

1 P. CRAIG CARDON, Cal. Bar No. 168646
 BRIAN R. BLACKMAN, Cal. Bar No. 196996
 2 KENDALL M. BURTON, Cal. Bar No. 228720
 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
 3 Four Embarcadero Center, 17th Floor
 San Francisco, California 94111-4106
 4 Telephone: 415-434-9100
 Facsimile: 415-434-3947
 5

6 TIMOTHY H. KRATZ (*Pro Hac Vice* To Be Applied For)
 LUKE ANDERSON (*Pro Hac Vice* To Be Applied For)
 7 MCGUIRE WOODS, L.L.P
 1170 Peachtree Street, N.E., Suite 2100
 8 Atlanta, Georgia 30309
 Telephone: 404.443.5500
 9 Facsimile: 404.443.5751

10 Attorneys for DIGITAL ENVOY, INC.

11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA
 13 SAN JOSE DIVISION

14 GOOGLE, INC.,
 15 Plaintiff,
 16 v.
 17 DIGITAL ENVOY, INC.,
 18 Defendant.

Case No. C 04 01497 RS

Date: July 14, 2004
Time: 9:30 a.m.

The Honorable Richard Seeborg

NOTICE CONTINUING ORIGINAL HEARING DATE ON DEFENDANT'S MOTION TO DISMISS FOR IMPROPER VENUE, OR IN THE ALTERNATIVE, TO STAY TO JULY 14, 2004

19 DIGITAL ENVOY, INC.,
 20 Counterclaimant,
 21 v.
 22 GOOGLE, INC.,
 23 Counterdefendant.
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[Local Rule 7-7(a)]

1 TO PLAINTIFF AND ITS COUNSEL OF RECORD:

2 PURSUANT TO LOCAL RULE 7-7(a) PLEASE TAKE NOTICE that the hearing on
3 Defendant Counterclaimant Digital Envoy's Motion to Dismiss for Improper Venue, or in the
4 alternative, to Stay is continued to July 14, 2004 at 9:30 a.m. in the Courtroom of the Honorable
5 Richard Seeborg, located 280 South First Street, San Jose, California. Through its motion Digital
6 Envoy moves the Court for an order dismissing the instant action pursuant to Fed. R. Civ. Proc.
7 12(b)(3) on the grounds that venue properly lies in the United States District Court for the
8 Northern District of Georgia by virtue of an earlier filed action, *Digital Envoy, Inc. v. Google,*
9 *Inc.*, Case No. 1:04-CV-0864-CAP, filed on March 29, 2004.

10 The issue to be decided by this motion is whether in light of Digital Envoy's earlier filed
11 action, venue in this district is improper and the case should be dismissed in favor of the action
12 now pending between these same parties in the United States District Court, Northern District of
13 Georgia. Alternatively, Digital Envoy requests that the Court stay this action pending the
14 Northern District of Georgia's ruling on Google's motion to dismiss or transfer.

15 This motion is based upon this Notice of Continuance of Motion, the Notice of Motion and
16 Motion, the accompanying Memorandum of Points and Authorities, the pleadings, documents,
17 records and other materials on file in this matter, the arguments of counsel at the time this motion
18 is heard, and such further evidence and material as the Court may allow.

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20 DATED: May 18, 2004

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SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

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By /s/ Brian R. Blackman

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P. CRAIG CARDON

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BRIAN R. BLACKMAN

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Attorneys for DIGITAL ENVOY, INC.

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