

Exhibit B

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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,

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

14 Plaintiff,

AMERICAN BLIND & WALLPAPER
FACTORY, INC.'S RESPONSES TO
GOOGLE, INC.'S FIRST SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS AND THINGS

15 v.

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

19 Defendants.

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

22 Counter-Plaintiff,

23 v.

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

27 Counter-Defendants/
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Third-Party Defendants

PROPOUNDING PARTY: PLAINTIFF/COUNTER-DEFENDANT GOOGLE, INC.

RESPONDING PARTY: DEFENDANT/COUNTER-PLAINTIFF AMERICAN BLIND & WALLPAPER FACTORY, INC.

SET NUMBER: ONE

Defendant/Counter-Plaintiff American Blind & Wallpaper Factory, Inc. ("American Blind") hereby answers Plaintiff/Counter-Defendant Google, Inc.'s First Set Of Requests For Production Of Documents And Things From American Blind & Wallpaper Factory, Inc. as follows:

REQUESTS

REQUEST NO. 1:

All DOCUMENTS RELATING TO AMERICAN BLIND's selection, adoption and clearance of each of the AMERICAN BLIND MARKS, including, but not limited to, searches, investigations, reports and opinions.

RESPONSE TO REQUEST NO. 1:

American Blind objects to this request because it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of relevant or admissible evidence. American Blind also objects to this request to the extent that it calls for the production of documents protected by the attorney client privilege or the attorney work product doctrine. Subject to and without waiving these objections, American Blind states that it will produce any responsive documents in its possession regarding the adoption and clearance of each of the American Blind Marks.

REQUEST NO. 2:

All DOCUMENTS demonstrating that AMERICAN BLIND owns the AMERICAN BLIND MARKS.

RESPONSE TO REQUEST NO. 2:

Responsive documents will be produced.

REQUEST NO. 3:

All DOCUMENTS RELATING TO AMERICAN BLIND's first commercial use of each of the AMERICAN BLIND MARKS.

1 **RESPONSE TO REQUEST NO. 3:**

2 American Blind objects to this request because it is overbroad, unduly burdensome, and not
3 reasonably calculated to lead to the discovery of relevant or admissible evidence. Specifically,
4 Google's request for all documents related to American Blind's first commercial use of the American
5 Blind Marks is overbroad and unduly burdensome. Subject to and without waiving these objections,
6 responsive documents will be produced that illustrate the date of first commercial use of the American
7 Blind Marks.
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9 **REQUEST NO. 4:**

10 All DOCUMENTS RELATING TO AMERICAN BLIND's first use of each of the
11 AMERICAN BLIND DOMAIN NAMES.

12 **RESPONSE TO REQUEST NO. 4:**

13 American Blind objects to this request because it is vague, ambiguous, overbroad, unduly
14 burdensome, and not reasonably calculated to lead to the discovery of relevant or admissible evidence.
15 Specifically, the phrase American Blind Domain Names is vague and ambiguous because Google
16 defines the term to mean a certain list of domain names (as set forth at page 2, paragraph 5 of Google
17 Inc.'s First Set Of Requests For Production Of Documents And Things From American Blind &
18 Wallpaper Factory, Inc.) and then includes "any other Internet domain name owned by or on behalf of
19 American Blind through which customers may purchase American Blind's products or services."
20 American Blind owns approximately 500 Internet domain names, but at present it only actively uses
21 and markets approximately 12 domain names. Moreover, American Blind does not generally maintain
22 records for each individual domain name, rather information for all domain names owned by American
23 Blind is collected and maintained together. To the extent that this request calls for the production of
24 documents related to all 500 domain names owned by American Blind, it is overbroad and unduly
25 burdensome. Subject to and without waiving these objections, American Blind will produce a listing
26 of domain names owned by American Blind. To the extent that Google wants detailed information on
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1 each of these domain names, that information is publicly available through the Internet at
2 www.enom.com.

3 **REQUEST NO. 5:**

4 Copies of all advertising and promotional materials featuring the AMERICAN BLIND
5 MARKS or AMERICAN BLIND DOMAIN NAMES.

