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**FILE COPY**

Attorneys for Plaintiff and Counterdefendant  
GOOGLE INC. and Third-Party Defendants  
ASK JEEVES, INC. and EARTHLINK, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

GOOGLE INC., a Delaware corporation,  
Plaintiff,

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

v.

**GOOGLE INC.'S RESPONSES AND  
OBJECTIONS TO DEFENDANT AND  
COUNTER-PLAINTIFF AMERICAN  
BLIND & WALLPAPER FACTORY,  
INC.'S FIRST SET OF  
INTERROGATORIES**

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

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 Defendants/  
Third-Party Defendants.



1 Pursuant to Federal Rules of Civil Procedure 26 and 33, Plaintiff/Counter-Defendant  
2 Google Inc. ("Google") hereby responds to Defendant/Counter-Plaintiff American Blind &  
3 Wallpaper Factory, Inc.'s ("American Blind") First Set of Interrogatories to Google as follows:

4 **GENERAL OBJECTIONS**

5 1. Google objects to each instruction, definition, or interrogatory that attempts to impose  
6 any requirement or discovery obligation greater than or different from those imposed by the  
7 Federal Rules of Civil Procedure or any applicable rules or orders of the Court. Google will not  
8 comply with any attempt to impose obligations not required by the above provisions. In  
9 responding to these interrogatories, Google will make a diligent search and reasonable inquiry.  
10 Google will not, however, search every file in its possession or speak to every person in its  
11 employ. Google reserves the right to supplement or correct its responses.

12 2. Google objects to American Blind's definition of the phrase "AdWords Program" as  
13 "the advertising program operated by Google and described at its Internet website and in various  
14 filings with the Securities Exchange Commission," on the ground that the definition is vague,  
15 ambiguous, and overbroad.

16 3. Google objects to American Blind's definition of the words "Keyword" and  
17 "Keywords" as having "the same meaning as the terms 'keyword' or 'search query' used by  
18 Google as part of its AdWords Program," on the ground that the definition is vague, ambiguous,  
19 and overbroad.

20 4. Google objects to American Blind's definition of the phrase "American Blind Marks"  
21 as "shall include any one of, and all of, the terms American Blind & Wallpaper Factory,  
22 American Blind Factory, American Blind, American Blinds, Decoratetoday, decoratetoday, and  
23 decoratetoday.com" on the ground that the definition is vague, ambiguous, and overbroad, and to  
24 the extent that the term "American Blind Marks" ascribed any legal significance to these terms.

25 5. Google objects to these interrogatories to the extent they seek information protected  
26 by the attorney-client privilege, the work-product doctrine, or any other applicable protection  
27 from disclosure. Any inadvertent disclosure of such information does not constitute a waiver of  
28 any such privilege or protection.

1 6. Google objects to these interrogatories to the extent they are oppressive, overly broad,  
2 vague, ambiguous, unduly burdensome, or not reasonably calculated to lead to the discovery of  
3 admissible evidence.

4 7. Google objects to these interrogatories to the extent they purport to request  
5 information that is readily obtainable from American Blind or from other sources which are less  
6 burdensome or less expensive.

7 8. Google objects to these interrogatories to the extent they purport to give meaning or  
8 legal significance to a document, fact or purported fact, whose meaning or significance is the  
9 subject of dispute between the parties. Google's responses to these interrogatories will not  
10 constitute any admissions or concessions to the definitions used in the interrogatories.

11 9. Google objects to these interrogatories to the extent they seek confidential and/or  
12 proprietary information. Google will not disclose any such information until an appropriate  
13 protective order has been entered in this lawsuit.

14 10. Google reserves the right to use or introduce, for any hearing or trial, information not  
15 known to exist at this time, including information obtained through discovery in this litigation.

16 11. Google incorporates these General Objections into each specific objection below. A  
17 specific objection may restate an objection for emphasis or some other reason. The failure to  
18 restate any General Objection in a specific objection shall not constitute a waiver of the  
19 objection.

20 **INTERROGATORIES AND RESPONSES**

21 **INTERROGATORY NO. 1:**

22 Please state by fiscal quarter, from January 1, 2000 to the present, the following;

23 (a) Google's revenues from its AdWords program;

24 (b) Percentage of Google's total revenues from its AdWords Program;

25 (c) Google's profits from its AdWords Program;

26 (d) Percentage of Google's total profits from its AdWords Program; and

27 (e) With respect to the profits identified in l(c), the percentage of those profits that were  
28 from the sale of trademarks or terms claimed to be trademarks.

