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 AMERICAN BLIND AND WALLPAPER
 10 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
 17 FACTORY, INC., a Delaware corporation
 d/b/a decoratetoday.com, Inc.; and DOES 1-
 18 100, inclusive,

19 Defendants.

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

**AMERICAN BLIND AND WALLPAPER
 FACTORY, INC.'S RESPONSE TO
 GOOGLE INC.'S MOTION FOR
 ADMINISTRATIVE RELIEF SEEKING
 LEAVE TO FILE A NON-
 ARGUMENTATIVE STATEMENT OF
 RECENT DECISION**

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

22 Counter-Plaintiff,

23 v.

24 GOOGLE, INC.

25 Counter-Defendants.
 26

28

1 American Blind & Wallpaper Factory, Inc. (“American Blind”) declined Google’s
2 invitation to jointly to bring to the Court’s attention *Universal Communications Systems, Inc. v.*
3 *Lycos, Inc.*, -- F.3d --, No. 06-1826, 2007 WL 549111 (1st Cir. Feb. 23, 2007), because the case
4 has no bearing on the issues before this court, and is certainly not as relevant as the numerous
5 keyword advertising cases that have already been briefed. In a letter dated March 2, 2007 to
6 Google’s counsel, American Blind explained why the First Circuit’s holding in *Universal* was not
7 germane to the issues before the Court. In the interest of providing the Court with a full record,
8 American Blind is submitting its March 2, 2007 letter to Google (as Exhibit A to the
9 accompanying Declaration of Caroline C. Plater), which notes the following reasons the
10 *Universal* case is irrelevant:

- 11 • *Universal* involved the reference of a company name on an Internet message
12 board, and was based upon Florida trademark dilution law – not the Lanham Act.
- 13 • Ultimately, the reference was deemed permissible under the First Amendment and
14 not precluded by Florida’s dilution statute.
- 15 • *Universal* does not address the key issue here: whether Google’s sale of
16 trademarks as keywords constitutes “trademark use” under the Lanham Act.

17 Accordingly, American Blind does not stipulate to filing the *Universal* decision.

18 Dated: March 7, 2007

HOWREY LLP

By: /s/Robert N. Phillips

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