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18 **UNITED STATES DISTRICT COURT**
 19 **NORTHERN DISTRICT OF CALIFORNIA**
 20 **OAKLAND DIVISION**

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

24 *Plaintiffs,*

25 v.

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

28 *Defendants.*

Case No. 4:11-cv-02585-YGR

**FURTHER JOINT CASE
 MANAGEMENT STATEMENT**

Judge: Honorable Yvonne Gonzalez Rogers
 Action filed: May 27, 2011

1 At the February 9, 2012 Case Management Conference, the Court ordered Plaintiffs Nicole
2 Pimental and Jessica Franklin, and Defendants Google Inc. and Slide, Inc. (collectively, the
3 “Parties”) to “set up a comprehensive proposed discovery plan pursuant to Fed. R. Civ. P. 26(f),
4 and resolve any outstanding discovery issues regarding discovery requests already propounded.”
5 (Dkt. No. 56.) Accordingly, the Parties hereby submit the following Further Joint Case
6 Management Statement, which addresses these issues.

7 1. **Date case was filed:** This is a consolidated action. Initially, *Pimental v. Google,*
8 *Inc., Slide, Inc.* (11-cv-02585-SBA) was filed on May 27, 2011. *Franklin v. Google,*
9 *Inc., Slide, Inc.* (11-cv-03333-SBA) was then filed on July 7, 2011. Thereafter,
10 Plaintiffs filed their Consolidated Complaint now before this Court on September 14,
11 2011. (*Pimental, et al. v. Google Inc., Slide, Inc.* (11-cv-02585-YGR)).

12 2. **List of parties:**

- 13 a. Plaintiffs: Nicole Pimental, Jessica Franklin
14 b. Defendants: Google Inc., Slide, Inc.

15 3. **List of current deadlines:** The current deadlines and relevant dates are as follows:

16 **NON-EXPERT DISCOVERY CUTOFF:** June 22, 2012

17 **DISCLOSURE OF EXPERTS** (retained/non-retained):

- 18 a. Opening: June 15, 2012
19 b. Rebuttal: June 29, 2012

20 **EXPERT DISCOVERY CUTOFF:** August 17, 2012

21 **SETTLEMENT CONFERENCE** with a U.S. Magistrate Judge:
22 September 4, 2012.

23 **DISPOSITIVE MOTIONS TO BE HEARD BY:** October 30, 2012

24 **PRETRIAL STATEMENTS:** January 18, 2013

25 **PRETRIAL CONFERENCE:** February 1, 2013

26 **TRIAL DATE:** February 19, 2013 (Jury Trial)

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- 4. **List of all pending motions:** None.
- 5. **Description of events underlying claim:** Plaintiffs allege that Defendants formerly operated a service known as “Disco,” which allowed consumers to engage in “group text messaging” (*i.e.*, allowing one text message to be sent to numerous people simultaneously, and allowing other group members to interact with the entire group through a single message). Plaintiffs allege that Defendants send their own text messages, promoting their service and mobile application, to Disco group members without receiving consent to do so, in direct violation of the Telephone Consumer Protection Act (47 U.S.C. §§ 227, *et seq.*). Plaintiffs specifically allege that they were added to Disco groups without permission and thereafter received numerous unwanted text messages, including promotional text messages from Defendants. Additionally, Plaintiffs allege that after they attempted to be removed from the Disco groups, they continued to receive unwanted text messages.

Defendants dispute Plaintiffs’ allegations and deny liability on Plaintiffs’ claim.

- 6. **Summary of all claims:** Plaintiffs’ Consolidated Complaint alleges a single cause of action for violation of the Telephone Consumer Protection Act (47 U.S.C. §§ 227, *et seq.*).
- 7. **List and description of relief sought:** Plaintiffs seeks the following relief:
 - a. An order certifying this action as a Class Action and designating Plaintiffs and their counsel as representatives of the Class;
 - b. Injunctive relief for the Class on Count I;
 - c. Actual damages, or statutory damages in the amount of \$500 per violation under 47 U.S.C. § 227(b)(3)(B), whichever is greater, with a possible trebling under § 227(b)(3)(C);
 - d. An award of reasonable attorneys’ fees and costs for Plaintiffs and their counsel; and,
 - e. Such other and further relief as the Court may deem just and proper.

1 8. **Status of discovery:**

2 Joint Statement: The Parties conducted a Rule 26(f) meet and confer in August 2011,
3 and again on October 5, 2011. Defendants filed an Administrative Motion to Stay
4 Discovery on October 26, 2011, (Dkt. 34), on the grounds that discovery in this case
5 should be temporarily stayed pending resolution of Defendants' motion to dismiss.
6 Plaintiffs served discovery on Defendant Google on October 27, 2011 in the form of
7 interrogatories and requests to produce documents. Google served its responses to
8 that discovery on December 23, 2011. Plaintiffs requested, and the Parties held, a
9 meet and confer regarding Defendant's discovery responses on December 29, 2011.

10 At the February 9, 2012 case management conference, the Court granted
11 Defendants' motion to stay discovery pending resolution of Defendants' motion to
12 dismiss. (Dkt. No. 56.) Following the case management conference, the Parties again
13 met and conferred regarding their outstanding discovery disputes and came to an
14 agreement on contested issues. On March 2, 2012, the Court denied Defendants'
15 motion to dismiss and lifted the discovery stay. (Dkt. No. 59.) The Parties anticipate
16 filing a proposed stipulated protective order in the coming days.

17 Accordingly, the Parties propose a discovery schedule as detailed in the chart
18 below. The Parties agree that discovery will not be bifurcated and both class and
19 merits discovery shall occur simultaneously.

Deadline	Proposed Date
Fact discovery to close	August 10, 2012
Experts to be disclosed	August 3, 2012
Initial expert reports to be disclosed	August 24, 2012
Rebuttal experts to be disclosed	August 31, 2012
Rebuttal expert reports to be disclosed	September 14, 2012
Expert discovery to close	October 12, 2012
Plaintiffs to file class certification motion	June 29, 2012
Defendants to file opposition to class certification	July 27, 2012
Plaintiffs to file reply in support of class certification motion	August 10, 2012
Dispositive motions to be heard by	December 10, 2012
Pretrial statements	February 11, 2013

Deadline	Proposed Date
Pretrial conference	February 25, 2013
Trial (3-5 days)	March 11, 2013

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9. **Procedural history of case:** An initial case management conference was held on September 8, 2011, a second case management hearing was held on October 12, 2011, and a third case management conference was held on February 9, 2012. Defendants filed a motion to dismiss on October 14, 2011. The Court denied Defendants' motion to dismiss on March 2, 2012 without hearing. (Dkt. No. 59.)
10. There is no case management conference set at this time. The Parties agree that a case management conference is not needed at this time.

Respectfully Submitted,

Dated: March 12, 2012

EDELSON MCGUIRE, LLC

By: /s/ Christopher L. Dore
Christopher L. Dore

Attorneys for Plaintiffs

Dated: March 12, 2012

PERKINS COIE LLP

By: /s/ Bobbie J. Wilson
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CERTIFICATE OF SERVICE

I, Christopher L. Dore, an attorney, hereby certify that on March 12, 2012, I served the above and foregoing ***Further Joint Case Management Statement***, by causing true and accurate copies of such paper to be filed and transmitted to all parties and their counsel of record via the Court's CM/ECF electronic filing system, on this the 12th day of March, 2012.

/s/ Christopher L. Dore _____