1 **RESPONSE TO INTERROGATORY NO. 1:**

2 Google objects to this interrogatory to the extent it seeks confidential or proprietary  
3 information. Google will not disclose any such information until an appropriate protective order  
4 has been entered in this lawsuit. Google further objects to the interrogatory as vague,  
5 ambiguous, and overbroad. Google further objects to the interrogatory to the extent that it seeks  
6 information neither relevant to the claim or defense of any party, nor reasonably calculated to  
7 lead to the discovery of admissible evidence. Google further objects to the interrogatory to the  
8 extent it seeks information protected by the attorney-client privilege or work-product doctrine.  
9 Google further objects to this interrogatory on the ground that it contains multiple discrete  
10 subparts, in that it requests Google to provide five distinct items of information about its  
11 financial results from the last 21 fiscal quarters. Google further objects to this interrogatory on  
12 the ground that it is unduly burdensome. In particular, Google does not report or track  
13 profitability by business segment, and, as a result, no practicable method exists for gathering the  
14 information called for by subparts (c)-(e). Google will not provide the information requested by  
15 these subparts. Google further objects to subpart (e) of this interrogatory on the ground that it is  
16 incomprehensible since Google does not sell trademarks or "terms claimed to be trademarks."  
17 As a result, Google will provide no information in response to subparts (c)-(e). Subject to and  
18 without waiving the foregoing objections, Google responds as follows:

19 Once an appropriate protective order has been entered in this lawsuit, Google will  
20 produce a document describing its quarterly AdWords and total revenues and profits from  
21 January 1, 2000 to the present.

22 **INTERROGATORY NO. 2:**

23 In the last five years, has Google ever sold to a company other than American Blind, or  
24 allowed a company other than American Blind to bid on, purchase or use, a Keyword that is  
25 defined herein as an American Blind Mark? If so, please state the following:

- 26 (a) The total revenues to Google from such sales;  
27 (b) The total profits to Google from such sales;  
28 (c) The identities of each of the persons or entities that have purchased such Keywords;

1 and

2 (d) For each person or entity identified above, please state the Keyword(s) purchased, the  
3 price paid per click for each such Keyword, the number of click-throughs that resulted for each  
4 such Keyword, and the total amount paid for each such Keyword.

5 **RESPONSE TO INTERROGATORY NO. 2:**

6 Google objects to this interrogatory to the extent it seeks confidential or proprietary  
7 information. Google will not disclose any such information until an appropriate protective order  
8 has been entered in this lawsuit. Google further objects to the interrogatory to the extent it seeks  
9 information protected by the attorney-client privilege or work-product doctrine. Google further  
10 objects to the phrases “price paid per click for each such Keyword,” and “the number of click-  
11 throughs that resulted for each such Keyword” as overbroad, vague and ambiguous. Google  
12 further objects to the interrogatory to the extent that it seeks information neither relevant to the  
13 claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible  
14 evidence. Google further objects to this interrogatory on the ground that it seeks to cram into a  
15 single interrogatory, through the use of the defined term “American Blind Mark,” multiple  
16 interrogatories. This interrogatory contains at least 42 multiple discrete subparts because it  
17 requests at least six items of information about seven different terms alleged to be protected  
18 marks (American Blind & Wallpaper Factory, American Blind Factory, American Blind,  
19 American Blinds, Decoratetoday, decoratetoday, and decoratetoday.com), including Google’s  
20 revenues from the sales of each of these seven terms as keywords, Google’s profits from the  
21 sales of each of these seven terms as keywords, the identity of each person that has purchased  
22 any of these seven terms as keywords, the price paid to use each of these seven terms as  
23 keywords, the number of click-throughs for each of these seven terms when used as keywords,  
24 and the total amount paid for the use of each of these seven terms as keywords. Google further  
25 objects to this interrogatory on the ground that it is unduly burdensome. In particular, Google  
26 does not report or track profitability by sale, and, as a result, no practicable method exists for  
27 gathering the information called for by subpart (b). Subject to and without waiving the foregoing  
28 objections, Google responds as follows:

1           Once an appropriate protective order has been entered in this lawsuit, Google will  
2 produce a document listing advertiser accounts, other than American Blind’s own accounts, that  
3 have selected American Blind & Wallpaper Factory, American Blind Factory, American Blind,  
4 American Blinds, Decoratetoday, decoratetoday, and decoratetoday.com—or any variation of  
5 these terms that replaces uppercase letter with lowercase letters, lowercase letters with uppercase  
6 letters, or the ampersand symbol with the word “and”—as a keyword trigger; the revenues  
7 generated from these selections; the number of clicks that each resulting advertisement has  
8 received; and the average price paid per click.

