

# **EXHIBIT U**

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.

**U.S. LEGAL**

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1 A. I don't. Again, how it's printed out, I am  
2 concerned with.

3 Q. That, I can't help with. That's how we  
4 received it.

5 A. These do look in the ballpark, 54 percent of  
6 sales coming from internet campaigns in 2006.

7 MR. PAGE: Mark as Exhibit 19.

8 (Mark'd for identification

9 was Deposition Exhibit No. 19.)

10 Q. (BY MR. PAGE) Exhibit 19 is a two-page string  
11 of e-mails, Bates number GGLE00006336 and 7, the last  
12 of which in time was from Bill Smith at decoratetoday  
13 to Britton Mauchline at Google and several other people  
14 at American Blind and Google concerning USA Wallpaper.

15 Have you seen this document before?

16 A. No, I don't recall seeing this document. It  
17 may have been in the boxes that I went through over  
18 the past few days and week.

19 Q. Did American Blind, in fact, bring  
20 USA Wallpaper's ad campaign to Google's attention  
21 in January of 2003?

22 A. That looks like what is being said here in  
23 the e-mail.

24 Q. And did Google inform American Blind that,  
25 although they were matching on broad match, that one

1 solution would be to ask USA Wallpaper to put in  
2 negatives on American Blind's trademarks?

3 A. I am just reading the response here from  
4 Britton. She is saying that we can request to place  
5 the keyword on an exact, which would eliminate them  
6 from your branded search.

7 Q. And your response to Google was that would be  
8 great and how about also making our branded words  
9 negative, correct?

10 A. I don't think the word negative is there.

11 MR. GARRITY: The top, the last e-mail.

12 MR. PAGE: It says, also --

13 THE WITNESS: Oh, I see, okay.

14 MR. GARRITY: At the top of the page.

15 THE WITNESS: Sorry.

16 MR. GARRITY: Okay.

17 MR. PAGE: We stepped all over her on  
18 that one.

19 Q. (BY MR. PAGE) So, here is my question.

20 While you were asking Google to help you  
21 in getting USA Wallpaper to establish exact matches in  
22 negative keywords to protect your trademarks, why didn't  
23 you do that for theirs?

24 A. You know, I don't know the answer to that. I  
25 would assume we would need to ask Bill Smith or Joe

1 Charno.

2           If they put us as a negative keyword,  
3 then our policy today, as it states, is to, if we have  
4 an agreement with a competitor that is brought to our  
5 attention, then -- there are alot of sounds here  
6 today -- if we, again, have an agreement with a  
7 competitor, that we will both put each other's brand  
8 keywords into negative campaigns on each other's  
9 accounts; and that's what we are doing today.

10           It's an open door policy. We voluntarily  
11 do that to all of our competitors that we come in  
12 contact with.

13           Q. Will you put your competitor's trademarks on  
14 negative lists without an agreement with them?

15           A. Will we put our -- will we put -- would you  
16 rephrase that, please?

17           Q. Let me rephrase it.

18           Do you feel that you have any obligation  
19 to put your competitor's trademarks on negative lists  
20 in your ad campaigns, independent of having an agreement  
21 with them?

22           A. Again, it's our policy and it seems to work  
23 well -- it's an open policy -- that we, as we get  
24 approached by a competitor, we will add them as negative  
25 keywords to our campaigns.

1 Q. And it's also your policy that until -- that if  
2 your competitor doesn't approach you and ask, you won't,  
3 right?

4 A. We don't aggressively or knowingly bid on  
5 competitor's keywords. We don't buy competitor's  
6 keywords and target ads on competitor's keywords.  
7 That's not where we focus our efforts.

8 Q. But you know that you will get traffic on  
9 broad match as a result of people searching for your  
10 competitor's trademarks, unless you put them in negative  
11 lists, right?

12 A. That's correct.

13 Q. And knowing that, you don't put them in, unless  
14 your competitors demand that you do, correct?

15 A. If they bring it to our attention, then we will  
16 add them as a negative keyword.

17 Q. And if they don't bring it to your attention,  
18 you won't, right?

19 A. Again, at this point, it's an open-door policy.  
20 If they come to us, we will do the same. We don't -- we  
21 don't --

22 Q: My question is, if they don't come to you,  
23 will you do anything to avoid your broad matches hitting  
24 searches for their trademarks?

25 A. We target our ads accordingly with our company

1 name in the brand, in the ad copy. We don't go and add  
2 competitive keywords to our account.

3 Again, willingly, as it comes up, if it  
4 is brought to our attention, we will go and add a  
5 negative keyword in and it works great today.

6 Q. My question is, if it is not brought to your  
7 attention by your competitors, will you add their trade  
8 names as negative keywords?

9 A. Again, let me tell you, the policy today and  
10 how it stands is it's a volunteer policy. It will  
11 come if they come to us or we go to them.

12 Q. I am gonna keep asking this question 'til you  
13 answer it. All right?

14 If they don't come to you and demand that  
15 you put in their trademarks as negative keywords, you  
16 don't do it, do you?

17 A. We don't do that today.

18 Q. And you, nonetheless, send threatening letters  
19 to people threatening to sue them when they don't do  
20 that for you, correct?

21 A. We will approach them with, again, Scot Storrie  
22 is the process that we use. As we are aware of it, we  
23 will send the screen shot to him; and it's brought up to  
24 their attention that way.

25 Q. So your policy is to not proactively put in

1 your competitor's trade names as negatives; and yet you  
2 threaten to sue your competitors if they have the same  
3 policy, correct?

4 MR. GARRITY: Object to the form. You  
5 can answer.

6 THE WITNESS: Again, today, I will tell  
7 you that we focus our efforts on protecting our brands.  
8 We have got a lot of equity in our brands.

9 We do not, at this point in time, today,  
10 go and add lists of our competitors into our program.

11 We do not buy their keywords. I think I  
12 just answered your question.

13 Q. (BY MR. PAGE) But you threaten to sue them  
14 when they don't buy your keywords but hit them because  
15 of a broad match, correct?

16 A. We send them a generic cease and desist letter.

17 Q. And that cease and desist letter says, do what  
18 we want or we will sue you, in effect, correct?

19 MR. GARRITY: Object to the form.

20 THE WITNESS: I can't answer that.

21 THE VIDEOGRAPHER: Why don't we go off  
22 the record to see what's going on. It's really  
23 affecting the video and sound.

24 MR. PAGE: Yes.

25 THE VIDEOGRAPHER: Thank you. Off the

1 record, 2:52:42 p.m.

2 (Recess taken.)

3 THE VIDEOGRAPHER: Back on the record,  
4 3:02:18 p.m.

5 (Mark'd for identification  
6 was Deposition Exhibit No. 20.)

7 MR. PAGE: Mark as Exhibit 20.

8 Q. (BY MR. PAGE) Exhibit 20 is a multi-page  
9 document captioned S.E.O. Overview, Appendix, ABWF045550  
10 through 558.

11 Have you seen this document before?

12 A. Yes. This looks like a document that I have  
13 created.

14 Q. Do you know when you created this document?

15 A. You know, I don't recall the timing. It looks  
16 like it's through June 1st, 2005.

17 That's a forecast. So probably around  
18 that time period is what I would say.

19 Q. I see. So does this reflect data for American  
20 Blinds' various adwords, campaigns from the first half  
21 of, you are aware of, January through at least May of  
22 2005?

23 A. Yes.

24 Q. If you could turn to the page numbered 045554,  
25 which is captioned Top Drivers/High Cost Terms, there is



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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