perkinscoie.com
dbernard@perkinscoie.com

/s/ Christopher L. Dore

1 SEAN REIS - SBN 184004
(sreis@edelson.com)
2 EDELSON MCGUIRE LLP
3 30021 Tomas Street, Suite 300
Rancho Santa Margarita, California 92688
4 Telephone: (949) 459-2124

5 RAFEY S. BALABANIAN
(rbalabanian@edelson.com)
6 CHRISTOPHER L. DORE
(cdore@edelson.com)
7 EDELSON MCGUIRE LLC
8 350 North LaSalle Street, Suite 1300
Chicago, Illinois 60654
9 Telephone: (312) 589-6370

10 Attorneys for Plaintiffs NICOLE PIMENTAL and JESSICA FRANKLIN

11
12 UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
13 OAKLAND DIVISION

14 NICOLE PIMENTAL and JESSICA
15 FRANKLIN, individually and on behalf of
all others similarly situated,

16 Plaintiffs,

17
18 v.

19 GOOGLE INC., a Delaware corporation,
and SLIDE, INC., a Delaware corporation,

20 Defendants.
21

Case No. 11-cv-02585-SBA

**PLAINTIFF NICOLE PIMENTAL'S FIRST
SET OF INTERROGATORIES TO
DEFENDANT GOOGLE, INC.**

1 Plaintiff NICOLE PIMENTAL, pursuant to Rule 33 of the Federal Rules of Civil
2 Procedure, requests that Defendant GOOGLE, INC. answer the following Interrogatories,
3 within thirty (30) days of service of these Interrogatories, to supplement answers up to and
4 including the time of trial pursuant to Fed. R. Civ. P. 26(e)(2), and to make service of said
5 answers upon Plaintiffs' counsel.

6 ***I. Definitions***

7 1. "AFFIRMATIVE OPT OUT" means a text message sent by a PROPOSED
8 CLASS MEMBER with the words "LEAVE," "STOP," or "OFF," or otherwise indicating
9 unwillingness to receive any messages from DISCO.

10 2. "COMMUNICATION" means or refers to the transmittal of information,
11 facts or ideas including, but not limited to, communications in the form of any discussion,
12 conversation, inquiry, negotiation, agreement, understanding, meeting telephone
13 conversation, letter, correspondence, note, memorandum, e-mail message, telegram,
14 advertisement or other form of exchange of words, whether oral or written.

15 3. "COMPLAINT" shall mean Plaintiffs' Consolidated Class Action
16 Complaint filed in the United States District Court for the Northern District of California.

17 4. "COMPUTER or COMPUTER EQUIPMENT" means all data processing
18 equipment, including but not limited to, central processing units (CPUs), whether contained
19 in a server or free standing computer or laptop or PDA or similar device that may contain
20 data storage capabilities, irrespective of whether such computing platform, infrastructure or
21 storage is virtualized, whether that data be structured or unstructured, and also including any
22 equipment where computer files (including without limitation, records, documents, logs, and
23 any other contiguous or non-contiguous bit strings), hidden system files or metadata
24 presently reside such as hard disk drives, optical disk drives, removable media, such as
25 floppy disk drives, CD-ROM and DVD drives, Zip drives, Jaz drives, Maxtor drives or snap
26 drives, data processing cards, computer magnetic tapes, backup tapes, drum and disk storage
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1 devices or any other similar electronic storage media or system of whatever name or
2 description. "Computer or computer equipment" also means all digital image evidence that
3 may be stored on any type of hardware used to store or manipulate electronic images,
4 including but not limited to microfilm, microfiche and their repositories and readers, or
5 design or engineering computer systems and regardless of any digital image's format,
6 including .jpg, .bmp, or some other advanced or proprietary form of digital image format,
7 such as CAD layered drawings. "Computer or computer equipment" also refers to sources of
8 digital evidence that may not presently be in use by your company or may have been deleted
9 from your active systems, whether the source is a backup tape or disk, some other data
10 retention system or some form of disaster recovery system. "Computer or computer
11 equipment" also refers to places where digital evidence may reside that may have been
12 deleted from your active files and which may not be readily recoverable from a backup
13 medium, such as metadata.