6 **RESPONSE TO REQUEST NO. 5:**

7 American Blind objects to this request because it is vague, ambiguous, overbroad, unduly
8 burdensome, and not reasonably calculated to lead to the discovery of relevant or admissible evidence.
9 As an initial matter, the phrase American Blind Domain Names is vague and ambiguous because
10 Google defines the term to mean a certain list of domain names (as set forth at page 2, paragraph 5 of
11 Google Inc.'s First Set Of Requests For Production Of Documents And Things From American Blind
12 & Wallpaper Factory, Inc.) and then includes "any other Internet domain name owned by or on behalf
13 of American Blind through which customers may purchase American Blind's products or services."
14 American Blind owns approximately 500 Internet domain names, but at present it only actively uses
15 and markets approximately 12 domain names. Moreover, American Blind does not generally maintain
16 records for each individual domain name, rather information for all domain names owned by American
17 Blind is collected and maintained together. To the extent that this request calls for the production of
18 documents related to all 500 domain names owned by American Blind, it is overbroad and unduly
19 burdensome. Moreover, American Blind spends millions of dollars each year advertising the
20 American Blind Marks and domain names, including pervasive advertising in over forty national
21 magazines, on every major search engine, on national television and radio, and through millions of
22 direct mailings and catalogs distributed throughout the United States. American Blind has advertised
23 the American Blind Marks and domain names since its inception, and this request is not limited in
24 time. It would be extremely burdensome for American Blind to produce copies of all of its advertising
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1 and promotional materials ever created. Subject to and without waiving these objections, American
2 Blind will produce a sample of its more recent advertising and promotional materials.

3 **REQUEST NO. 6:**

4 All DOCUMENTS RELATING TO AMERICAN BLIND's efforts to defend its trademarks
5 and domain names.

6 **RESPONSE TO REQUEST NO. 6:**

7 American Blind objects to this request because it is overbroad, unduly burdensome, and not
8 reasonably calculated to lead to the discovery of relevant or admissible evidence. As written, this
9 request would require the production of every document submitted in every lawsuit brought by
10 American Blind to defend its trademark rights. These litigation files are voluminous and are not likely
11 to lead to the discovery of relevant or admissible evidence in this case. In addition, American Blind
12 objects to this request to the extent that it seeks the production of attorney/client privileged
13 communications. Subject to and without waiving these objections, American Blind will produce
14 copies of cease and desist letters sent to entities infringing and/or diluting American Blind's
15 trademarks and copies of initial pleadings filed by American Blind seeking to protect its trademark
16 rights.
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18 **REQUEST NO. 7:**

19 All business plans, reports, analyses and research RELATING TO the AMERICAN BLIND
20 MARKS and AMERICAN BLIND DOMAIN NAMES, including, but not limited to, strategic plans,
21 forecasts, or projections.

22 **RESPONSE TO REQUEST NO. 7:**

23 American Blind has no documents responsive to this request.

24 **REQUEST NO. 8:**

25 All of AMERICAN BLIND's quarterly and annual audited financial statements and annual
26 reports from 1997 to the present, including all corresponding notes and schedules.
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1 **RESPONSE TO REQUEST NO. 8:**

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3 American Blind objects to this request because it is overbroad, unduly burdensome, and not
4 reasonably calculated to lead to the discovery of relevant or admissible evidence. To the extent that
5 this request calls for the production of notes and schedules to American Blind's audited financial
6 statements, it is overbroad and unduly burdensome. American Blind will produce its annual audited
7 financial statements from 1997 to the present. American Blind states that it does not prepare quarterly
8 audited financial statements.
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10 **REQUEST NO. 9:**

11 All DOCUMENTS demonstrating AMERICAN BLIND's monthly gross revenues from
12 products and services sold under the AMERICAN BLIND MARKS from the first use of those marks
13 to the present.

13 **RESPONSE TO REQUEST NO. 9:**

14 American Blind objects to this request as over broad and unduly burdensome. Revenues from
15 products and services sold under the American Blind Marks is equivalent to total company revenues
16 because virtually all, if not all, of the products and services sold by American Blind are sold under the
17 American Blind Marks. As a result, the quantity of documents demonstrating monthly gross revenues
18 for American Blind is extremely voluminous and would be very burdensome to assemble and produce.
19 In addition, American Blind has been using its Marks since at least 1986 and it would be extremely
20 burdensome, if not impossible, to produce documents relating to monthly gross revenues for such a
21 long time period. Subject to and without waiving these objections, American Blind states that it will
22 produce annual audited financial statements from 1997 to the present.
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24 **REQUEST NO. 10:**

25 All DOCUMENTS demonstrating AMERICAN BLIND's monthly gross revenues from
26 products and services sold through the AMERICAN BLIND DOMAIN NAMES on a monthly basis
27 from the first use of those domain names to the present.

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1 **RESPONSE TO REQUEST NO. 10:**

