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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,

14 Plaintiff,

15 v.

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

18 Defendants.

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

**DECLARATION OF PAUL W. GARRITY
 IN SUPPORT OF DEFENDANT
 AMERICAN BLIND AND WALLPAPER
 FACTORY, INC.'S OPPOSITION TO
 GOOGLE INC.'S MOTION FOR
 SUMMARY JUDGMENT**

Date: February 16, 2007
 Time: 9:00 a.m.
 Courtroom: 3
 Hon. Jeremy Fogel

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

23 Counter-Plaintiff,

24 v.

25 GOOGLE, INC.

26 Counter-Defendants.

1 I, Paul W. Garrity, declare as follows:

2 1. I am a partner at Kelley Drye & Warren LLP, counsel of record for
3 Defendant/Counter-Plaintiff American Blind & Wallpaper Factory, Inc. (“American Blind”) in
4 the above-captioned action. I am a member in good standing of the bars of the State of New York
5 and State of Connecticut. I have personal knowledge of the facts set forth in this declaration and,
6 if called as a witness, could and would testify competently to such facts under oath.

7 2. Attached hereto as Exhibit A is a true and correct copy of the mark
8 AMERICAN BLINDS, which is registered in the United States Patent and Trademark Office (the
9 “USPTO”) for “mail order catalog services and online ordering services featuring blinds,
10 draperies, wall and window coverings, and home furnishings” under Registration Number
11 3,149,175.

12 3. Attached hereto as Exhibit B is a true and correct copy of the mark
13 AMERICAN BLIND FACTORY, which is registered for “window blinds” in the USPTO under
14 Registration Number 1,463,548.

15 4. Attached hereto as Exhibit C is a true and correct copy of the mark
16 DECORATETODAY, which is registered for “retail store services and on-line retail mail order
17 services in the field of wall and window coverings and home decorating products” in the USPTO
18 under Registration Number 2,470,542.

19 5. Attached hereto as Exhibit D is a true and correct copy of American
20 Blind’s registration for the mark AMERICAN BLINDS, WALLPAPER & MORE, which is
21 registered for “mail order catalog services and online ordering services featuring blinds,
22 draperies, wall and window coverings, and home furnishings” in the USPTO under registration
23 Number 2,923,867.

24 6. Attached hereto as Exhibit E are true and correct copies of American
25 Blinds’ two registrations for the mark AMERICAN BLIND & WALLPAPER FACTORY in the
26 USPTO. One for the mark with a design for “retail mail order services in the field of wall and
27 window coverings” (Registration No. 2,022,925) and the other for “mail order catalog services
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1 and online ordering services featuring blinds, draperies, wall and window coverings, and home
2 furnishings” (Registration Number 2,991,126).

3 7. Attached hereto as Exhibit F is a true and correct copy a June 2005 survey
4 by Harris Interactive®, commissioned by icrossing, inc., entitled “*How America Searches*”.

5 8. Attached hereto as Exhibit G is a true and correct copy of the deposition
6 transcript of Alana Karen, taken on April 12, 2006

7 9. Attached hereto as Exhibit H is a true and correct copy of the deposition
8 transcript of Rose Hagen, taken on August 10, 2006.

9 10. Attached hereto as Exhibit I is a true and correct copy of the deposition
10 transcript of Larry Page, taken on January 10, 2007.

11 11. Attached hereto as Exhibit J is a true and correct copy of the deposition
12 transcript of Richard Steele, III, taken on September 14, 2006.

13 12. Attached hereto as Exhibit K is a true and correct copy of the deposition
14 transcript of Prashant Fuloria, taken on May 18, 2006, and August 9, 2006.

15 13. Attached hereto as Exhibit L is a true and correct copy of a January 23,
16 2005 study by Pew Internet & American Life Project, Deborah Fallows, PhD, entitled “*Internet
17 searchers are confident, satisfied and trusting – but they are also unaware and naïve.*”

18 14. Attached hereto as Exhibit M is a true and correct copy of a June 30, 2003
19 report by Consumer WebWatch, Leslie Marable, entitled “*False Oracles: Consumer Reaction to
20 Learning the Truth About How Search Engines Work Results of an Ethnographic Study*”.

21 15. Attached hereto as Exhibit N is a true and correct copy a November 8,
22 2004 study by Jorgen J. Wouters, Consumer Reports WebWatch, entitled “*Searching For
23 Disclosure, How Search Engines Alert Consumers to the Presence of Advertising in Search
24 Results*”.

25 16. Attached hereto as Exhibit O is a true and correct copy of a document
26 entitled “Request For Action By The INTA Board of Directors: Initial Interest Confusion”
27 (Adopted September 18, 2006).

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1 17. Attached hereto as Exhibit P is a true and correct copy a study by Bernard
2 J. Jansen and Amanda Spink, School of Information Science and Technology, The Pennsylvania
3 State University, entitled “*An Analysis of Web Documents Retrieved and Viewed*,” presented at
4 The 4th International Conference on Internet Computing, Las Vegas, NV, p. 65-69, June 23-26,
5 2003.

6 18. Attached hereto as Exhibit Q is a true and correct copy an April 2006
7 study by iProspect, entitled “*iProspect Search Engine User Behavior Study*”.

8 19. Attached hereto as Exhibit R is a true and correct copy of the deposition
9 transcript of Dr. Itamar Simonson, taken on December 15, 2006.

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I declare under penalty of perjury that the foregoing is true and correct.

Executed this 26th day of January 2007, in New York, New York.

 /s/ Paul W. Garrity
PAUL W. GARRITY