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5 Attorneys for Plaintiff and Counter Defendant
 6 GOOGLE INC.

7
 8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

11 GOOGLE INC., a Delaware corporation,
 12 Plaintiff,

13 v.

14 AMERICAN BLIND & WALLPAPER
 FACTORY, INC., a Delaware corporation
 15 d/b/a decoratetoday.com, Inc., and DOES 1-
 16 100, inclusive,
 17 Defendants.

18 AMERICAN BLIND & WALLPAPER
 FACTORY, INC., a Delaware corporation
 19 d/b/a decoratetoday.com, Inc.,

20 Counter Plaintiff,

21 v.

22 GOOGLE INC., AMERICA ONLINE, INC.,
 NETSCAPE COMMUNICATIONS
 CORPORATION, COMPUSERVE
 23 INTERACTIVE SERVICES, INC., ASK
 24 JEEVES, INC. and EARTHLINK, INC.,

25 Counter Defendant/
 Third-Party Defendants.

Case No. C 03-5340-JF

**DECLARATION OF KLAUS H. HAMM
 IN SUPPORT OF GOOGLE INC.'S
 OPPOSITION TO AMERICAN BLIND &
 WALLPAPER, INC.'S [SIC] MOTION TO
 AMEND AND EXTEND CASE
 MANAGEMENT ORDER**

Date: June 23, 2006
 Time: 9:00 a.m.
 Dept: 3
 Judge: Honorable Jeremy Fogel

Date Comp. Filed: November 26, 2003

Trial Date: March 16, 2007

1 I, Klaus H. Hamm, declare as follows:

2 1. I am associated with the firm of Kecker & Van Nest LLP, counsel for Plaintiff
3 Google Inc., and am admitted to practice before this Court. Unless otherwise specified, the facts
4 set forth herein are known to me of my personal knowledge, and if called upon I can testify
5 truthfully thereto.

6 **Facts Pertaining to ABWF's Production of Documents and Responses to Google's**
7 **Written Discovery**

8 2. On information and belief, Google served ABWF with its first set of document
9 requests and first set of interrogatories on May 21, 2004. ABWF served its written responses to
10 Google's first set of document requests and interrogatories on June 10, 2005. ABWF sent
11 Google its first production of responsive documents, which fit into one banker's box, on or about
12 October 26, 2005.

13 3. On March 16, Google sent ABWF a letter requesting that it respond more fully to
14 Google's first set of document requests. A true and correct copy of this letter, which is from
15 Google's counsel Ajay Krishnan to ABWF's counsel David Rammelt, is attached hereto as
16 Exhibit A. After two weeks passed without any response from ABWF, on March 28, 2006,
17 Google sent another letter to ABWF. A true and correct copy of this letter, which is from Mr.
18 Krishnan to Mr. Rammelt, is attached hereto as Exhibit B. ABWF finally responded to Google's
19 letters on April 10, 2006. A true and correct copy of this letter, which is from ABWF attorney
20 Caroline Plater to Mr. Krishnan, is attached hereto as Exhibit C.

21 4. On or about April 21, 2006, ABWF produced approximately 140 pages of
22 documents. Google sent ABWF a letter on May 12, 2006, requesting that ABWF further
23 supplement its production. A true and correct copy of this letter, which is from Mr. Krishnan to
24 Ms. Plater, is attached hereto as Exhibit D. On May 15, 2006, Google and ABWF exchanged
25 emails regarding the date that ABWF would respond to Google's May 12, 2006 letter. A true
26 and correct copy of this email correspondence, which is between Mr. Krishnan and Ms. Plater, is
27 attached hereto as Exhibit E. On June 6, 2006, ABWF finally responded to Google's May 12,
28 2006 letter. A true and correct copy of that letter, which is from Ms. Plater to myself and Mr.

1 Krishnan, is attached hereto as Exhibit F.

2 5. On June 15, 2006—the day that Google filed this opposition—Google received
3 two boxes of documents from ABWF. As a result, Google has not yet had the opportunity to
4 review these documents.

5 6. On May 10, 2006, Google served ABWF with its second set of requests for
6 production, interrogatories, and requests for admission. Even though the deadline for a response
7 was June 9, 2006, ABWF has provided Google with a response only to the second set of requests
8 for admission.