2 American Blind objects to this request because it is vague, ambiguous, overbroad, unduly
3 burdensome, and not reasonably calculated to lead to the discovery of relevant or admissible evidence.
4 As an initial matter, the phrase American Blind Domain Names is vague and ambiguous because
5 Google defines the term to mean a certain list of domain names (as set forth at page 2, paragraph 5 of
6 Google Inc.'s First Set Of Requests For Production Of Documents And Things From American Blind
7 & Wallpaper Factory, Inc.) and then includes "any other Internet domain name owned by or on behalf
8 of American Blind through which customers may purchase American Blind's products or services."
9 American Blind owns approximately 500 Internet domain names, but at present it only actively uses
10 and markets approximately 12 domain names. Moreover, American Blind does not generally maintain
11 records for each individual domain name, rather information for all domain names owned by American
12 Blind is collected and maintained together. To the extent that this request calls for the production of
13 documents related to all 500 domain names owned by American Blind, it is overbroad and unduly
14 burdensome. In addition, it is very difficult for American Blind to attempt with accuracy to divide
15 and/or separate revenues from or between its Internet domain names and its toll-free telephone
16 numbers. For example, customers often shop for products on American Blind's website and then call
17 its toll-free number to place an order. It is unclear from Google's request whether such sales would
18 qualify as made "through the American Blind domain names" or not. Subject to and without waiving
19 these objections, American Blind states that it will produce annual audited financial statements from
20 1997 to the present.
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24 **REQUEST NO. 11:**

25 All DOCUMENTS demonstrating AMERICAN BLIND's monthly profits and/or losses for
26 products and services sold under the AMERICAN BLIND MARKS from the first use of those marks
27 to the present.
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1 **RESPONSE TO REQUEST NO. 11:**

2 American Blind objects to this request as over broad and unduly burdensome. Profits and/or
3 losses from products and services sold under the American Blind Marks is equivalent to total company
4 profits and/or losses because virtually all, if not all, of the products and services sold by American
5 Blind are sold under the American Blind Marks. As a result, the quantity of documents demonstrating
6 monthly profits and/or losses for American Blind is extremely voluminous and would be very
7 burdensome to assemble and produce. In addition, American Blind has been using its Marks since at
8 least 1986, and it would be extremely burdensome, if not impossible, to produce documents relating to
9 monthly profits and/or losses for such a long time period. Subject to and without waiving these
10 objections, American Blind states that it will produce annual audited financial statements from 1997 to
11 the present.

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13 **REQUEST NO. 12:**

14 All DOCUMENTS demonstrating AMERICAN BLIND's monthly profits and/or losses for
15 products and services sold through the AMERICAN BLIND DOMAIN NAMES on a monthly basis
16 from the first use of those domain names to the present.

17 **RESPONSE TO REQUEST NO. 12:**

18 American Blind objects to this request because it is vague, ambiguous, overbroad, unduly
19 burdensome, and not reasonably calculated to lead to the discovery of relevant or admissible evidence.
20 As an initial matter, the phrase American Blind Domain Names is vague and ambiguous because
21 Google defines the term to mean a certain list of domain names (as set forth at page 2, paragraph 5 of
22 Google Inc.'s First Set Of Requests For Production Of Documents And Things From American Blind
23 & Wallpaper Factory, Inc.) and then includes "any other Internet domain name owned by or on behalf
24 of American Blind through which customers may purchase American Blind's products or services."
25 American Blind owns approximately 500 Internet domain names, but at present it only actively uses
26 and markets approximately 12 domain names. Moreover, American Blind does not generally maintain

1 records for each individual domain name, rather information for all domain names owned by American
2 Blind is collected and maintained together. To the extent that this request calls for the production of
3 documents related to all 500 domain names owned by American Blind, it is overbroad and unduly
4 burdensome. In addition, it is very difficult for American Blind to attempt with accuracy to divide
5 and/or separate profits and/or losses from or between its Internet domain names and its toll-free
6 telephone numbers. For example, customers often shop for products on American Blind's website and
7 then call its toll-free number to place an order. It is unclear from Google's request whether such sales
8 would qualify as made "through the American Blind domain names" or not. Subject to and without
9 waiving these objections, American Blind states that it will produce annual audited financial
10 statements from 1997 to the present.
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12 **REQUEST NO. 13:**

13 All DOCUMENTS demonstrating AMERICAN BLIND'S monthly advertising and
14 promotional expenditures for products or services marketed under the AMERICAN BLIND MARKS
15 from the first use of those marks to the present.

16 **RESPONSE TO REQUEST NO. 13:**

17 Since all of American Blind's products and services are marketed under the American Blind
18 Marks, this request is actually requesting all documents demonstrating American Blind's monthly
19 advertising and promotional expenditures. American Blind objects to this request because it is vague,
20 ambiguous, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
21 relevant or admissible evidence. As an initial matter, the phrase "advertising and promotional
22 expenditures" is vague and ambiguous because it is unclear what fixed and/or variable expenses
23 qualify in Google's view as "expenditures," nor has Google made any distinction between marketing
24 expenditures and what are properly includable as advertising and promotional expenditures. In
25 addition, this request is overbroad because American Blind began using its Marks as early as 1986, and
26 it would be too burdensome to produce documents dating from 1986, assuming that they even exist.
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1 Subject to and without waiving these objections, American Blind states that it will produce documents
2 generally evidencing annual advertising expenditures.

