

1 Robert N. Phillips (SBN 120970)
 Ethan B. Andelman (SBN 209101)
 2 HOWREY, LLP
 525 Market Street, Suite 3600
 3 San Francisco, CA 94105
 Telephone: (415) 848-4900
 4 Facsimile: (415) 848-4999

5 David A. Rammelt (Admitted *Pro Hac Vice*)
 Susan J. Greenspon (Admitted *Pro Hac Vice*)
 6 KELLEY DRYE & WARREN LLP
 333 West Wacker Drive, Suite 2600
 7 Chicago, IL 60606
 Telephone: (312) 857-7070
 8 Facsimile: (312) 857-7095

9 Attorneys for Defendant/Counter-Plaintiff
 AMERICAN BLIND AND WALLPAPER
 10 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
 FACTORY, INC., a Delaware corporation
 17 d/b/a decoratetoday.com, Inc.; and DOES 1-
 100, inclusive,

18 Defendants.

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

21 Counter-Plaintiff,

22 v.

23 GOOGLE, INC.,

24 Counter-Defendants.

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

**DECLARATION OF CAROLINE C.
 PLATER IN SUPPORT OF AMERICAN
 BLIND AND WALLPAPER FACTORY,
 INC.'S 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**

Courtroom: 4
 Hon. Richard Seeborg

1 I, Caroline C. Plater, declare as follows:

2 1. I am an attorney at Kelley Drye & Warren LLP, counsel of record for
3 Defendant/Counter-Plaintiff American Blind & Wallpaper Factory, Inc. (“American Blind”) in
4 the above-captioned action. I am a member in good standing of the State Bar of Illinois. I have
5 personal knowledge of the facts set forth in this declaration and, if called as a witness, could and
6 would testify competently to such facts under oath.

7 2. A hearing on the Motion To Compel Google To Respond To Discovery Timely
8 Served Given The Current Cutoff Date Of August 26, 2006 on shortened time is requested
9 because the parties have a material dispute over whether additional discovery issued during the
10 extension of fact discovery is timely and the cutoff of fact discovery is 6 weeks away.

11 3. American Blind was unable to bring this motion at an earlier date because it was in
12 the process of working out the merits of this issue with Google, as instructed by Judge Fogel, for
13 the past two weeks.

14 4. American Blind has sought Google’s stipulation to the shortened time. American
15 Blind explained to Google that it was merely filing the motion that Judge Fogel had indicated it
16 should file in this situation. Google refused to stipulate. (*See Exhibit A.*)

17 5. The motion for shorted time should be granted because the Motion To Compel
18 Google To Respond To Discovery Timely Served Given The Current Cutoff Date Of August 26,
19 2006 must be heard before the extension of fact discovery expires and within enough time for
20 Google to respond to the discovery served by American Blind, should the Court order that such
21 discovery was timely. If the matter is not heard in shortened time, American Blind would be
22 prejudiced — the requested relief would be moot with regard to the August 26, 2006 deadline and
23 the parties would be faced with seeking another extension of fact discovery in order to
24 accommodate the completion of the discovery at issue in the current motion.

25 6. Hearing this motion on August 9, 2006 is reasonable, given that there is a pending
26 motion in this case scheduled to be heard by Judge Seeborg. The briefing schedule proposed by
27 American Blind provides Google with nearly two weeks to file its opposition, and gives
28 American Blind only 3 business days to prepare and file its response. The Court would have a

1 week and a half to review and digest the papers before the hearing.

2 7. In this case, in addition to the 60-day extension of time recently granted by Judge
3 Fogel to the entire schedule, Judge Fogel adjusted all case management dates by 4 months in
4 February 2006.

5 8. If this motion is granted, it will have no effect on the remaining schedule for this
6 case, since Google will be able to respond to all discovery prior to the current discovery cutoff
7 date.

8 I declare under penalty of perjury under the laws of the United States of America that the
9 foregoing is true and correct.

10 Executed at Chicago, Illinois on July 13, 2006.

11
12 /s/ Caroline C. Plater
CAROLINE C. PLATER

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