

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 (Admitted *Pro Hac Vice*)
 LUKE ANDERSON (Admitted *Pro Hac Vice*)
 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 DIGITAL ENVOY, INC.,
 15 Plaintiff/Counter defendant,
 16 v.
 17 GOOGLE, INC.,
 18 Defendant/Counterclaimant.
 19
 20
 21
 22
 23

Case No. C 04 01497 RS

[FILED CONDITIONALLY UNDER SEAL]

SUPPLEMENTAL DECLARATION OF TIMOTHY H. KRATZ IN OPPOSITION TO GOOGLE, INC.'S TWO MOTIONS FOR SUMMARY JUDGMENT AND IN SUPPORT OF DIGITAL ENVOY, INC.'S RULE 56(F) MOTION

[ENCLOSED RECORD IS SUBJECT TO AN ADMINISTRATIVE REQUEST TO FILE UNDER SEAL]

1 I, Timothy H. Kratz, declare as follows:

2 1. I am an attorney of law duly licensed to practice in the State of Georgia and
3 admitted to practice before this court *pro hac vice*. I am a partner at the firm McGuireWoods LLP
4 and attorney for the Plaintiff/Counterdefendant Digital Envoy, Inc. (“Digital Envoy”). I am over
5 twenty-one years of age and not under any disability. I have personal knowledge of all facts set
6 forth herein.

7 2. Attached to this declaration as Exhibit 1 are true and correct copies of the following
8 documents produced by Google, Inc. (“Google”) in this litigation: GOOG 012533-012536;
9 GOOG 012327-012328; GOOG 012687 – 012688; GOOG 012338 – 012339; GOOG 012315 –
10 012317.

11 3. Attached to this declaration as Exhibit 2 is a true and correct excerpt from Google’s
12 Securities and Exchange Commission S-1 Registration.

13 4. Attached to this declaration as Exhibit 3 is a true and correct copy of a slide
14 presented at www.Google.com regarding Adwords.

15 5. Attached to this declaration at Exhibit 4 is a true and correct copy of a Google press
16 release detailing Google’s acquisition of Applied Semantics.

17 6. Attached to this declaration as Exhibit 5 is a true and correct copy of a
18 www.Google.com overview of the Adsense program.

19 7. Attached to this declaration as Exhibit 6 is a true and correct copy of an
20 Advertising Services Agreement between Ask Jeeves, Inc. and Google.

21 8. Attached to this declaration as Exhibit 7 is a true and correct copy of Plaintiff’s
22 Exhibit 4.

23 9. Attached to this declaration as Exhibit 8 is a true and correct copy of Plaintiff’s
24 Exhibit 5.

25 10. Attached to this declaration as Exhibit 9 is a true and correct excerpt from the
26 Deposition of Steven L. Schimmel.

27
28

1 11. Attached to this declaration as Exhibit 10 is a true and correct copy of an e-mail
2 communication between me and counsel for Google regarding Digital Envoy's proposed
3 Fed.R.Civ.P. 30(b)(6) deposition topics to Google.

4 12. Attached to this declaration as Exhibit 11 is a true and correct copy of an news
5 article regarding Google's Adwords program found at
6 www.internetnews.com/IAM/article.php/3098431

7 13. Attached to this declaration as Exhibit 12 is a true and correct copy of Plaintiff's
8 Exhibit 21.

9 14. Attached to this declaration as Exhibit 13 is a true and correct excerpt of the
10 deposition of Matthew Cutts.

11 15. Attached to this declaration as Exhibit 14 is true and correct excerpt of the
12 deposition of Robert Friedman.

13 16. Attached to this declaration as Exhibit 15 is true and correct of Insertion Order
14 between Google and Epinions.

15 I declare under penalty of perjury under the laws of the United States of America that the
16 foregoing is true and correct. Executed on May 2, 2005 at Atlanta, Georgia.

17
18 /s/ Timothy H. Kratz

19 Timothy H. Kratz
20
21
22
23
24
25
26
27
28