14 5. "COMPUTER SYSTEM" refers to free standing servers, computers and
15 laptops, and also refers to the network infrastructure and computer support systems of the
16 Defendant or subject to the Defendant's possession, custody or control, such as its
17 subsidiaries, predecessors, successors, assigns, joint ventures, partners, parents, agents or
18 affiliates (in this country or throughout the world), including but not limited to the following:

19 a. Defendant's LAN, WAN or other network systems, regardless of methods of
20 connectivity (e.g., by T1, T3 or optical lines), domains, including PDCs, network
21 OS (such as Novell, Microsoft, UNIX, Citrix or some other similar type) or
22 protocols, backup and disaster recovery hardware and media, regardless of the
23 physical location of those electronic storage systems.

24 b. Defendant's email servers and any repository of email (including within the
25 inbox, sent box, deleted box or some similar file of the computers of employees or
26 management), or in any backup form whatsoever, regardless of whether you use
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1 Microsoft Exchange, Outlook, Outlook Express, Lotus Notes or some
2 combination of email management software or some alternative commercial or
3 proprietary email management software.

4 c. Defendant's IS administrative offices, including backup and disaster recovery
5 restoration plans and repositories, data retention plans and repositories, purge
6 plans and repositories, training plans and repositories, and libraries of hardcopy
7 materials of any description (regardless of where located) and online training and
8 operation manuals that have been scanned to disk.

9 d. All offsite technical and service bureau support systems, including but not
10 limited to ASP (application service provider) support, scanning or data conversion
11 support, offsite data storage or archive support.

12 e. Web hosting and administration services, including intranet and extranet sites,
13 regardless of whether they are now publicly posted or exist in English, or some
14 other language.

15 6. "CORRESPONDENCE" means or refers to all written or recorded
16 communications, including non-duplicate drafts, versions not sent, and copies that differ only
17 in margin notes or annotations, including memos, letters analog or digital recordings,
18 voicemail, email, computer files, computer disks, or other correspondence or things sent or
19 received by YOU to or from any entity, including correspondence or files maintained or
20 exchanged internally within YOUR business or with YOUR employees.

21 7. "DATE" means the exact year, month and date, if known, or, if not known,
22 YOUR best approximation thereof.

23 8. "DESCRIBE" when used in relation to any process, policy, act or event
24 means explain the process, policy, act or event in complete and reasonable detail, stating the
25 time, date, and location, identifying all persons participating or present, and identifying all
26 documents relating thereto.

1 9. “DOCUMENT” or “DOCUMENTS” shall mean any writings, letters,
2 telegrams, memoranda, CORRESPONDENCE, email messages, memoranda or notes of
3 conferences or telephone conversations, reports, studies, lists, compilations of data, papers,
4 books, records, contracts, deeds, leases, agreements, pictures, photographs, transcripts, tapes,
5 microfilm, computer data files, printouts, accounting statements, mechanical and electrical
6 recordings, checks, pleadings, and other tangible things upon which any handwriting, typing,
7 printing, drawing, representation, photostatic, or other magnetic or electrical impulses or
8 other form of communication is recorded, stored or produced, including audio and video
9 recordings and electronically-stored information (including but not limited to e-mails, web
10 pages, Websites, computer discs, computer programs and computer files, including, where
11 applicable, compiled and uncompiled source code), whether or not in printout form. These
12 terms shall also mean copies of DOCUMENTS even though the originals are not in YOUR
13 possession, custody or control; every copy of a DOCUMENT which contains handwritten or
14 other notations or which otherwise does not duplicate the original of any other copy; all
15 attachments to any DOCUMENTS; and any other DOCUMENTS, item and/or information
16 discoverable under federal law and procedure, including, without limitation, the items
17 referenced in Federal Rule of Civil Procedure 34(a)(1).

18 10. “ELECTRONICALLY STORED INFORMATION” or “ESI” as used herein,
19 means and refers to computer generated information or data, of any kind, stored on
20 computers, file servers, disks, tape or other devices or media, or otherwise evidenced by
21 recording on some storage media, whether real, virtual, or cloud based.