9 **INTERROGATORY NO. 3:**

10           Do paid advertisements or placements with Google (i.e., using Google’s AdWords  
11 program to be listed as a “Sponsored Link”) influence, directly or indirectly, Google’s organic or  
12 natural search results? If so, please describe the effect.

13 **RESPONSE TO INTERROGATORY NO. 3:**

14           Google objects to this interrogatory to the extent it seeks confidential or proprietary  
15 information. Google will not disclose any such information until an appropriate protective order  
16 has been entered in this lawsuit. Google further objects to the phrases “paid advertisements or  
17 placements with Google” and “using Google’s AdWords program to be listed as a ‘Sponsored  
18 Link’” as overbroad, vague and ambiguous. Google further objects to the interrogatory to the  
19 extent that it seeks information neither relevant to the claim or defense of any party, nor  
20 reasonably calculated to lead to the discovery of admissible evidence. Subject to and without  
21 waiving the foregoing objections, Google responds as follows:

22           Paid advertisements generated by the AdWords program do not influence Google’s  
23 natural search results.

24 **INTERROGATORY NO. 4:**

25           Does Google currently have or has it ever had a policy(ies) concerning the purchase, sale  
26 or use of terms as Keywords in the AdWords program that are trademarks or claimed to be  
27 trademarks? If so please describe each such policy, the date such policy was in effect, and the  
28 reason for any change(s) in policy.

1 **RESPONSE TO INTERROGATORY NO. 4:**

2 Google objects to this interrogatory to the extent it seeks confidential or proprietary  
3 information. Google will not disclose any such information until an appropriate protective order  
4 has been entered in this lawsuit. Google further objects to the interrogatory as vague,  
5 ambiguous, overbroad, unduly burdensome, and compound. Subject to and without waiving the  
6 foregoing objections, Google responds as follows:

7 Under Google's past U.S. trademark policy, advertisers were responsible for the  
8 keywords and the ad text they chose to use. As a courtesy to trademark owners, however,  
9 Google was willing to perform a limited investigation of reasonable complaints. When Google  
10 received a complaint from a trademark owner, Google limited its review to ensuring that the  
11 advertisements at issue did not use the trademarked term as a keyword trigger. If they did,  
12 Google disabled those keywords from the ad campaign. This investigation only affected ads  
13 served on or by Google. Google did not take any action in situations where an advertisement  
14 was being triggered by non-trademarked terms even though the search query contained a  
15 trademarked term.

16 Google changed this policy on or about June 19, 2004. Under Google's current U.S.  
17 trademark policy, when Google receives a complaint from a trademark owner, Google will only  
18 investigate whether the advertisements at issue are using terms corresponding to the trademarked  
19 term in the advertisement's content. If they are, Google will require the advertiser to remove the  
20 trademarked term from the content of the ad and prevent the advertiser from using the  
21 trademarked term in ad content in the future. Google will not disable keywords in response to a  
22 trademark complaint. Any such investigation will only affect ads served on or by Google.

23 Google revised its U.S. trademark policy to re-balance the interests of trademark owners,  
24 advertisers, its own interests, and the interests of internet users. Google's key reason for  
25 changing the U.S. trademarks policy was to provide internet users with more choices when  
26 performing keyword searches.

27 **INTERROGATORY NO. 5:**

28 Identify all persons involved in the decision(s) to change, modify or revise Google

1 policy(ies) relating to the use of trademarks as Keywords in the AdWords Program. For each  
2 such person include a description of each such person's role in and contribution to such  
3 decision(s).

4 **RESPONSE TO INTERROGATORY NO. 5:**

5 Google objects to this interrogatory to the extent it seeks confidential or proprietary  
6 information. Google will not disclose any such information until an appropriate protective order  
7 has been entered in this lawsuit. Google further objects to the interrogatory as vague,  
8 ambiguous, overbroad, unduly burdensome and compound, as well as cumulative of the  
9 preceding interrogatory. Google further objects to the interrogatory to the extent it seeks  
10 information protected by the attorney-client privilege or work-product doctrine. Subject to and  
11 without waiving the foregoing objections, Google responds as follows:

12 Prashant Fuloria, Business Product Manager, was involved in the development of policies  
13 for the AdWords service and implementation of the AdWords service. Mr. Fuloria was the  
14 product manager responsible for coordinating the various departments involved in implementing  
15 Google's change in trademark policy.

