

# Exhibit E

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GOOGLE INC. and  
7 Third-Party Defendants ASK JEEVES, INC.  
and EARTHLINK, INC.

8 UNITED STATES DISTRICT COURT  
9  
10 NORTHERN DISTRICT OF CALIFORNIA

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

14 v.

15 AMERICAN BLIND & WALLPAPER  
FACTORY, INC., a Delaware corporation  
16 d/b/a decoratetoday.com, Inc. and DOES 1-  
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  
23 CORPORATION, COMPUSERVE  
INTERACTIVE SERVICES, INC., ASK  
24 JEEVES, INC., and EARTHLINK, INC.,

25 Counter Defendants/  
26 Third-Party Defendants.

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

**PLAINTIFF GOOGLE INC.'S FIRST SET  
OF REQUESTS FOR ADMISSION TO  
AMERICAN BLIND & WALLPAPER  
FACTORY, INC.**

1 **PROPOUNDING PARTY:** **PLAINTIFF EARTHLINK, INC.**  
 2 **RESPONDING PARTY:** **Defendant and Counter-Plaintiff AMERICAN**  
 3 **BLIND & WALLPAPER FACTORY, INC.**  
 4 **SET NO.:** **ONE**

5 Pursuant to Rule 36 of the Federal Rules of Civil Procedure, Plaintiff Google Inc. hereby  
 6 requests that Defendant and Counter-Plaintiff American Blind & Wallpaper Factory, Inc.  
 7 (“American Blind”), answer each of the following Requests for Admission separately and fully,  
 8 in writing and under oath, and serve a copy upon the undersigned counsel within thirty (30) days.

9 **DEFINITIONS**

10 1. “AMERICAN BLIND” means American Blind, its subsidiaries, divisions,  
 11 predecessor and successor companies, affiliates, parents, any joint venture to which it may be a  
 12 party, and/or each of its employees, agents, officers, directors, representatives, consultants,  
 13 accountants and attorneys, including any person who served in any such capacity at any time.

14 2. “YOU,” “YOUR,” and any variations thereof refer to AMERICAN BLIND, its  
 15 subsidiaries, divisions, predecessor and successor companies, affiliates, parents, any joint  
 16 venture to which it may be a party, and/or each of its employees, agents, officers, directors,  
 17 representatives, consultants, accountants and attorneys, including any person who served in any  
 18 such capacity at any time.

19 3. The term “ALLEGED AMERICAN BLIND MARKS” shall include any one, and  
 20 all of, the terms American Blind & Wallpaper Factory, American Blind Factory, American  
 21 Blind, American Blinds, Decoratetoday, decoratetoday, and/or decoratetoday.com.

22 4. The term “BROAD MATCH KEYWORD” shall mean a term that will trigger an  
 23 ad on a Google search results page when a user’s query includes that term, even if the query  
 24 includes other terms. A BROAD MATCH KEYWORD also will trigger an ad if the user’s  
 25 query includes synonyms, related phrases, and plurals, even if the query does not contain the  
 26 precise BROAD MATCH KEYWORD itself.

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**INSTRUCTIONS**

1. Each response shall be preceded by the Request for Admission to which it responds and shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reason(s) for the objection shall be stated in lieu of that portion of the answer to which the objection applies.

2. All responses to the Requests for Admission shall be signed by the person making them and all objections signed by the attorney making them under the standards set forth in Federal Rule of Civil Procedure 11. No part of the Request for Admission shall be left unanswered merely because an objection has been interposed to another part of that Request.

3. If AMERICAN BLIND withholds information responsive, in whole or in part, to any Request for Admission on any basis, please identify: (a) any privilege or immunity from discovery asserted; (b) all documents or things which contain or refer to the information; (c) all individuals having knowledge of the information; (d) the subject matter and general nature of the information; and (e) all facts which are alleged to support the assertion of privilege or immunity.

4. The obligation to provide the information sought by these discovery requests, or parts thereof, is continuing within the requirements of Federal Rule of Civil Procedure 26(e).

**REQUESTS FOR ADMISSION**

**REQUEST FOR ADMISSION NO. 1:**

Admit that if an ad appears on a Google search results page when a user searches for "American Blind & Wallpaper Factory" only because the advertiser has selected "blind" as a BROAD MATCH KEYWORD, and that if the ad does not include any variant of the ALLEGED AMERICAN BLIND MARKS in its text, no ALLEGED AMERICAN BLIND MARKS has been "used" within the meaning of the Lanham Act.

**REQUEST FOR ADMISSION NO. 2:**

Admit that if an ad appears on a Google search results page when a user searches for "american blind," the user has no way to determine for certain whether the ad's appearance was triggered by the phrase "american blind" or some other word or phrase.

1 DATED: January 26, 2006

KEKER & VAN NEST, LLP

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By: 

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AJAY S. KRISHNAN

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Attorney for Plaintiff and Counterdefendant  
GOOGLE INC.

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and Third-Party Defendants ASK JEEVES, INC. and  
EARTHLINK, INC.

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**PROOF OF SERVICE**

I am employed in the City and County of San Francisco, State of California in the office of a member of the bar of this court at whose direction the following service was made. I am over the age of eighteen years and not a party to the within action. My business address is Kecker & Van Nest, LLP, 710 Sansome Street, San Francisco, California 94111. On January 26, 2006, I served the following documents:

**PLAINTIFF GOOGLE INC.'S FIRST SET OF REQUESTS FOR ADMISSION TO AMERICAN BLIND & WALLPAPER FACTORY, INC.**

by ATTORNEY SERVICE, by placing a true and correct copy in a sealed envelope addressed as shown below, and dispatching a registered agent of process with instructions to hand carry the above and make delivery to the following during normal business hours, by leaving the package with the person whose name is shown or the person authorized to accept courier deliveries on behalf of the addressee.

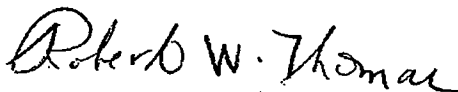
Robert N. Phillips, Esq.  
Howrey Simon Arnold & White, LLP  
525 Market Street, Suite 3600  
San Francisco, CA 94105-2708

by PDF TRANSMISSION AND UNITED STATES MAIL, by transmitting via PDF on this date. A true and correct copy of same was placed in a sealed envelope addressed as shown below. I am readily familiar with the practice of Kecker & Van Nest, LLP for collection and processing of correspondence for mailing. According to that practice, items are deposited with the United States Postal Service at San Francisco, California on that same day with postage thereon fully prepaid. I am aware that, on motion of the party served, service is presumed invalid if the postal cancellation date or the postage meter date is more than one day after the date of deposit for mailing stated in this affidavit.

Susan J. Greenspon, Esq.  
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Executed on January 26, 2006, at San Francisco, California. I, Robert W. Thomas, declare under penalty of perjury under the laws of the State of California that the above is true and correct.

  
\_\_\_\_\_  
Robert W. Thomas