22 11. “HER” or “HIS” means both “his” and “her” and is not limited to the
23 masculine or feminine, but includes both.

24 12. “IDENTIFY,” when used with respect to a natural person, means to state
25 the person’s full name, present or last known business affiliation and position, past and
26 present home address and past position and business affiliation, if any, with any of the parties
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1 herein.

2 13. "IDENTIFY," when used with respect to a company or other business entity,
3 means to state the company's legal name, the names under which it does business, its form
4 (e.g., partnership, corporation, etc.), the address of its principal place of business, and to
5 identify its principal proprietors, officers or directors.

6 14. "IDENTIFY," when used with respect to a document, means to state the
7 date(s) prepared, drafted or generated, the author(s), intended and actual recipient(s), type of
8 document (e.g., "letter," "Terms of Service" or "email"), and to identify its last known
9 custodian or location.

10 15. "IDENTIFY," when used in reference to an event, transaction, or
11 occurrence, means to describe the act in complete and reasonable detail; state the time, date,
12 location; identify all persons participating or present; and identify all documents relating
13 thereto.

14 16. "IDENTIFY," when used with respect to a communication, means to state
15 type of communication (i.e., telephone discussion, email, face-to-face, etc.), the name and
16 present address of each person present during the communication, or who otherwise observed
17 or heard the communication and to state the subject matter of the communication and the
18 date upon which it occurred. If the communication was in writing, identify all documents
19 that relate or are related to the communication in the manner provided above.

20 17. "INCLUDING" means "including, but not limited to;" "includes" means
21 "includes, but not limited to."

22 18. "NATIVE DATA FORMAT" means and refers to the format of ESI,
23 whether structured or unstructured, in which it was generated and as used by the producing
24 party in the usual course of its business and in its regularly conducted activities.

25 19. "PERSON" means or refers to any natural person, corporation, partnership,
26 association, organization, joint ventures, or other entity of any type or nature.

1 20. “PLAINTIFF” and “PLAINTIFFS” means or refers to the both Plaintiff
2 NICOLE PIMENTAL and Plaintiff JESSICA FRANKLIN.

3 21. “PROPOSED CLASS” or “PROPOSED CLASS MEMBERS” means those
4 PERSONS who fall under the definition of the Disco Mobile App Class set forth in
5 paragraph 38 of the COMPLAINT.

6 22. “RELATING TO,” including its various forms such as “relates to,” means to
7 consist of, concern, discuss, mention, regard, refer to, reflect or be in any way logically,
8 factually or legally connected, directly or indirectly, with the matter described.

9 23. “RELEVANT TIME PERIOD” means or refers to the time period between
10 January 1, 2010 and the present.

11 24. “SMS MESSAGES” means or refers to “short message service” messages,
12 which includes all text based messages directed to consumers’ cellular telephones.

13 25. “TCPA” means the Telephone Consumer Protection Act (47 U.S.C. § 227).

14 26. “TEXT MESSAGE” OR “TEXT MESSAGES” means or refers to the SMS
15 MESSAGE identified in paragraph 25 of the COMPLAINT, inclusive of SMS MESSAGES
16 sent by YOU that are substantially similar (though not word-for-word identical) to the SMS
17 MESSAGE identified in paragraph 25 of the COMPLAINT.

18 27. “TRANSMIT” or “TRANSMITTED” shall mean any act leading to the
19 eventual distribution of a text message to a wireless or cellular telephone user.
20 “TRANSMIT” or “TRANSMITTED” shall not be limited to the final act prior to reception
21 by a cellular telephone user, but shall include all acts materially advancing the distribution of
22 a text message to a cellular telephone user.

23 28. “YOU,” “YOUR,” “DEFENDANT,” or “GOOGLE” means or refers to
24 Defendant GOOGLE, INC., its divisions, subsidiaries (specifically including Slide, Inc.),
25 related companies, predecessors, and successors, all present and former officers, directors,
26 agents, attorneys, employees, and all persons acting or purporting to act on behalf of any of
27

1 them.