3 **REQUEST NO. 14:**

4 All DOCUMENTS demonstrating AMERICAN BLIND's monthly advertising and
5 promotional expenditures for products and services sold through the AMERICAN BLIND DOMAIN
6 NAMES from the first use of those domain names to the present.

7 **RESPONSE TO REQUEST NO. 14:**

8 American Blind objects to this request because it is vague, ambiguous, overbroad, unduly
9 burdensome, and not reasonably calculated to lead to the discovery of relevant or admissible evidence.
10 As an initial matter, the phrase American Blind Domain Names is vague and ambiguous because
11 Google defines the term to mean a certain list of domain names (as set forth at page 2, paragraph 5 of
12 Google Inc.'s First Set Of Requests For Production Of Documents And Things From American Blind
13 & Wallpaper Factory, Inc.) and then includes "any other Internet domain name owned by or on behalf
14 of American Blind through which customers may purchase American Blind's products or services."
15 American Blind owns approximately 500 Internet domain names, but at present it only actively uses
16 and markets approximately 12 domain names. Moreover, American Blind does not generally maintain
17 records for each individual domain name, rather information for all domain names owned by American
18 Blind is collected and maintained together. To the extent that this request calls for the production of
19 documents related to all 500 domain names owned by American Blind, it is overbroad and unduly
20 burdensome. In addition, the phrase "advertising and promotional expenditures" is vague and
21 ambiguous because it is unclear what fixed and/or variable expenses qualify in Google's view as
22 "expenditures," nor has Google made any distinction between marketing expenditures and what are
23 properly includable as advertising and promotional expenditures. In addition, this request is overbroad
24 because American Blind began using its domain names many years ago, and it would be too
25 burdensome to produce documents from such a long time ago, assuming that they even exist. Finally,
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1 American Blind's advertising expenditures are not necessarily separated to reflect advertising
2 expenditures for products and services sold through the American Blind domain names as opposed to
3 through other channels. Subject to and without waiving these objections, American Blind states that it
4 will produce documents generally evidencing annual advertising expenditures.
5

6 **REQUEST NO. 15:**

7 All DOCUMENTS identifying the weekly number of hits received by each of the websites
8 reachable through the AMERICAN BLIND DOMAIN NAMES from the first use of those domain
9 names to the present.

9 **RESPONSE TO REQUEST NO. 15:**

10 American Blind objects to this request because it is vague, ambiguous, overbroad, unduly
11 burdensome, and not reasonably calculated to lead to the discovery of relevant or admissible evidence.
12 As an initial matter, the phrase American Blind Domain Names is vague and ambiguous because
13 Google defines the term to mean a certain list of domain names (as set forth at page 2, paragraph 5 of
14 Google Inc.'s First Set Of Requests For Production Of Documents And Things From American Blind
15 & Wallpaper Factory, Inc.) and then includes "any other Internet domain name owned by or on behalf
16 of American Blind through which customers may purchase American Blind's products or services."
17 American Blind owns approximately 500 Internet domain names, but at present it only actively uses
18 and markets approximately 12 domain names. Moreover, American Blind does not generally maintain
19 records of "hits" for each individual domain name; rather information for all domain names owned by
20 American Blind is collected and maintained together. To the extent that this request calls for the
21 production of documents related to all 500 domain names owned by American Blind, it is overbroad
22 and unduly burdensome. In addition, American Blind has been using certain of its domain names for
23 many years and this request, which calls for the production of document from the first use of the
24 domain names to the present is overbroad in its time frame. Finally, this request is vague and
25 ambiguous because it is unclear what exactly Google means by the phrase "number of hits received."
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1 **REQUEST NO. 16:**

2 All DOCUMENTS identifying the weekly number of unique users accessing the websites
3 reachable through the AMERICAN BLIND DOMAIN NAMES from the first use of those domain
4 names to the present.

4 **RESPONSE TO REQUEST NO. 16:**

5 American Blind objects to this request because it is vague, ambiguous, overbroad, unduly
6 burdensome, and not reasonably calculated to lead to the discovery of relevant or admissible evidence.
7 As an initial matter, the phrase American Blind Domain Names is vague and ambiguous because
8 Google defines the term to mean a certain list of domain names (as set forth at page 2, paragraph 5 of
9 Google Inc.'s First Set Of Requests For Production Of Documents And Things From American Blind
10 & Wallpaper Factory, Inc.) and then includes "any other Internet domain name owned by or on behalf
11 of American Blind through which customers may purchase American Blind's products or services."
12 American Blind owns approximately 500 Internet domain names, but at present it only actively uses
13 and markets approximately 12 domain names. Moreover, American Blind does not generally maintain
14 records for each individual domain name; rather information for all domain names owned by American
15 Blind is collected and maintained together. To the extent that this request calls for the production of
16 documents related to all 500 domain names owned by American Blind, it is overbroad and unduly
17 burdensome. In addition, American Blind has been using certain of its domain names for many years
18 and this request, which calls for the production of document from the first use of the domain names to
19 the present is overbroad in its time frame. Finally, this request is vague and ambiguous because it is
20 unclear what exactly Google means by the phrase "unique users." For example, if a consumer visits
21 the American Blind website on Monday and then again on Tuesday, does he/she only constitute one
22 unique user for that week? In contrast, if a consumer visits the American Blind website on Friday and
23 then again the following Monday, does he/she constitute a separate unique user for both weeks?
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1 **REQUEST NO. 17:**