16 Alana Karen, Policy Manager, Online Sales and Operations, was involved in the  
17 development of policies for the AdWords service and implementation of the AdWords service.  
18 Ms. Karen oversaw operations relating to Google's change in trademark policy.

19 Michael Mayzel, PR Manager, was involved in the development of policies for the  
20 AdWords service.

21 David Krane, Corporate Communications Director, was involved in the development of  
22 policies for the AdWords service.

23 Leshika Samarasinghe, Associate Product Marketing Manager, was involved in the  
24 development of policies for the AdWords service. Ms. Samarasinghe was responsible for  
25 developing the marketing messaging regarding the change in trademark policy.

26 Rose Hagan, Senior Trademark Counsel, was involved in the development of policies for  
27 the AdWords service and the legal analysis of the proposed change in trademark policy.

28 Kulpreet Rana, Director of Intellectual Property, was involved in the development of



1 policies for the AdWords service and the legal analysis of the proposed change in trademark  
2 policy.

3 Ramsey Homsany, Corporate Counsel, was involved in the development of policies for  
4 the AdWords service and the legal analysis of the proposed change in trademark policy.

5 The Operations Management Group approved the change in trademark policy.

6 **INTERROGATORY NO. 6:**

7 Does Google have the ability to prevent the bidding, purchase, sale or other use of a  
8 trademark term in connection with Google's AdWords programs? If so, please describe how this  
9 can be accomplished.

10 **RESPONSE TO INTERROGATORY NO. 6:**

11 Google objects to this interrogatory to the extent it seeks confidential or proprietary  
12 information. Google will not disclose any such information until an appropriate protective order  
13 has been entered in this lawsuit. Google further objects to the interrogatory as vague,  
14 ambiguous, overbroad, unduly burdensome and compound, and to the extent it is duplicative of  
15 Interrogatory No. 5. Google further objects to the interrogatory to the extent it seeks information  
16 protected by the attorney-client privilege or work-product doctrine. Subject to and without  
17 waiving the foregoing objections, Google responds as follows:

18 Trademark holders may notify Google of any concerns via Google's trademark complaint  
19 process, which is described at [http://www.google.com/tm\\_complaint.html](http://www.google.com/tm_complaint.html). Once notified by a  
20 trademark holder of concerns, Google has the ability to place the relevant trademark on its  
21 monitor list. Google has the ability to disapprove of the use of trademarks on its monitor list for  
22 use in both ad text and as keywords.

23 **INTERROGATORY NO. 7:**

24 Since May 1, 2004, has Google prevented the bidding, purchase, sale or use of any  
25 Keyword, in whole or in part, because such Keyword was claimed to be a trademark owned or  
26 controlled by another party? If so, please identify each such instance.

27 **RESPONSE TO INTERROGATORY NO. 7:**

28 Google objects to this interrogatory to the extent it seeks confidential or proprietary

1 information. Google will not disclose any such information until an appropriate protective order  
2 has been entered in this lawsuit. Google further objects to the interrogatory as vague,  
3 ambiguous, unduly burdensome and compound, as well as cumulative of the preceding  
4 interrogatory. Google further objects to this interrogatory on the ground that it is overly broad to  
5 the extent it seeks information about foreign trademarks or about Google's practices regarding  
6 U.S. trademarks between May 1, 2004 and June 19, 2004. Google further objects to the  
7 interrogatory to the extent it seeks information protected by the attorney-client privilege or work-  
8 product doctrine. Subject to and without waiving the foregoing objections, Google responds as  
9 follows:

10         Since changing its U.S. trademark policy on June 19, 2004, Google has not disabled  
11 keywords in response to a U.S. trademark complaint except insofar as it was required to do so  
12 under preexisting contractual terms. Pursuant to Rule 33(d) of the Federal Rules of Civil  
13 Procedure, Google will produce any such contracts once an appropriate protective order has been  
14 entered in this lawsuit.

15         For trademark rights outside the U.S. and Canada, Google will disable keywords in  
16 response to verified complaints that Google is using a trademarked term as a keyword. Pursuant  
17 to this policy, Google does not take any action in situations where an advertisement is being  
18 triggered by non-trademarked terms even though the search query contains a trademarked term.

19 **INTERROGATORY NO. 8:**

20         Identify persons with knowledge regarding Google's "AdWords Keywords Suggestions"  
21 feature and the "American Blind" optimization campaign. For each such person, include a  
22 description of each person's role in and contribution to the "AdWords Keywords Suggestions"  
23 feature.

