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10 Attorneys for Defendants  
 MILLENNIAL MEDIA, INC.

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 12  
 13 UNITED STATES DISTRICT COURT  
 14 SOUTHERN DISTRICT OF CALIFORNIA

16 STREETSPLACE, INC.,

17 Plaintiff,

18 v.

19 GOOGLE INC.; ADMOB, INC.; APPLE  
 INC.; QUATTRO WIRELESS, INC.; NOKIA  
 20 CORPORATION; NOKIA INC.; NAVTEQ  
 CORPORATION; MILLENNIAL MEDIA,  
 21 INC.; JUMPTAP, INC.; and DOES 1 through  
 20,

22 Defendants.  
 23  
 24

Case No. 3:10-CV-01757-LAB-WMC

**MILLENNIAL MEDIA'S  
 MEMORANDUM OF POINTS AND  
 AUTHORITIES IN SUPPORT OF ITS  
 EX PARTE MOTION FOR LEAVE TO  
 FILE A SUR-REPLY TO  
 STREETSPLACE'S REPLY IN  
 SUPPORT OF MOTION TO  
 DISQUALIFY COUNSEL**

Date: TBD  
 Time: TBD  
 Courtroom: 9, 2nd Floor  
 Judge: Hon. Larry Alan Burns

1 Millennium Media respectfully request permission to submit a short sur-reply directing the  
2 Court to legal and factual errors in Streetspace’s Reply. Courts exercise their discretion in favor  
3 of allowing a sur-reply where a valid reason for such additional briefing exists. *Hill v. England*,  
4 2005 WL 3031136, \*1 (E.D. Cal. Nov. 8, 2005); *Landmark Screens, LLC v. Morgan, Lewis &*  
5 *Bockius LLP*, 2010 U.S. Dist. LEXIS 95735, \*7 (N.D. Cal. Sept. 14, 2010) (“surreply is an  
6 appropriate response to arguments made by Defendants for the first time in their reply brief”). In  
7 this case, good cause exists for the Court to accept and consider Millennium Media’s sur-reply  
8 because Streetspace raised several arguments for the first time in their reply brief.

9 Millennium Media’s sur-reply will correct the record with respect to the legal and factual  
10 errors that appear for the first time in Streetspace’s Reply. These errors include: (1) accusing  
11 Millennium Media of improperly ignoring *Flatt v. Superior Ct.*, 9 Cal.4th 275 (1994) (Reply at 1-  
12 5); (2) mischaracterizing *Adams v. Aerojet-General Corp.*, 86 Cal.App.4th 1324 (Cal. App. 2001)  
13 (Reply at 5-9); and, (3) arguing in contradiction to the declaration submitted by Streetspace’s  
14 counsel, Mr. Coddington, that (i) Mr. Campbell was based in Hunton’s Washington, D.C. office  
15 (Reply at 1), (ii) Mr. Coddington reported to Mr. Campbell (*id.* at 3), and (iii) Mr. Campbell was  
16 an “an intellectual property partner in electrical engineering-type cases in Hunton’s Washington,  
17 D.C. office (*id.*). For the convenience of the Court, a copy of Millennium Media’s sur-reply is  
18 attached as Exhibit B to the Declaration of John S. Kyle.

19 In addition, Millennium Media’s sur-reply is essential to maintaining the highest standards  
20 of professionalism expected of the lawyers who practice before this Court as required by Local  
21 Rule 83.4. In particular, Streetspace’s Reply repeatedly makes unsupported accusations that  
22 Millennium Media’s counsel, Mr. Campbell, personally made “false representations.” (Reply at 1,  
23 3.) Local Rule 83.4(a)(2)(a) requires that an attorney in practice before this court must not  
24 “[d]isparage the intelligence, ethics, morals, integrity or behavior of opposing parties or counsel  
25 unless such characteristics are at issue.” Streetspace’s motion to disqualify is ostensibly based on  
26 Mr. Campbell working in “the *same intellectual property group of the same office of the same*  
27 *firm* that prosecuted” the ‘969 patent. (Reply at 1 (emphasis in original).) Yet, Streetspace  
28 repeatedly attacks Mr. Campbell’s integrity even though it is not at issue. Without support,

1 Streetspace attacks that Mr. Campbell personally made “false representations” on: (1) the location  
2 of Mr. Campbell’s office at Hunton, and (2) the reporting relationship between Mr. Coddington  
3 and Mr. Campbell. The sur-reply will show that Streetspace’s personal attacks on Mr. Campbell  
4 are contradicted by even its own counsel’s declaration.

5 Accordingly, the consideration of the sur-reply is necessary for a complete and accurate  
6 understanding by the Court of the issues at hand and in upholding the professionalism in  
7 practicing in front of this Court. Plaintiff will not be prejudiced by the Court granting this motion  
8 because the sur-reply will not present new arguments about the Motion to Disqualify Counsel.  
9 Furthermore, there will be no prejudicial impact on judicial proceedings because the hearing for  
10 this motion is now off calendar. (Dkt. No. 44.) Finally, Millennial Media has acted in good faith  
11 to timely correct the record before the Court issues a decision on Streetspace’s motion.

12 Millennial Media has provided notice to opposing counsel pursuant to Civil Local Rule  
13 83.3(h). (Declaration of John S. Kyle ¶ 3.)

14  
15 Dated: March 14, 2011

Respectfully submitted,

16  
17 /s/ John S. Kyle  
John Kyle, Esq.

18 Counsel for Defendant  
19 Millennial Media, Inc.  
20 Email: [jkyle@cooley.com](mailto:jkyle@cooley.com)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on March 14, 2011, to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Civil Local Rule 5.4. Any counsel of record who have not consented to electronic service through the Court's CM/ECF system will be served by electronic mail, first class mail, facsimile and/or overnight delivery.

/s/ John Kyle  
John Kyle, Esq.

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