2 All DOCUMENTS RELATING TO COMMUNICATIONS between AMERICAN BLIND
3 AND GOOGLE.

4 **RESPONSE TO REQUEST NO. 17:**

5 American Blind objects to this request because it is over broad, unduly burdensome, and not
6 reasonably calculated to lead to the discovery of relevant or admissible evidence. American Blind
7 presently is a customer of Google and, therefore, regularly communicates with Google representatives
8 concerning business matters, including but not limited to American Blind's advertising campaign with
9 Google. In addition, this request is overbroad because it is not limited to any definite period of time
10 and American Blind has been doing business with Google for many years. Subject to and without
11 waiving these objections, American Blind will produce electronic communications between American
12 Blind and Google regarding Google's sale of American Blind's trademarks as keywords as part of the
13 AdWords program, as well as monthly invoices received from Google concerning American Blind's
14 participation in Google's AdWords program.
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16 **REQUEST NO. 18:**

17 All DOCUMENTS RELATING TO COMMUNICATIONS between AMERICAN BLIND and
18 the THIRD-PARTY DEFENDANTS.

19 **RESPONSE TO REQUEST NO. 18:**

20 American Blind objects to this request because it is over broad, unduly burdensome, and not
21 reasonably calculated to lead to the discovery of relevant or admissible evidence. American Blind has
22 communicated with the third-party defendants concerning business matters, including but not limited
23 to potential advertising campaigns, which have no relevance to the current dispute. Subject to and
24 without waiving these objections, American Blind states that it has no documents relating to direct
25 communications with the third-party defendants regarding the sale of American Blind's trademarks as
26 keywords.
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1 **REQUEST NO. 19:**

2 All DOCUMENTS RELATING TO any trademark, servicemark, trade name, Internet domain
3 name, or any other application/registration owned by or on behalf of AMERICAN BLIND, through
4 assignment or otherwise, for any name, mark, or designation comprised of or containing the
AMERICAN BLIND MARKS, or any variation thereof.

5 **RESPONSE TO REQUEST NO. 19:**

6 Responsive documents, to the extent that they exist, will be produced.

7 **REQUEST NO. 20:**

8 All DOCUMENTS RELATING TO any research, reports, surveys, investigations, or studies
9 conducted by or on behalf of AMERICAN BLIND, relating to consumer or customer perception,
10 understanding or recognition of any name, mark or designation comprised of or containing the
AMERICAN BLIND MARKS, or any variation thereof.

11 **RESPONSE TO REQUEST NO. 20:**

12 American Blind objects to this Interrogatory on the grounds that it is premature given that
13 American Blind has not yet received meaningful discovery responses from Google and has not yet had
14 an opportunity to take any depositions in this case. American Blind further objects to this
15 Interrogatory on the ground that it seeks information that will likely be the subject of expert testimony
16 prior to the time for disclosure of expert opinions. American Blind further objects to this request to the
17 extent it calls for the production of documents protected by the attorney/client privilege and/or the
18 attorney work product doctrine. Subject to and without waiving these objections, American Blind will
19 produce responsive non-privileged documents, to the extent that they exist, regarding consumer or
20 customer perceptions of the American Blind Marks.
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22 **REQUEST NO. 21:**

23 All DOCUMENTS RELATING TO GOOGLE or any of the THIRD-PARTY DEFENDANTS.

24 **RESPONSE TO REQUEST NO. 21:**

25 American Blind objects to this request because it is over broad, unduly burdensome, and not
26 reasonably calculated to lead to the discovery of relevant or admissible evidence. This request is so
27 overbroad as to be without meaning.
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1 **REQUEST NO. 22:**

2 DOCUMENTS identifying AMERICAN BLIND's corporation structure, including divisions
3 and departments.

4 **RESPONSE TO REQUEST NO. 22:**

5 Responsive documents, to the extent that they exist, will be produced.

6 **REQUEST NO. 23:**

7 DOCUMENTS identifying AMERICAN BLIND's employees and their job descriptions.

8 **RESPONSE TO REQUEST NO. 23:**

9 American Blind objects to this request because it is over broad, unduly burdensome, and not
10 reasonably calculated to lead to the discovery of relevant or admissible evidence. American Blind has
11 more than a hundred employees, each with slightly varying job descriptions. To the extent that this
12 request seeks each employee's job description, it is overbroad. Subject to and without waiving these
13 objections, American Blind will produce an employee roster identifying the individuals that presently
14 work for American Blind and the department in which they work.

