

# Exhibit A

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

GOOGLE, INC., a Delaware corporation,

Plaintiff,

vs.

Case No. C 03-5340-JF

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

Defendants.

**CERTIFIED  
COPY**

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

Counter-Plaintiff,

vs.

GOOGLE, INC.,

Counter-Defendant.

The video deposition of JEFFREY A. ALDERMAN,  
taken pursuant to the Rules of the State of California,  
before Lana Kia Haws, CRR, CM, RPR, CSR-0995, a Notary  
Public in the County of Oakland, Acting in the County  
of Wayne, State of Michigan, at the Inn at St. John's,  
44045 Five Mile Road, Plymouth, Michigan, on August 4,  
2006, commencing at or about the hour of 8:00 a.m.

APPEARANCES:

Keker & Van Nest, LLP  
BY: MR. MICHAEL H. PAGE  
710 Sansome Street  
San Francisco, CA 94111-1704  
(415) 391-5400  
Appearing on behalf of the Plaintiff.

Kelley Drye & Warren, LLP  
BY: MR. PAUL W. GARRITY  
101 Park Avenue  
New York, New York 10178  
(212) 808-7613  
Appearing on behalf of the Defendants.

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1 last group of pages that have, you know, a kind of a  
2 business card size ad where the front of the book  
3 would be more of a full page or half page ad.

4 Q. So the back of book is sort of like the  
5 classified stuff at the back of the magazine?

6 A. Classified or advertisers' section, index.

7 MR. PAGE: Time flies. We need to change  
8 tape again.

9 THE VIDEOGRAPHER: Off the record,  
10 11:23:47 a.m.

11 (Recess taken.)

12 THE VIDEOGRAPHER: Back on the record,  
13 11:32:38 a.m.

14 MR. PAGE: I will mark as Exhibit 3.

15 (Mark'd for identification

16 was Deposition Exhibit No. 3.)

17 Q. (BY MR. PAGE) Exhibit 3 is a four-page  
18 document consisting of a string of e-mails, the last  
19 one being from yourself to Joel Levine and Ron Myers  
20 on July 6th, 2006. Subject, analysis of C.J. brand  
21 keyword policy change.

22 Do you recognize this document?

23 A. Yes.

24 Q. Did you, in fact, write this?

25 A. Yes.

1 Q. Is this the analysis you referred to earlier  
2 that Commission Junction had done on the impact of  
3 changing your bidding rules on branded keywords?

4 A. Yes.

5 Q. And what was the conclusion from that  
6 analysis?

7 A. The conclusion was, based on my notes here,  
8 that we saw 55 percent drop in sales from our affiliate  
9 program during that time period.

10 Q. And it was your conclusion that most of that  
11 drop was likely a result of the policy change?

12 A. Yes.

13 Q. In the second paragraph of your conclusions,  
14 you say, "Since 4/7/06, we have not experienced an  
15 increase in sales from our branded keyword category on  
16 Google, Yahoo or M.S.N. Does this mean our competition  
17 is picking up these sales from infringing our these  
18 marks? My assumption is yes, but this will be hard to  
19 prove."

20 Why -- first of all, it was 4-7-06, the  
21 date on which you stopped letting affiliates bid on your  
22 branded keywords?

23 A. Yes.

24 Q. Did you do any analysis of whether there was  
25 an increase or decrease in visits to your website via

1 natural results on branded searches?

2 A. We did.

3 Q. And what was your result?

4 A. We did not see any increase.

5 Q. How much income -- how much -- strike that.

6 The comparison you did on sales was  
7 quarter to quarter, correct, in terms of C.J. sales?

8 A. Yes. That was the time period in the analysis,  
9 was quarter to quarter.

10 Q. And was Q -- are you running calendar quarters  
11 here? Is Q1 January 1 through the end of March?

12 A. Yes.

13 Q. And Q2 is first of April through the end of  
14 June?

15 A. Correct.

16 Q. And for that period, the policy you were  
17 testing in Q2 was only in effect for six weeks, correct?

18 A. It was about six weeks.

19 Q. Did you compare those six weeks to other weeks  
20 in Q2?

21 A. We did. In Coremetrics, we looked back  
22 previously really on -- it was a daily level, a daily  
23 trend level.

24 Q. And what was the comparison of daily trends for  
25 the six-week period in which C.J. affiliates were not

1 allowed to bid on branded --

2 A. We saw a, again, significant drop off in sales  
3 was the biggest key factor that we discovered; and we  
4 were looking to see that difference in sales, was that  
5 picked up by any other of our programs.

6 Q. Okay. Did you compare that to the level of  
7 spend by the Commission Junction affiliates?

8 A. With Commission Junction, really, sales is, you  
9 know, a direct result of spend, meaning our affiliates  
10 get paid a percentage of sale, of sales that they  
11 generate for us. So we did look at that as well.

12 Q. Maybe I asked that badly.

13 What I am trying to get at is whether  
14 when you put this policy in effect, did your Commission  
15 Junction affiliates immediately start spending more on  
16 other keywords; or did you simply have less Commission  
17 Junction paid search activity for some period of time?

18 A. When we kicked the affiliates off of the brand  
19 keywords, some of -- I would tell you that most of our  
20 affiliates, paid search affiliates, at that time, saw  
21 a significant reduction in sales and traffic that they  
22 were driving to us.

23 Some of our affiliates have other  
24 keywords in their programs as well that they target  
25 for us.

1 Q. Right.

2 A. More niche keywords they target for us, paid  
3 and natural.

4 Q. So my question is -- well, different question.

5 Do you know whether in response to being  
6 kicked off your branded keywords, your C.J. affiliates  
7 increased their spend on non-branded keywords?

