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 Google Inc.

7 UNITED STATES DISTRICT COURT  
 8  
 9 NORTHERN DISTRICT OF CALIFORNIA  
 10  
 11 SAN JOSE DIVISION

12	DIGITAL ENVOY, INC.,	)	CASE NO.: C 04 01497 RS
		)	
13	Plaintiff/Counterdefendant,	)	<b>DECLARATION OF MICHAEL S.</b>
		)	<b>KWUN IN OPPOSITION TO</b>
14	v.	)	<b>DIGITAL ENVOY'S MOTION TO</b>
		)	<b>COMPEL FURTHER RESPONSES</b>
15	GOOGLE INC.,	)	<b>TO REQUESTS FOR PRODUCTION</b>
		)	<b>OF DOCUMENTS NOS. 3, 14, 18, 19</b>
16	Defendant/Counterclaimant.	)	<b>AND 26</b>
		)	
17		)	Judge: Hon. Richard Seeborg
		)	Courtroom: 4, 5 <sup>th</sup> Floor
18		)	Date: June 22, 2005
		)	Time: 9:30 a.m.
19		)	

1 I, Michael S. Kwun, declare as follows:

2 1. I am an attorney at law duly licensed to practice in the State of California. I am  
3 litigation counsel at Google Inc. ("Google"), the defendant and counterclaimant in this action.  
4 One of my responsibilities is to oversee and coordinate Google's response to potential litigation  
5 threats. I have personal knowledge of the facts set forth herein and, if called as a witness, could  
6 and would testify competently thereto.

7 2. I was involved in discussions with Google employees concerning a dispute with  
8 Digital Envoy in early February 2004. Upon becoming involved in those discussions, I became  
9 concerned that, notwithstanding what I believed to be a baseless position, Digital Envoy was  
10 likely to commence litigation against Google. Accordingly, starting in early February 2004, my  
11 actions, directions and communications concerning the dispute with Digital Envoy were in  
12 anticipation of such litigation.

13 I declare under penalty of perjury under the laws of the United States of America that the  
14 foregoing is true and correct. Executed on May 31, 2005, at Mountain View, California.

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/s/ Michael S. Kwun  
Michael S. Kwun

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**CERTIFICATION**

I, David H. Kramer, am the ECF User whose identification and password are being used to file the Declaration of Michael Kwun in Opposition to Digital Envoy’s Motion to Compel. In compliance with General Order 45.X.B, I hereby attest that Michael Kwun has concurred in this filing.

DATED: June 1, 2005

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

By: /s/ David H. Kramer  
David H. Kramer

Attorneys for Defendant / Counterclaimant  
GOOGLE INC.