15 **REQUEST NO. 24:**

16 All DOCUMENTS RELATING TO AMERICAN BLIND's allegation that "Defendant Google
17 actively solicits others to purchase not only American Blind's registered and unregistered trademarks,
18 but also virtually every conceivable iteration of these marks."

19 **RESPONSE TO REQUEST NO. 24:**

20 American Blind objects to this request to the extent it calls for the production of documents
21 protected by the attorney/client privilege and/or the attorney work product doctrine. Subject to and
22 without waiving this objection, responsive documents, to the extent that they exist, will be produced.
23 However, American Blind believes that the requested documents are largely within the possession and
24 custody of Google and American Blind's competitors. Discovery and investigation continue and this
25 response may be supplemented as required.
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1 **REQUEST NO. 25:**

2 All DOCUMENTS RELATING TO AMERICAN BLIND's allegation that "Defendants have
3 deliberately manipulated their search engine 'results' so that, when consumers use these search engines
4 to find American Blind's products and services, the consumers are unwittingly diverted to competitors'
5 products and services."

5 **RESPONSE TO REQUEST NO. 25:**

6 American Blind objects to this request to the extent it calls for the production of documents
7 protected by the attorney/client privilege and/or the attorney work product doctrine. Subject to and
8 without waiving this objection, responsive documents, to the extent that they exist, will be produced.
9 However, American Blind believes that the requested documents are largely within the possession and
10 custody of Google and American Blind's competitors. Discovery and investigation continue and this
11 response may be supplemented as required.

12 **REQUEST NO. 26:**

13 All DOCUMENTS RELATING TO AMERICAN BLIND's contention that "the American
14 Blind Marks have acquired an outstanding celebrity as a source of quality home decorating products
15 and related services."

16 **RESPONSE TO REQUEST NO. 26:**

17 American Blind objects to this request because it is overbroad and unduly burdensome because
18 it would require the production of all of American Blind's advertising, marketing, and promotional
19 materials. American Blind further objects to this request on the ground that it seeks information that
20 will likely be the subject of expert testimony prior to the time for disclosure of expert opinions.

21 American Blind objects to this request to the extent it calls for the production of documents protected
22 by the attorney/client privilege and/or the attorney work product doctrine. Subject to and without
23 waiving these objections, responsive documents, to the extent that they exist, will be produced.

24 **REQUEST NO. 27:**

25 All DOCUMENTS RELATING TO AMERICAN BLIND's contention that "[t]he public has
26 used and now uses the American Blind Marks to identify American Blind and its home decorating
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1 products and related services from the home decorating products and related services offered by
2 others[.]”

3 **RESPONSE TO REQUEST NO. 27:**

4 American Blind objects to this request because it is overbroad and unduly burdensome because
5 it would require the production of all of American Blind’s advertising, marketing, and promotional
6 materials. American Blind further objects to this request on the ground that it seeks information that
7 will likely be the subject of expert testimony prior to the time for disclosure of expert opinions.
8 American Blind objects to this request to the extent it calls for the production of documents protected
9 by the attorney/client privilege and/or the attorney work product doctrine. Subject to and without
10 waiving these objections, responsive documents, to the extent that they exist, will be produced.

11 **REQUEST NO. 28:**

12 All DOCUMENTS RELATING TO AMERICAN BLIND’s allegation that “[t]he designation
13 ‘Sponsored Link’ is itself confusing and misleading.”

14 **RESPONSE TO REQUEST NO. 28:**

15 American Blind objects to this Interrogatory on the ground that it seeks information that will
16 likely be the subject of expert testimony prior to the time for disclosure of expert opinions. American
17 Blind objects to this request to the extent it calls for the production of documents protected by the
18 attorney/client privilege and/or the attorney work product doctrine. Subject to and without waiving
19 these objections, American Blind states that it does not presently have in its possession documents that
20 relate to the interpretation of Google’s use of the word “Sponsored.” American Blind believes that
21 there are numerous such documents in the possession of Google and other third parties.

22 **REQUEST NO. 29:**

23 All DOCUMENTS RELATING TO AMERICAN BLIND’s allegation that “Google has sold
24 many keywords comprised, in whole or in part, of the American Blind marks, to competitors of
25 American Blind.”
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1 **RESPONSE TO REQUEST NO. 29:**

2 American Blind objects to this request to the extent it calls for the production of documents
3 protected by the attorney/client privilege and/or the attorney work product doctrine. Subject to and
4 without waiving these objections, responsive documents, to the extent that they exist, will be produced.
5 However, American Blind believes that the requested documents are largely within the possession and
6 custody of Google and American Blind's competitors. Discovery and investigation continue and this
7 response may be supplemented as required.
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9 **REQUEST NO. 30:**

10 All DOCUMENTS RELATING TO AMERICAN BLIND's allegation that "Google . . .
11 actively promotes and encourages competitors to embark on a sweeping competitive raid on the
12 American Blind Marks and virtually every conceivable, though indistinguishable, iteration of those
13 marks."