2 *II. Instructions*

3 1. The PERSON responding to an Interrogatory should have knowledge to
4 answer said questions. If another PERSON has superior knowledge on certain questions, that
5 other PERSON should respond to that request and be so designated. If such PERSON is
6 unavailable, that PERSON should be fully identified and the nature and scope of their
7 knowledge and the reasons that such PERSON'S knowledge is or is believed to be superior,
8 explained fully.

9 2. In responding to these Interrogatories, furnish all information, however
10 obtained, including hearsay that is available to YOU and any information known by YOU, in
11 YOUR possession, or appearing in YOUR records.

12 3. These are intended as continuing Interrogatories, having within them a duty to
13 timely supplement the responses until and during the course of trial. Information sought by
14 these Interrogatories that YOU obtain after YOU serve YOUR responses must be disclosed
15 to the PLAINTIFF by supplementary responses.

16 4. It is intended by this set of requests to elicit information not merely within
17 YOUR knowledge, but obtainable by YOU or on YOUR behalf.

18 5. YOU may not claim lack of information or knowledge as grounds for failing
19 to respond to any Interrogatory or as grounds for giving an incomplete or partial response to
20 any Interrogatory without exercising due diligence to secure the full information needed to
21 do so. Where YOU rely or respond based on information provided to YOU from any other
22 person, fully IDENTIFY that PERSON and how YOU obtained the information from them.
23 Where YOU rely on information in any DOCUMENT, specifically IDENTIFY the
24 DOCUMENT and IDENTIFY the PERSON who has custody of that DOCUMENT.

25 6. If YOU cannot respond to a Interrogatory in full after exercising due diligence
26 to secure the full information needed to do so, so state and respond to the extent possible,
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1 specifying YOUR inability to respond to the remainder, stating whatever information or
2 knowledge YOU have concerning the unresponded portion and detailing what YOU did in
3 attempting to secure the unknown information.

4 7. If any Interrogatory is objected to on the basis that the time period covered by
5 the request is irrelevant, burdensome, or otherwise inappropriate, state what time period
6 YOU consider proper for that request and answer the request for that time period, preserving
7 YOUR objection to the remainder of the time period.

8 8. If YOU object or otherwise refuses to respond to any portion of any
9 Interrogatory, YOU shall (1) state the nature and basis of the objection or reason for such
10 refusal in sufficient fashion to permit the Court to rule on the validity of the objection; and
11 (2) answer all portions of such Interrogatory that are not claimed to be objectionable.

12 9. If YOU object to answering all or any part of any Interrogatory on the grounds
13 of privilege or work product, it is required to IDENTIFY the privileged DOCUMENT(S) or
14 COMMUNICATION(S), and with respect to each such privileged responsive DOCUMENT
15 or COMMUNICATION, IDENTIFY:

- 16 (a) the date appearing on such DOCUMENT, or if no date appears, the
17 date on which such DOCUMENT or ESI was prepared;
- 18 (b) ESI metadata creation, revision, transmission, receipt, and last access
19 dates;
- 20 (c) the name of each PERSON to whom such DOCUMENT or ESI was
21 addressed;
- 22 (d) the name of each PERSON, other than the addressee(s) identified in
23 subparagraph (b) above, to whom such DOCUMENT or ESI, or copy
24 thereof was sent, or with whom such DOCUMENT was discussed;
- 25 (e) the name of each PERSON who signed such DOCUMENT or ESI, if
26 not signed, the name of each PERSON who prepared it;

- 1 (f) the name of each PERSON making any contribution to the authorship
2 of such DOCUMENT or ESI;
- 3 (g) the job title or position of each PERSON identified in subparagraph
4 (b), (c), (d), and (e) above;
- 5 (h) the date such DOCUMENT or ESI was received or discussed by each
6 PERSON identified in subparagraphs (b) or (c) above;
- 7 (i) the general nature or description of such DOCUMENT or ESI, and,
8 where applicable, its number of pages;
- 9 (j) the name of each PERSON who currently has custody of such
10 DOCUMENT or ESI; and
- 11 (k) the specific ground(s) upon which the privilege or work product rests.
12 Each demand herein shall be construed independently and shall not be
13 limited by reference to any other demand.