24 **RESPONSE TO INTERROGATORY NO. 8:**

25         Google objects to this interrogatory to the extent it seeks confidential or proprietary  
26 information. Google will not disclose any such information until an appropriate protective order  
27 has been entered in this lawsuit. Google further objects to the interrogatory as unduly  
28 burdensome in that its request for the identity of "persons with knowledge regarding Google's

1 “AdWords Keywords Suggestions” feature and the ‘American Blind’ optimization campaign”  
2 seeks information about hundreds, or even thousands of people, including not only numerous  
3 Google employees but also anyone who has ever learned about these matters on Google’s  
4 website. Google further objects to the interrogatory to the extent that it seeks information neither  
5 relevant to the claim or defense of any party, nor reasonably calculated to lead to the discovery  
6 of admissible evidence. Google further objects to the interrogatory because it contains multiple  
7 discrete subparts, in that it requires information regarding two different topics: “AdWords  
8 Keywords Suggestions” feature and the “‘American Blind’ optimization campaign.” Subject to  
9 and without waiving the foregoing objections, Google refers to the Google employees listed in  
10 its Initial Disclosures and in its response to Interrogatory No. 5.

11  
12 **INTERROGATORY NO. 9:**

13 To the extent not already set forth above, please identify all persons or entities that have  
14 in the past or currently incorporate, use or include the American Blind Marks as a Keyword in  
15 the AdWords Program. For each such person, state which of the American Blind Marks such  
16 person incorporated, used or included as Keywords, and the time period during which such  
17 person incorporated, used or included such Keywords.

18 **RESPONSE TO INTERROGATORY NO. 9:**

19 Google objects to this interrogatory to the extent it seeks confidential or proprietary  
20 information. Google will not disclose any such information until an appropriate protective order  
21 has been entered in this lawsuit. Google further objects to the interrogatory as unduly  
22 burdensome. Google further objects to the phrase “incorporate, use or include the American  
23 Blind Marks as a Keyword in the AdWords Program” as overbroad, vague and ambiguous.  
24 Google further objects to this interrogatory as unduly burdensome to the extent it requests  
25 Google to provide information about advertisers who bid on certain keywords, but whose ads  
26 never ran as part of Google’s Adwords program. Google further objects to this interrogatory to  
27 the extent it calls for information about American Blind’s use of American Blind Marks as  
28 keyword triggers since that information is equally available to American Blind. Google further

1 objects to the interrogatory to the extent that it seeks information neither relevant to the claim or  
2 defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence.  
3 Google further objects to this interrogatory on the ground that it seeks to cram into a single  
4 interrogatory, through the use of the defined term “American Blind Mark,” multiple  
5 interrogatories. This interrogatory contains at least seven multiple discrete subparts because it  
6 requests information about seven different terms alleged to be protected marks (American Blind  
7 & Wallpaper Factory, American Blind Factory, American Blind, American Blinds,  
8 Decoratetoday, decoratetoday, and decoratetoday.com). Subject to and without waiving the  
9 foregoing objections, Google responds as follows:

10       Once an appropriate protective order has been entered in this lawsuit, Google will  
11 produce a document listing advertiser accounts that have selected American Blind & Wallpaper  
12 Factory, American Blind Factory, American Blind, American Blinds, Decoratetoday,  
13 decoratetoday, and decoratetoday.com—or any variation of these terms that replaces uppercase  
14 letter with lowercase letters, lowercase letters with uppercase letters, or the ampersand symbol  
15 with the word “and”—as a keyword trigger, and the approximate time periods during which any  
16 corresponding advertisements appeared.

17 **INTERROGATORY NO. 10:**

18       Identify all websites, applications or other properties owned or operated by third persons  
19 upon which Google has placed or does place AdWords advertisements or advertisements  
20 triggered by Keywords.

21 **RESPONSE TO INTERROGATORY NO. 10:**

22       Google objects to this interrogatory to the extent it seeks confidential or proprietary  
23 information. Google will not disclose any such information until an appropriate protective order  
24 has been entered in this lawsuit. Google further objects to the phrase “AdWords advertisements  
25 or advertisements triggered by Keywords” as vague, and ambiguous. Google further objects to  
26 this Interrogatory as unduly burdensome to the extent that it requires Google to identify websites,  
27 applications or other properties upon which Google places advertisements when doing so  
28 generates revenues of less than \$1.50 per week. Google further objects to the interrogatory as

1 compound. Google further objects to the interrogatory to the extent that it seeks information  
2 neither relevant to the claim or defense of any party, nor reasonably calculated to lead to the  
3 discovery of admissible evidence. Subject to and without waiving the foregoing objections,  
4 Google responds as follows:

5 Once an appropriate protective order is in place in this lawsuit, Google will produce a  
6 document listing third-party websites and/or the operators of third-websites upon which Google  
7 places advertisements triggered by keywords that generate revenues of at least \$1.50 per week

8 **INTERROGATORY NO. 11:**

9 Identify all communications, including the identity of the person(s) engaged in such  
10 communications, that Google has had with American Blind regarding Google's sale of the  
11 American Blind Marks as Keywords as part of the AdWords Program.