13 **RESPONSE TO REQUEST NO. 30:**

14 American Blind objects to this request to the extent it calls for the production of documents
15 protected by the attorney/client privilege and/or the attorney work product doctrine. Subject to and
16 without waiving these objections, responsive documents, to the extent that they exist, will be produced.
17 However, American Blind believes that the requested documents are largely within the possession and
18 custody of Google and American Blind's competitors.
19

20 **REQUEST NO. 31:**

21 All DOCUMENTS RELATING TO AMERICAN BLIND's allegation that "Google
22 intentionally has designed its financially lucrative 'AdWords' program to maximize the infringement
23 and dilution of American Blind's marks."

23 **RESPONSE TO REQUEST NO. 31:**

24 American Blind objects to this request to the extent it calls for the production of documents
25 protected by the attorney/client privilege and/or the attorney work product doctrine. Subject to and
26 without waiving these objections, responsive documents, to the extent that they exist, will be produced.
27

1 However, American Blind believes that the requested documents are largely within the possession and
2 custody of Google and American Blind's competitors.

3 **REQUEST NO. 32:**

4 All DOCUMENTS RELATING TO AMERICAN BLIND's allegation that "Google has
5 knowingly sold the American Blind Marks in commerce and included them in Google's search engine
6 for Google's own profit and to increase the competitive advantage of American Blind's competitors."

7 **RESPONSE TO REQUEST NO. 32:**

8 American Blind objects to this request to the extent it calls for the production of documents
9 protected by the attorney/client privilege and/or the attorney work product doctrine. Subject to and
10 without waiving these objections, responsive documents, to the extent that they exist, will be produced.

11 However, American Blind believes that the requested documents are largely within the possession and
12 custody of Google and American Blind's competitors.

13 **REQUEST NO. 33:**

14 All DOCUMENTS RELATING TO AMERICAN BLIND's allegation that "Google adopted
15 and used this former trademark policy because it believed it would be, or could be, found liable for
16 trademark infringement or other related claims if it did not block such purchases."

17 **RESPONSE TO REQUEST NO. 33:**

18 American Blind objects to this request to the extent it calls for the production of documents
19 protected by the attorney/client privilege and/or the attorney work product doctrine. Subject to and
20 without waiving these objections, responsive documents, to the extent that they exist, will be produced.

21 However, American Blind believes that the requested documents are largely within the possession and
22 custody of Google and American Blind's competitors.

23 **REQUEST NO. 34:**

24 All DOCUMENTS RELATING TO AMERICAN BLIND's allegation that "Defendants and
25 their advertisers are wrongfully profiting off of the goodwill and reputation of trademark owners such
26 as American Blind."

1 **RESPONSE TO REQUEST NO. 34:**

2 American Blind objects to this request to the extent it calls for the production of documents
3 protected by the attorney/client privilege and/or the attorney work product doctrine. Subject to and
4 without waiving these objections, responsive documents, to the extent that they exist, will be produced.
5 However, American Blind believes that the requested documents are largely within the possession and
6 custody of Google and American Blind's competitors.
7

8 **REQUEST NO. 35:**

9 All DOCUMENTS RELATING TO AMERICAN BLIND's allegation that "Defendants'
10 search engines are deceptive and mislead consumers into believing falsely that the website links to
11 which they are directed via manipulated search 'results' links are sponsored or authorized by and/or
12 originat[e] from American Blind[.]"

13 **RESPONSE TO REQUEST NO. 35:**

14 American Blind objects to this Interrogatory on the ground that it seeks information that will
15 likely be the subject of expert testimony prior to the time for disclosure of expert opinions. American
16 Blind objects to this request to the extent it calls for the production of documents protected by the
17 attorney/client privilege and/or the attorney work product doctrine. Subject to and without waiving
18 these objections, responsive documents, to the extent that they exist, will be produced.

19 **REQUEST NO. 36:**

20 All DOCUMENTS RELATING TO AMERICAN BLIND's allegation that "[t]he manipulated
21 search engine 'results,' . . . dilute the ability of the American Blind Marks to identify American Blind
22 as a source of its goods and services."

23 **RESPONSE TO REQUEST NO. 36:**

24 American Blind objects to this Interrogatory on the ground that it seeks information that will
25 likely be the subject of expert testimony prior to the time for disclosure of expert opinions. American
26 Blind objects to this request to the extent it calls for the production of documents protected by the
27 attorney/client privilege and/or the attorney work product doctrine. Subject to and without waiving
28 these objections, responsive documents, to the extent that they exist, will be produced.