14 10. The singular form of a word shall be interpreted as plural, and the plural form
15 of a word shall be interpreted as singular, whichever makes the Interrogatory most broad.

16 11. As used herein, the present tense shall also include the past tense.

17 12. For any term used herein, which is not otherwise specifically defined, the
18 common and usual meaning of such term is intended. Any ambiguity in these Interrogatories
19 shall be resolved so as to construe these interrogatories as broadly as possible.

20 13. When these Interrogatories refer to a “specific location,” they contemplate a
21 level of detail that would allow counsel to independently locate an item without significant
22 assistance. Thus, when these interrogatories request the specific location of digital media, an
23 acceptable answer might be “in Bill Johnson’s office, at 123 Main Street, Suite 100, New
24 York, NY 10000.”

25 14. If YOU are producing any DOCUMENT in lieu of answering any of the
26 Interrogatories stated herein, all DOCUMENTS are to be produced in the form, order, and
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1 manner in which they are maintained in YOUR files. DOCUMENTS are to be produced in
2 the folders, cartons, or containers in which they have been maintained, stored, clipped,
3 stapled, or otherwise arranged in the same form and manner in which they were found and in
4 such a manner that the office and location from which they were produced is readily
5 identifiable. Whenever a DOCUMENT (as defined) or group of DOCUMENTS is taken out
6 of a file folder, file drawer, file box, or notebook, before the same is produced, attach thereto
7 a copy of the label on the file folder, file box, or notebook from which the document or group
8 of DOCUMENTS was removed. All ESI should be produced in NATIVE DATA FORMAT,
9 reasonably usable, and verifiably responsive to the pertinent request(s) and processable using
10 readily available tools.

11 15. Unless otherwise stated, all document requests pertain to the RELEVANT
12 TIME PERIOD.

13 *III. Interrogatories*

14 **INTERROGATORY NO. 1**

15 IDENTIFY the PERSON(s) answering these Interrogatories, Plaintiff Pimental's First
16 Request to Produce Documents, and Plaintiff's First Request to Admit Facts, the position of
17 each such PERSON, the PERSON'S duties, and the length of time of each such PERSON'S
18 employment. For each such PERSON so identified, specify each interrogatory, request to
19 produce documents, and/or request to admit facts that each such PERSON assisted in
20 answering.

21 **ANSWER:**

22 23 **INTERROGATORY NO. 2**

24 State whether YOU have TRANSMITTED, caused to be TRANSMITTED, or had
25 TRANSMITTED on YOUR behalf, the TEXT MESSAGES to PROPOSED CLASS
26 MEMBERS, INCLUDE in YOUR answer the identity of any PERSON(S) who took part in
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1 TRANSMITTING the TEXT MESSAGES.

2 **ANSWER:**

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4 **INTERROGATORY NO. 3**

5 DESCRIBE how YOU obtained or came into possession of the phone numbers
6 belonging to PLAINTIFFS and the PROPOSED CLASS MEMBERS that received the
7 TEXT MESSAGES.

8 **ANSWER:**

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10 **INTERROGATORY NO. 4**

11 If YOU contend that YOU had prior express invitation, permission or consent to
12 TRANSMIT TEXT MESSAGES to PLAINTIFFS or any PROPOSED CLASS MEMBER,
13 or that prior express invitation, permission or consent to TRANSMIT TEXT MESSAGES on
14 YOUR behalf was obtained by any other PERSON, IDENTIFY with particularity the means
15 by which YOU or any other PERSON obtained such consent.

16 **ANSWER:**

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18 **INTERROGATORY NO. 5**

19 IDENTIFY all PROPOSED CLASS MEMBERS, INCLUDING the total number and
20 the names of each PROPOSED CLASS MEMBER and DESCRIBE the method by which
21 YOU determined the identity of all PROPOSED CLASS MEMBERS.