12 **RESPONSE TO INTERROGATORY NO. 11:**

13 Google objects to this interrogatory to the extent it seeks confidential or proprietary  
14 information. Google will not disclose any such information until an appropriate protective order  
15 has been entered in this lawsuit. Google further objects to the interrogatory as unduly  
16 burdensome. Google further objects to the interrogatory to the extent that it seeks information  
17 neither relevant to the claim or defense of any party, nor reasonably calculated to lead to the  
18 discovery of admissible evidence. Google further objects to this interrogatory on the ground that  
19 it calls for information that is equally available to American Blind. Google further objects to this  
20 interrogatory on the ground that it seeks to cram into a single interrogatory, through the use of  
21 the defined term "American Blind Marks," multiple interrogatories. This interrogatory contains  
22 at least seven multiple discrete subparts because it requests information about seven different  
23 terms alleged to be protected marks (American Blind & Wallpaper Factory, American Blind  
24 Factory, American Blind, American Blinds, Decoratetoday, decoratetoday, and  
25 decoratetoday.com). Subject to and without waiving the foregoing objections, Google responds  
26 as follows:

27 Pursuant to Federal Rule of Civil Procedure 33(d), Google will produce written  
28 communications that it has had with American Blind regarding the use of the American Blind

1 Marks as keyword triggers.

2 **INTERROGATORY NO. 12:**

3 Identify all communications with advertisers or potential advertisers in which Google has  
4 suggested, recommended, encouraged or required the advertiser to use the American Blind  
5 Marks as Keywords for the AdWords Program.

6 **RESPONSE TO INTERROGATORY NO. 12:**

7 Google objects to this interrogatory to the extent it seeks confidential or proprietary  
8 information. Google will not disclose any such information until an appropriate protective order  
9 has been entered in this lawsuit. Google further objects to the interrogatory as unduly  
10 burdensome. Google further objects to the interrogatory to the extent that it seeks information  
11 neither relevant to the claim or defense of any party, nor reasonably calculated to lead to the  
12 discovery of admissible evidence. Google further objects to this interrogatory on the ground that  
13 it seeks to cram into a single interrogatory, through the use of the defined term "American Blind  
14 Mark," multiple interrogatories. This interrogatory contains at least seven discrete subparts  
15 because it requests information about seven different terms alleged to be protected marks  
16 (American Blind & Wallpaper Factory, American Blind Factory, American Blind, American  
17 Blinds, Decoratetoday, decoratetoday, and decoratetoday.com). Subject to and without waiving  
18 the foregoing objections, Google responds as follows:

19 Pursuant to Federal Rule of Civil Procedure 33(d), once an appropriate protective order is  
20 in place in this lawsuit, Google will produce communications, if any, that it has had with its  
21 advertisers or potential advertisers in which Google has advocated the use of the American Blind  
22 Marks as keyword triggers.

23 **INTERROGATORY NO. 13:**

24 Identify other past or present or threatened lawsuits (by case name, number, Court)  
25 against or involving Google for trademark infringement, dilution, contributory trademark  
26 infringement, contributory trademark dilution, or unfair competition based on Google's practice  
27 of permitting advertisers to purchase as Keywords the trademarks of others as part of the  
28 AdWords Program.

1 **RESPONSE TO INTERROGATORY NO. 13:**

2 Google objects to this interrogatory to the extent it seeks confidential or proprietary  
3 information. Google will not disclose any such information until an appropriate protective order  
4 has been entered in this lawsuit. Google further objects to the interrogatory as unduly  
5 burdensome and compound. Google further objects to the interrogatory to the extent that it seeks  
6 information neither relevant to the claim or defense of any party, nor reasonably calculated to  
7 lead to the discovery of admissible evidence. In particular, Google objects to this interrogatory  
8 to the extent it seeks information about foreign lawsuits or lawsuits involving foreign  
9 trademarks. Google further objects to this interrogatory on the ground that its use of the terms  
10 "threatened lawsuit" and "involving" is vague and ambiguous. Subject to and without waiving  
11 the foregoing objections, Google responds that it is or has been a party in the following U.S.  
12 lawsuits related to Google's use of alleged U.S. trademarks as keywords:

- 13 • *RE/MAX International, Inc. v. Google Inc. and HomeGain.com, Inc.*, Case No. 01-Z-1460, United States District Court ofr the District of Colorado;
- 14 • *Government Employees Insurance Co. v. Google Inc. and Overture Services, Inc.*,  
15 Caase No. 1: 04-CV-507, United States District Court for the Eastern District of  
16 Virginia;
- 17 • *Google Inc. v. American Blind & Wallpaper Factory, Inc.*, Case No. C 03-5340-  
18 JF, United States District Court for the Northern District of California;
- 19 • *American Blind & Wallpaper Factory, Inc. v. Google Inc.*, Case No. 04 CV 642,  
20 United States District Court for the Southern District of New York.
- 21 • *True & Dorin Medical Group, P.C. v. Leavitt Medical Assocs. et al*, Case No. 05  
22 CV 4036, United States District Court for the Southern District of New York.
- 23 • *Robert Novak d/b/a Pets Warehouse et al. v. Overture  
24 Services, Inc., et al.*, Case No. CV 02-5164, United States District Court for the  
25 Southern District of New York.
- 26 • *Rescuecom Corp. v. Google Inc.*, Case No. 5:04-CV-1055, United States District  
27 Court for the Northern District of New York.
- 28 • *JTH Tax, Inc. d/b/a Liberty Tax Service v. Google Inc. et al.*, Case No. 05-CV-  
200, United States District Court for the Eastern District of Virginia.

26 **INTERROGATORY NO. 14:**

27 Identify and describe any settlement agreement and/or other arrangement whereby  
28 Google has agreed not to permit advertisers or potential advertisers to purchase the trademarks of

1 another as part of the AdWords Program.

2 **RESPONSE TO INTERROGATORY NO. 14:**

3 Google objects to this interrogatory to the extent it seeks confidential or proprietary  
4 information. Google will not disclose any such information until an appropriate protective order  
5 has been entered in this lawsuit. Google further objects to the interrogatory as vague,  
6 ambiguous, overbroad, unduly burdensome and compound. Google further objects to the  
7 interrogatory to the extent that it seeks information neither relevant to the claim or defense of any  
8 party, nor reasonably calculated to lead to the discovery of admissible evidence. In particular,  
9 Google objects to this interrogatory to the extent it seeks information about settlements involving  
10 foreign trademarks. Subject to and without waiving the foregoing objections, Google responds  
11 as follows:

12 Pursuant to Federal Rule of Civil Procedure 33(d), once an appropriate protective order is  
13 in place in this lawsuit, Google will produce any settlement agreements pursuant to which  
14 Google agreed to prohibit advertisers from using U.S. trademarks as keyword triggers.

15 **INTERROGATORY NO. 15:**

16 Describe the relationship between Google and each of the Third-Party Defendants, and  
17 identify any documents that memorialize this relationship.

18 **RESPONSE TO INTERROGATORY NO. 15:**

19 Google objects to this interrogatory to the extent it seeks confidential or proprietary  
20 information. Google will not disclose any such information until an appropriate protective order  
21 has been entered in this lawsuit. Google further objects to the phrase "AdWords advertisements  
22 or advertisements triggered by Keywords" as overbroad, vague, and ambiguous. Google further  
23 objects to the interrogatory as unduly burdensome. Google further objects to the interrogatory to  
24 the extent that it seeks information neither relevant to the claim or defense of any party, nor  
25 reasonably calculated to lead to the discovery of admissible evidence. Google further objects to  
26 the interrogatory because it contains multiple discrete subparts, in that its requests information  
27 about Google's relationship with five different entities: America Online, Inc., Netscape  
28 Communications Corp. Compuserve Interactive Services, Inc., Ask Jeeves, Inc., and Earthlink,



1 Inc. Subject to and without waiving the foregoing objections, Google responds as follows:

2 Pursuant to Federal Rule of Civil Procedure 33(d), once an appropriate protective order is  
3 in place in this lawsuit, Google will produce agreements, which speak for themselves,  
4 memorializing its relationship with these five entities.

5 **INTERROGATORY NO. 16:**

6 Identify and describe any research, studies or other analyses performed or considered by  
7 Google regarding Internet users' understanding of, preferences regarding, reactions to [or  
8 confusion regarding] paid advertising and search engine results, including without limitation  
9 Google Sponsored Links.