9 **Facts Pertaining to Google’s 30(b)(6) Deposition of ABWF**

10 7. On February 15, 2006, Google served ABWF with a Rule 30(b)(6) deposition
11 notice, setting the deposition for March 15, 2006. A true and correct copy of that deposition
12 notice is attached hereto as Exhibit G. Despite its repeated efforts to do so, Google has yet to
13 take this deposition.

14 8. On February 22, 2006, ABWF sent Google a letter stating that its Rule 30(b)(6)
15 designee, Steve Katzman, was unavailable on March 15. A true and correct copy of that letter,
16 which is from Ms. Plater to myself, is attached hereto as Exhibit H. As a result, the parties
17 agreed via email correspondence that the deposition would take place on April 20. Attached
18 hereto as Exhibit I is a true and correct copy of that e-mail correspondence, which is between
19 myself and Mr. Rammelt from March 1, 2006 to March 3, 2006.

20 9. As the April 20 Rule 30(b)(6) deposition date approached, it became clear that
21 ABWF would not produce documents in advance of the deposition so Google and ABWF agreed
22 via email correspondence to reschedule the deposition again, for May 11, with the understanding
23 that by that date ABWF would have completed its document production. Attached hereto as
24 Exhibit J is a true and correct copy of that e-mail correspondence, which is between Mr.
25 Krishnan and Ms. Plater from March 29, 2006 to March 30, 2006.

26 10. Then, just ten days before it was set to take place, ABWF sent Google an email
27 cancelling the May 11 Rule 30(b)(6) deposition and the parties then rescheduled the deposition
28 yet again, for June 6. Attached hereto as Exhibit K is a true and correct copy of e-mail

1 correspondence between Mr. Krishnan and Ms. Plater from May 1, 2006 to May 3, 2006
2 regarding ABWF's cancellation of the deposition and its subsequent re-scheduling.

3 11. On information and belief, on May 22, 2006, ABWF cancelled the June 6
4 deposition. On June 13, 2006, ABWF sent Google a letter stating that it would propose dates for
5 the Rule 30(b)(6) deposition by June 22, 2006. A true and correct copy of that letter, which is
6 from Ms. Plater to myself, is attached hereto as Exhibit L.

7 **Facts Pertaining to Google's Other Noticed Depositions**

8 12. On May 19, 2006, Google sent ABWF a letter notifying ABWF of its intention to
9 depose four individuals listed in ABWF's initial disclosures. A true and correct copy of that
10 letter, which is from myself to Mr. Rammelt, is attached hereto as Exhibit M.

11 13. When ABWF did not respond to Google's May 19 letter, Google sent ABWF a
12 follow-up letter on June 1, 2006 regarding these depositions. That letter also included an
13 individual deposition notice for a fifth person listed in ABWF's initial disclosures. A true and
14 correct copy of that letter, which is from myself to Mr. Rammelt, is attached hereto as Exhibit N.

15 14. ABWF sent a letter to Google on June 12, 2006 indicating its willingness to
16 proceed with one of the five depositions on June 22. A true and correct copy of that letter, which
17 is from Ms. Plater to myself, is attached hereto as Exhibit O. On June 13, 2006, ABWF sent
18 Google a letter regarding the scheduling of the other four depositions. A true and correct copy of
19 that letter, which is from Ms. Plater to myself, is attached hereto as Exhibit L.

20 **Facts Pertaining to Google's Responses to ABWF's Discovery Requests**

21 15. On information and belief, Google has produced to ABWF approximately
22 137,000 pages to date.

23 16. On April 6, 2006, Google produced, on a CD that is readable on a standard CD-
24 ROM player, data bearing the Bates numbers GGLE00020950 - GGLE0021227. A true and
25 correct copy of the accompanying cover letter, which is from me to Mr. Rammelt, is attached
26 hereto as Exhibit P.

27 17. On April 18, 2006, Google and ABWF exchanged email in which Google
28 identified its Rule 30(b)(6) designees. A true and correct copy of that email correspondence,

1 which is between myself and Mr. Rammelt is attached hereto as Exhibit Q.

2 I state under penalty of perjury of the laws of the United States of America that the
3 foregoing statements are true and correct and that this declaration was executed on June 15,
4 2006.

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6 /s/ Klaus H. Hamm
KLAUS H. HAMM

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