1 **REQUEST NO. 37:**

2 All DOCUMENTS RELATING TO AMERICAN BLIND's allegation that "American Blind's
3 customers have been and will likely continue to be confused about the origin and sponsorship of the
4 companies other than American Blind listed by the Defendants in their deceptive search engine
'results.'"

5 **RESPONSE TO REQUEST NO. 37:**

6 American Blind objects to this Interrogatory on the ground that it seeks information that will
7 likely be the subject of expert testimony prior to the time for disclosure of expert opinions. American
8 Blind objects to this request to the extent it calls for the production of documents protected by the
9 attorney/client privilege and/or the attorney work product doctrine. Subject to and without waiving
10 these objections, responsive documents, to the extent that they exist, will be produced.

11 **REQUEST NO. 38:**

12 All DOCUMENTS RELATING TO AMERICAN BLIND's allegation that "Defendants'
13 actions steal customers from American Blind's website, divert consumers to inferior products and
14 services, erode the distinctiveness of American Blind's Marks, and impair American Blind's honest
and good faith efforts to promote and sell its products on the Internet."

15 **RESPONSE TO REQUEST NO. 38:**

16 American Blind objects to this Interrogatory on the ground that it seeks information that will
17 likely be the subject of expert testimony prior to the time for disclosure of expert opinions. American
18 Blind objects to this request to the extent it calls for the production of documents protected by the
19 attorney/client privilege and/or the attorney work product doctrine. Subject to and without waiving
20 these objections, responsive documents, to the extent that they exist, will be produced.

21 **REQUEST NO. 39:**

22 All DOCUMENTS RELATING TO AMERICAN BLIND's allegation that "Defendants'
23 actions have caused damage and irreparable injury to American Blind."

24 **RESPONSE TO REQUEST NO. 39:**

25 American Blind objects to this Interrogatory on the ground that it seeks information that will
26 likely be the subject of expert testimony prior to the time for disclosure of expert opinions. American
27 Blind objects to this request to the extent it calls for the production of documents protected by the

1 attorney/client privilege and/or the attorney work product doctrine. Subject to and without waiving
2 these objections, responsive documents, to the extent that they exist, will be produced.

3 **REQUEST NO. 40:**

4 All DOCUMENTS identified in, RELATING TO, or which were relied upon in responding to
5 Google's First Set of Interrogatories to American Blind.

6 **RESPONSE TO REQUEST NO. 40:**

7 Responsive documents will be produced.

8 **REQUEST NO. 41:**

9 All DOCUMENTS upon which AMERICAN BLIND will rely in this lawsuit.

10 **RESPONSE TO REQUEST NO. 41:**

11 Responsive documents will be produced.

12

13 Dated: June 10, 2005

HOWREY LLP

14

15

16

By: 

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PROOF OF SERVICE

I am a citizen of the United States and a resident of the State of California. I am employed in San Francisco County, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years, and not a party to the within action. My business address is 525 Market Street, Suite 3600, San Francisco, CA 94105. On the date set forth below, I served the document(s) described below in the manner described below:

AMERICAN BLIND & WALLPAPER FACTORY, INC.'S RESPONSES TO GOOGLE, INC.'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS

VIA MESSENGER

Michael H. Page
Mark A. Lemley
Ravind S. Grewal
Keker & Van Nest, LLP
710 Sansome Street
San Francisco, CA 94111
Facsimile: (415) 397-7188

(BY FACSIMILE) I am personally and readily familiar with the business practice of Howrey Simon Arnold & White, LLP for collection and processing of document(s) to be transmitted by facsimile and I caused such document(s) on this date to be transmitted by facsimile to the offices of addressee(s) at the numbers listed below.

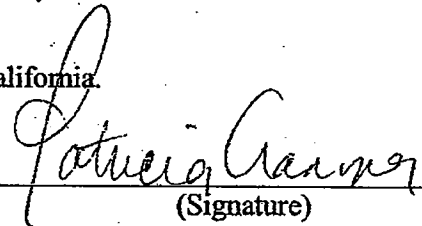
(BY FEDERAL EXPRESS) I am personally and readily familiar with the business practice of Howrey Simon Arnold & White, LLP for collection and processing of correspondence for overnight delivery, and I caused such document(s) described herein to be deposited for delivery to a facility regularly maintained by Federal Express for overnight delivery.

XX (BY MESSENGER SERVICE) by consigning the document(s) to an authorized courier and/or process server for hand delivery on this date.

(BY U.S. MAIL) I am personally and readily familiar with the business practice of Howrey Simon Arnold & White, LLP for collection and processing of correspondence for mailing with the United States Postal Service, and I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Postal Service at San Francisco, California.

Executed on June 10, 2005, at San Francisco, California.

Patricia Cranmer



(Signature)