10 **RESPONSE TO INTERROGATORY NO. 16:**

11 Google objects to this interrogatory to the extent it seeks confidential or proprietary  
12 information. Google will not disclose any such information until an appropriate protective order  
13 has been entered in this lawsuit. Google further objects to the phrases "AdWords advertisements  
14 or advertisements triggered by Keywords" and "reactions to [or confusion regarding]" as  
15 overbroad, vague, and ambiguous. Google further objects to the interrogatory as unduly  
16 burdensome and compound. Google further objects to the interrogatory to the extent that it seeks  
17 information neither relevant to the claim or defense of any party, nor reasonably calculated to  
18 lead to the discovery of admissible evidence. Subject to and without waiving the foregoing  
19 objections, Google responds as follows:

20 Pursuant to Federal Rule of Civil Procedure 33(d), Google will produce non-privileged  
21 studies it has conducted regarding Internet users' reactions to paid advertising appearing on the  
22 same webpage as search engine results.

23 **INTERROGATORY NO. 17:**

24 Describe how Google manipulates which Sponsored Links appear in response to a search  
25 depending on the geographic location of the person performing the search, including what factors  
26 influence where certain Sponsored Links appear.

27 **RESPONSE TO INTERROGATORY NO. 17:**

28 Google objects to this interrogatory to the extent it seeks confidential or proprietary


1 information. Google will not disclose any such information until an appropriate protective order  
2 has been entered in this lawsuit. Google further objects to the phrases "AdWords advertisements  
3 or advertisements triggered by Keywords" and "what factors influence where certain Sponsored  
4 Links appear" as vague and ambiguous. Google further objects to the interrogatory as overbroad  
5 and unduly burdensome. Google further objects to the interrogatory to the extent that it seeks  
6 information neither relevant to the claim or defense of any party, nor reasonably calculated to  
7 lead to the discovery of admissible evidence. Subject to and without waiving the foregoing  
8 objections, Google responds as follows:

9 Google's advertisers have the option of targeting their advertisements to specific  
10 geographic regions, including one or more entire countries, or regions and cities within certain  
11 countries. If a Google advertiser selects this option, its advertisement will appear on a Google  
12 searcher's results page only if that searcher is using a computer within the advertiser's targeted  
13 area or is interested in that targeted area. Google determines a searcher's location based on the  
14 searcher's IP address; Google determines that a searcher is interested in a particular area if the  
15 searcher uses location-specific search terms (e.g., "San Francisco pizza") or if the user enters a  
16 specific location on Google Local.

17 DATED: June 21, 2005

KEKER & VAN NEST, LLP

18  
19  
20 By: \_\_\_\_\_

  
MICHAEL H. PAGE  
Attorneys for Plaintiff and Counterdefendant  
GOOGLE INC.  
and Third-Party Defendants  
ASK JEEVES, INC. and EARTHLINK, INC.

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I, NOELLE NICHOLS, declare and state as follows:

I am employed in the City and County of San Francisco, State of California in the office of a member of the bar of this court at whose direction the following service was made. I am over the age of eighteen years and not a party to the within action. My business address is Kecker & Van Nest, LLP, 710 Sansome Street, San Francisco, California 94111. On June 21, 2005, I served the following document(s):

GOOGLE INC.'S RESPONSES AND OBJECTIONS TO DEFENDANT AND COUNTER-PLAINTIFF AMERICAN BLIND & WALLPAPER FACTORY, INC.'S FIRST SET OF INTERROGATORIES

by PDF TRANSMISSION AND UNITED STATES MAIL, by transmitting via PDF on this date. A true and correct copy of same was placed in a sealed envelope addressed as shown below. I am readily familiar with the practice of Kecker & Van Nest, LLP for collection and processing of correspondence for mailing. According to that practice, items are deposited with the United States Postal Service at San Francisco, California on that same day with postage thereon fully prepaid. I am aware that, on motion of the party served, service is presumed invalid if the postal cancellation date or the postage meter date is more than one day after the date of deposit for mailing stated in this affidavit.

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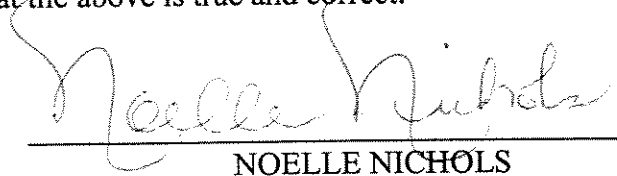
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Executed on June 21, 2005, at San Francisco, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

  
NOELLE NICHOLS