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6 Attorneys for Plaintiff and Counter Defendant
 GOOGLE INC.
 7

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10

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

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

**DECLARATION OF KLAUS H. HAMM
 IN SUPPORT OF GOOGLE'S MOTION
 FOR SUMMARY JUDGMENT**

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

Date: January 30, 2007
 Time: 9:00 a.m.
 Courtroom: 3, 5th Floor
 Judge: Hon. Jeremy Fogel

PUBLICLY FILED VERSION

18 AMERICAN BLIND & WALLPAPER
 FACTORY, INC., a Delaware corporation
 19 d/b/a decoratetoday.com, Inc.,
 20 Counter Plaintiff,
 21 v.
 22 GOOGLE INC.,
 23 Counter Defendant.
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1 I, Klaus H. Hamm, declare as follows:

2 1. I am an attorney at the firm of Kecker & Van Nest LLP, counsel for Plaintiff and
3 Counter-Defendant Google Inc., and am admitted to practice before this Court. I make this
4 declaration in support of Google's Motion for Summary Judgment. Unless otherwise stated, I
5 know the facts stated herein of my personal knowledge and if called as a witness, I would testify
6 competently thereto.

7 2. Attached hereto as Exhibit A is a true and correct copy of a screenshot of a search
8 results page for a Google search engine search for "american blinds and wallpaper factory."
9 ABWF's ads appear as the first and second advertisements in the Sponsored Links section above
10 the natural search results, displaying the URLs www.AmericanBlinds.com and
11 AmericanWallpaper.com/Blinds.

12 3. Attached hereto as Exhibit B is a true and correct copy of pages printed from the
13 Google AdWords Help Center and Bates labeled GGL005738 – GGL005739.

14 4. Attached hereto as Exhibit C is a true and correct copy of a page printed from the
15 Google AdWords Help Center and Bates labeled GGL005754.

16 5. Attached hereto as Exhibit D is a true and correct copy of an email from Bill
17 Smith to Britton Mauchline, dated January 6, 2003, and Bates labeled GGLE00006336 –
18 GGLE00006337. Google has under separate cover requested that this document be filed under
19 seal.

20 6. Attached hereto as Exhibit E is a true and correct copy of Google's AdWords
21 Trademark Complaint Procedure, Bates labeled GGLE00018825 – GGLE00018829.

22 7. Attached hereto as Exhibit F is a true and correct copy of excerpts from the
23 deposition transcript of Alana Karen, taken on April 12, 2006. Google has under separate cover
24 requested that this document be filed under seal.

25 8. Attached hereto as Exhibit G is a true and correct copy of excerpts from the
26 deposition transcript of Alvin Ossip, taken on November 21, 2006.

27 9. Attached hereto as Exhibit H is a true and correct copy of American Blind &
28 Wallpaper Factory, Inc.'s Amended Answer to Google Inc.'s Second Set of Interrogatories,

1 dated October 9, 2006.

2 10. Attached hereto as Exhibit I is a true and correct copy of a letter and attachments
3 from Stephanie Carter to the Assistant Commissioner for Trademarks, dated April 9, 2004, and
4 Bates labeled ABWF008773 – ABWF008778.

5 11. Attached hereto as Exhibit J is a true and correct copy of ABWF’s submission to
6 the Patent and Trademark Office as proof of its actual use of the purported mark “American
7 Blinds.” The exhibit appears to be a screenshot from decoratetoday.com, dated May 9, 2006.

8 12. Attached hereto as Exhibit K is a true and correct copy of § 1215.02 of the
9 Trademark Manual of Examination Procedures, obtained from the website of the Patent and
10 Trademark Office.

11 13. Attached hereto as Exhibit L is a true and correct copy of excerpts from the
12 deposition transcript of Jeffrey Alderman, taken on August 4, 2006. Google has under separate
13 cover requested that this document be filed under seal.

14 14. Attached hereto as Exhibit M is a true and correct copy of a document titled “Ad
15 Text Report,” and Bates labeled ABWF 046258 – ABWF 046259. Google has under separate
16 cover requested that this document be filed under seal.

17 15. Attached hereto as Exhibit N is a true and correct copy of a screenshot displaying
18 the American Blind logo, and is Bates labeled ABWF003814.

19 16. Attached hereto as Exhibit O is a true and correct copy of a document titled “A
20 Study to Determine Whether Google’s Sale of Key Word Advertising in the Form of Sponsored
21 Links, For the Entry ‘American Blinds’ Misleads Consumers Seeking to Order Products On-Line
22 from American Blinds,” prepared by Alvin Ossip, ABWF’s expert witness, and dated October,
23 2006.

24 17. Attached hereto as Exhibit P is a true and correct copy of the “stimulus” Dr. Ossip
25 presented to participants in his study. This document, created by Dr. Ossip, was apparently
26 intended to resemble a screenshot of an actual search-results page from a Google search. The
27 document was produced by ABWF in the course of expert discovery.

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1 18. Attached hereto as Exhibit Q is a true and correct copy of the Expert Report of
2 Dr. Itamar Simonson, Google's expert witness, dated December 5, 2006.

3 19. Attached hereto as Exhibit R is a true and correct copy of a screenshot of a
4 Google web page search for "american blinds." ABWF's ads appear as (1) the advertisement in
5 the Sponsored Links section above the natural search results, displaying the URL
6 www.AmericanBlinds.com and (2) the second advertisement on the right-hand column of the
7 Sponsored Links, displaying the URL AmericanWallpaper.com/Blinds.

8 20. Attached hereto as Exhibit S is a true and correct copy of a study prepared by the
9 Kaden Company and dated March 2003. It is Bates labeled ABWF002966 – ABWF002994.
10 Google has under separate cover requested that this document be filed under seal.

11 21. Attached hereto as Exhibit T is a true and correct copy of a study prepared by the
12 Kaden Company and dated September 2002. It is Bates labeled ABWF002950 – ABWF002965.
13 Google has under separate cover requested that this document be filed under seal.

14 22. Attached hereto as Exhibit U is a true and correct copy of an email from Scot
15 Storrie to Steve Katzman, dated May 1, 2006 and Bates labeled ABWF 047697, and an email
16 from Jim Jenkins to adwords-support@google.com, dated April 29, 2006 and Bates labeled
17 ABWF 047698. Also attached hereto is a true and correct copy of a letter from Scot Storrie to
18 James Jenkins, dated February 20, 2006, and Bates labeled ABWF 047708 – ABWF 047712.
19 Google has under separate cover requested that these documents be filed under seal.

20 23. Attached hereto as Exhibit V are true and correct copies of email correspondence
21 between Scot Storrie and Barry Balbes, Bates labeled ABWF 047843 – ABWF 047864, and a
22 letter from Scot Storrie to Barry Balbes, dated May 10, 2006 and Bates labeled ABWF 047828 –
23 ABWF047834. Google has under separate cover requested that these documents be filed under
24 seal.

25 24. Attached hereto as Exhibit W is a true and correct copy of a screenshot of a
26 Google web page search for "usawallpaper.com." ABWF's ad appears as the first advertisement
27 in the right hand column of the Sponsored Links, displaying the URL
28 www.AmericanWallpaper.com.

