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\*\*E-Filed 5/8/2007\*\*

NOT FOR CITATION  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

GOOGLE INC., a Delaware corporation,  
  
Plaintiff,  
  
v.  
  
AMERICAN BLIND & WALLPAPER  
FACTORY, INC., a Delaware corporation d/b/a  
decoratetoday.com, Inc., and DOES 1-100,  
inclusive,  
  
Defendants.

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AMERICAN BLIND & WALLPAPER  
FACTORY, INC., a Delaware corporation d/b/a  
decoratetoday.com, Inc.,  
  
Counter Plaintiff,  
  
v.  
  
GOOGLE INC., AMERICA ONLINE, INC.,  
NETSCAPE COMMUNICATIONS  
CORPORATION, COMPUSERVE  
INTERACTIVE SERVICES, INC., ASK JEEVES,  
INC. and EARTHLINK, INC.,  
  
Counter Defendant/  
Third Party Defendants.

Case Number C 03-5340-JF (RS)  
  
ORDER<sup>1</sup> RE ORDER GRANTING IN  
PART AND DENYING IN PART  
MOTION FOR SUMMARY  
JUDGMENT  
  
[re: docket no. 308]

<sup>1</sup> This disposition is not designated for publication and may not be cited.

1 On April 18, 2007, the Court granted in part and denied in part Plaintiff Google Inc.'s  
2 ("Google") motion for summary judgment as to the counterclaims brought by American Blind &  
3 Wallpaper Factory, Inc. ("ABWF"). In so doing, the Court concluded that "ABWF has not  
4 produced sufficient evidence to allow a reasonable trier of fact to conclude that ABWF's marks  
5 are famous or distinctive as required under either the federal or the state dilution statute."  
6 Summary Judgment Order 19. Accordingly, the Court granted summary judgment in favor  
7 Google as to ABWF's counterclaims for dilution under the Lanham Act and Cal. Bus. & Prof.  
8 Code § 14330. The Court omitted ABWF's ninth counterclaim for contributory dilution from its  
9 grant of summary judgment. Because the Court's conclusion regarding the absence of a triable  
10 issue of fact as to fame applies equally in the context of contributory dilution, Google also is  
11 entitled to summary judgment as to this counterclaim.<sup>2</sup>

12  
13 IT IS SO ORDERED.

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15 DATED: May 8, 2007.

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19 JEREMY FOGEL  
20 United States District Judge

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27 <sup>2</sup> The parties raised this issue in their Joint Case Management Conference Statement,  
28 filed on April 27, 2007. There it states that "ABWF is not opposed to Google's request" for  
clarification that the Court's grant of summary judgment in favor of Google includes the ninth  
counterclaim.

1 This Order has been served upon the following persons:

2	Ethan B. Andelman	andelmane@howrey.com, gagnons@howrey.com
3	Dawn Beery	dbeery@kelleydrye.com
4	Susan Jean Greenspon	sgreenspon@kelleydrye.com, cplater@kelleydrye.com; vallen@kelleydrye.com; sdunlap@kelleydrye.com
5	Ravind Singh Grewal	rsg@kvn.com
6	Klaus Hemingway Hamm	khamm@kvn.com, efiling@kvn.com; wik@kvn.com
7	Ajay Krishnan	akrishnan@kvn.com, efiling@kvn.com; rthomas@kvn.com
8	Mark Alan Lemley	mlemley@kvn.com, srosen@kvn.com
9	Michael H. Page	mhp@kvn.com, efiling@kvn.com; nsn@kvn.com
10	Robert Nathan Phillips	phillipsr@howrey.com, gagnons@howrey.com
11	Caroline Claire Plater	cplater@kelleydrye.com, heberhart@kelleydrye.com
12	David A. Rammelt	drammelt@kelleydrye.com, sdunlap@kelleydrye.com
13		

14 Notice will be delivered by other means to:

15 Paul W. Garrity  
16 Kelley Drye & Warren LLP  
17 101 Park Avenue  
18 New York, NY 10178  
19  
20  
21  
22  
23  
24  
25  
26  
27  
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