22 **ANSWER:**

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24 **INTERROGATORY NO. 6**

25 IDENTIFY all COMPUTERS, COMPUTER EQUIPMENT, and COMPUTER
26 SYSTEMS used by YOU and YOUR agents that were involved in the architecting, design,
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1 coding, testing, creation, placing, sending, TRANSMISSION, broadcasting, receipt, and/or
2 processing of TEXT MESSAGES and include the brand, model, and CPU type, machine
3 identifying serial numbers or service tags as well as all associated operating system and
4 application software versions and the usage dates on each.

5 **ANSWER:**

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7 **INTERROGATORY NO. 7**

8 State whether YOU have TRANSMITTED, caused to be TRANSMITTED, or had
9 TRANSMITTED on YOUR behalf any SMS MESSAGES to the phone numbers of
10 PROPOSED CLASS MEMBERS, after receiving from such phone number an
11 AFFIRMATIVE OPT OUT.

12 **ANSWER:**

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14 **INTERROGATORY NO. 8**

15 For each SMS MESSAGE identified in your answer to Interrogatory 7 that you sent
16 following an AFFIRMATIVE OPT OUT, IDENTIFY the recipient of the SMS MESSAGE,
17 the specific phone number to which such SMS MESSAGE was sent, and the date(s) YOU
18 TRANSMITTED each SMS MESSAGE.

19 **ANSWER:**

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21 **INTERROGATORY NO. 9**

22 DESCRIBE the way in which AFFIRMATIVE OPT OUT requests from
23 PLAINTIFFS and PROPOSED CLASS MEMBERS were identified, processed, documented,
24 kept, honored, and enforced within YOUR COMPUTERS and COMPUTER SYSTEMS.

25 **ANSWER:**

1 **INTERROGATORY NO. 10**

2 IDENTIFY all third parties that participated in, created, TRANSMITTED, processed,
3 or relayed the TEXT MESSAGES, and for each third party so identified, DESCRIBE its role
4 in the transmission of the TEXT MESSAGES.

5 **ANSWER:**

7 **INTERROGATORY NO. 11**

8 DESCRIBE the sequence of events occurring between the creation of a DISCO group
9 and when the group creator sends his/her/its first self-composed SMS MESSAGE to that
10 group during that sequence of events, INCLUDING DESCRIBING all SMS MESSAGES
11 TRANSMITTED to the DISCO group.

13 **INTERROGATORY NO. 12**

14 If YOU assert that the group creator was responsible for sending any SMS
15 MESSAGES identified in YOUR answer to Interrogatory number 11, state all facts on which
16 YOU rely for that assertion.

17 **ANSWER:**

19 **INTERROGATORY NO. 13**

20 DESCRIBE in detail how PLAINTIFFS became a member of a DISCO messaging
21 group, INCLUDING, by IDENTIFYING when and how they consented to join the DISCO
22 group, what SMS MESSAGES were sent to PLAINTIFFS through DISCO, when each SMS
23 MESSAGE was sent through DISCO, and the originator of each SMS MESSAGE
24 TRANSMITTED to PLAINTIFFS through the DISCO service.

25 **ANSWER:**

1 **INTERROGATORY NO. 14**

2 DESCRIBE in detail the technology that allows YOU to TRANSMIT SMS
3 MESSAGES to the cellular phones of PERSONS, INCLUDING the provisioning of any
4 phone numbers, the specific API used, how phone numbers are stored, the organization and
5 design of the database storing the phone numbers, the involvement of a third-party at any
6 point in the TRANSMISSION, the underlying software and hardware utilized, the coded
7 commands utilized to TRANSMIT SMS MESSAGES, and any automated processes that
8 TRANSMIT SMS MESSAGES without human intervention.

9 **ANSWER:**

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13 Dated: October 27, 2011

Respectfully Submitted,

EDELSON MCGUIRE, LLP

14
15 By: /s/ Sean P. Reis
Sean P. Reis

16 Attorneys for Plaintiff
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the foregoing as designated below and addressed to the following counsel of record on October 27, 2011:

Bobbie Jean Wilson
Debra Rae Bernard
PERKINS COIE LLP
Four Embarcadero Center, 24th Floor
San Francisco, CA 94111-4024
bwilson@perkinscoie.com
dbernard@perkinscoie.com

/s/ Christopher L. Dore
Christopher L. Dore