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10 AMERICAN BLIND AND WALLPAPER  
FACTORY, INC.

11 UNITED STATES DISTRICT COURT

12 NORTHERN DISTRICT OF CALIFORNIA

13 GOOGLE INC., a Delaware corporation,

14 Plaintiff,

15 v.

16 AMERICAN BLIND & WALLPAPER  
17 FACTORY, INC., a Delaware corporation  
d/b/a decoratetoday.com, Inc.; and DOES 1-  
18 100, inclusive,

19 Defendants.

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

21 Counter-Plaintiff,

22 v.

23 GOOGLE, INC.

24 Counter-Defendants.

Case No. C 03-5340-JF (RS)

**NOTICE OF MOTION AND MOTION  
FOR ORDER SHORTENING TIME FOR  
BRIEFING AND HEARING ON ITS  
MOTION TO COMPEL GOOGLE TO  
RESPOND TO DISCOVERY TIMELY  
SERVED GIVEN THE CURRENT  
CUTOFF DATE OF AUGUST 26, 2006**

Date: TBD

Time: TBD

Courtroom: 4

Judge: Hon. Richard Seeborg

25  
26 TO ALL PARTIES OF RECORD AND THEIR COUNSEL

27 YOU ARE HEREBY GIVEN NOTICE that Defendant/Counter-Plaintiff American Blind  
28 and Wallpaper Factory, Inc. ("American Blind"), pursuant to Civil Local Rule 6-3, hereby moves

1 this Court to establish the following briefing and hearing schedule for American Blind's  
2 accompanying Motion To Compel Google To Respond To Discovery Timely Served Given The  
3 Current Cutoff Date Of August 26, 2006:

- 4           o The opposition brief will be filed no later than July 26, 2006
- 5           o The reply brief will be filed no later than July 31, 2006
- 6           o The hearing will be held on Wednesday, August 9, 2006<sup>1</sup>

7           American Blind also requests this Court render a decision on the accompanying motion as  
8 soon as possible.

9           As required by the Local Rule, this motion is supported by the accompanying Declaration  
10 of Caroline C. Plater, and the following argument:

11           The shortened schedule sought is justified because the Motion To Compel Google To  
12 Respond To Discovery Timely Served Given The Current Cutoff Date Of August 26, 2006 must  
13 be heard before the extension of fact discovery expires so there is enough time for Google to  
14 respond to the discovery served by American Blind (and produce witnesses) should the Court  
15 order that such discovery was timely. If the matter is not heard in shortened time, the requested  
16 relief would be moot with regard to the current August 26, 2006 discovery deadline and the  
17 parties would be faced with seeking another extension of fact discovery in order to accommodate  
18 the completion of the discovery at issue in the pending motion.

19           Although American Blind has sought Google's consent to the shortened schedule set forth  
20 above, Google has refused to stipulate. Its sole objection, though, is that it does not understand  
21 the nature of the underlying motion (or, possibly, that it disagrees with the relief requested in the  
22 underlying motion). (*See* Plater Decl., Ex. A.) This reason does not explain why this motion  
23 should not be heard on shortened time.

24           Neither Google nor the Court would be under significant time pressure should the  
25 proposed schedule be adopted. Hearing this motion on August 9, 2006 is reasonable, given that  
26 there is a pending motion in this case scheduled to be heard by Judge Seeborg, and it is

27 \_\_\_\_\_  
28 <sup>1</sup> American Blind currently has another motion set to be heard on August 9, 2006 at 9:30  
a.m. before Judge Seeborg.

1 significantly in advance of the discovery cutoff that Google could respond to any outstanding  
2 discovery without the need for further adjustment of the discovery period. The briefing schedule  
3 proposed by American Blind provides Google with nearly two weeks to file its opposition (nearly  
4 the same time it would have under a fully noticed motion), and gives American Blind only 3  
5 business days to prepare and file its response (i.e., 40% less time than under the normal schedule).  
6 The Court would have a week and a half to review and digest the papers before the hearing,  
7 which should be sufficient given the uncomplicated nature of the motion.

8 For these reasons, American Blind respectfully requests that the Court enter the above  
9 schedule for the briefing and hearing of its Motion To Compel Google To Respond To Discovery  
10 Timely Served Given The Current Cutoff Date Of August 26, 2006.

11 Dated: July 13, 2006

HOWREY LLP

12  
13 By: /s/ Ethan B. Andelman

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