8 A. That, I don't know. I would tell you that our  
9 affiliates are really an outstretched sales arm for us,  
10 for the organization; and affiliates are in business,  
11 also, to make money; and so affiliates can spend on  
12 paid search how much they can to make a profit still.

13 So they are not gonna go in the red and  
14 bid three, four dollars a click on a word like blinds.  
15 It just doesn't make sense.

16 Q. How are your commission rates set to C.J.  
17 affiliates? Is it strictly a flat percentage of  
18 sales?

19 A. Yes.

20 Q. Is it the same for each affiliate?

21 A. We have got a standard affiliate rate, which is  
22 five and a half percent. We do have a couple affiliates  
23 that we -- that are a little bit higher than that that  
24 we use an incentive to get in our program and then  
25 monitor them over a given period of time; and if they do

1 well, obviously, or give us increased placement,  
2 permanent placement on their website, like with a  
3 company like My Points, as an example, you know, then  
4 we will increase their commission during a little time  
5 period.

6 Q. If the drop in sales from quarter 1 to quarter  
7 2 was 55 percent and the period in quarter 2 in which  
8 the policy changed was six weeks, wouldn't you have had  
9 to had negative sales for that six-week period in order  
10 to get the 55 percent drop for the entire quarter?

11 A. I am not sure I understand your question  
12 there.

13 Q. Let me put it another way.

14 How can an effect that was only in place  
15 for six weeks out of a quarter be responsible for a  
16 55 percent drop in sales for the entire quarter? It's  
17 physically impossible.

18 A. Again, when we determined the before and after  
19 impact, we were looking at trending activity. These are  
20 the quarter over quarter numbers.

21 Just based on looking at this e-mail,  
22 there was a 55 percent drop in sales a quarter after  
23 quarter. It may have not been a --

24 Q. But if you took the sales from quarter 1 and  
25 you removed -- if you set six weeks of that quarter to



1 zero, it would be less than a 55 percent reduction for  
2 the quarter, wouldn't it?

3 A. Yeah, I suppose so.

4 Q. So there has to be some cause other than the  
5 change in policy for this 55 percent drop, correct?

6 A. Well, no. We looked at all of our paid search  
7 affiliates individually as well and looked at their  
8 trends year to date, and we did see a drop-off in all  
9 of those paid search affiliates the moment we changed  
10 the policy and said you can no longer bid on our brand  
11 keywords.

12 Q. Do you have that data?

13 A. I don't know if it's here in front of us; but,  
14 obviously, we could pull that together. I am sure that  
15 was -- I'm surprised it was not sent.

16 MR. GARRITY: Certainly, yeah, if it  
17 wasn't previously sent, of course, we would be happy  
18 to send it.

19 Q. (BY MR. PAGE) Okay. All right. In -- I am  
20 sure we have the data somewhere, but, roughly, what was  
21 the sales -- strike that.

22 The figures here for Q1 and Q2, the  
23 868,000 and the 562,000, those are gross sales, right?

24 A. Correct.

25 Q. So your commission would have been -- you would

1 have paid a commission of five-and-a-half percent,  
2 roughly, on that number?

3 A. Right. Plus, obviously, the Commission  
4 Junction management fee on top of that.

5 Q. For the same quarter, either one of them, do  
6 you know, roughly, what your own sales were through  
7 paid search?

8 A. I am sure we have that information. If not  
9 here, it's easily accessible.

10 Q. Roughly, for the year, what are your quarterly  
11 sales through paid search total?

12 A. I don't want to guess.

13 Q. Okay. I'm sure I can find it.

14 A. Yeah.

15 Q. After reporting your conclusion, you have a  
16 section called Solution and you have various  
17 recommendations here?

18 A. Yes.

19 Q. Are all of the -- strike that.

20 Were all of the things you recommended in  
21 the Solutions section, in fact, implemented?

22 A. To the best of my knowledge, these were all  
23 implemented.

24 Q. Okay, and are they all -- are all of these  
25 things that you suggest current policy?

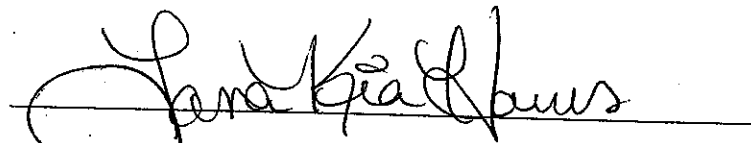
CERTIFICATE OF NOTARY

STATE OF MICHIGAN     )  
                                  ) ss.  
COUNTY OF OAKLAND    )

I, Lana Kia Haws, Certified  
Shorthand Reporter and Notary Public in and for the  
above county and state, do hereby certify that the  
deposition of JEFFREY A. ALDERMAN was taken before me  
at the time and place hereinbefore set forth; that  
the witness was by me first duly sworn to testify  
to the truth, the whole truth and nothing but the  
truth; that thereupon the foregoing questions were  
asked and foregoing answers made by the witness  
which were duly recorded by me stenographically and  
later reduced to computer transcription; and I certify  
that this is a true and correct transcript of my  
stenographic notes so taken.

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I further certify that I am not Of  
Counsel to either party nor interested in the event of  
this cause.



Lana Kia Haws, CM, RPR, CSR-0995

Notary Public

State of Michigan

County of Oakland

Acting in the County of Wayne

My Commission Expires:

September 29, 2011