

1 DAVID H. KRAMER, State Bar No. 168452 (dkramer@wsgr.com)  
 2 DAVID L. LANSKY, State Bar No. 199952 (dlansky@wsgr.com)  
 3 WILSON SONSINI GOODRICH & ROSATI  
 Professional Corporation  
 4 650 Page Mill Road  
 Palo Alto, CA 94304-1050  
 Telephone: (650) 493-9300  
 Facsimile: (650) 565-5100  
 5  
 Attorneys for Defendant/Counterclaimant  
 6 Google Inc.

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

12	DIGITAL ENVOY, INC.,	)	CASE NO.: C 04 01497 RS
		)	
13	Plaintiff/Counterdefendant,	)	<b>[PROPOSED]</b>
		)	<b>ORDER GRANTING GOOGLE</b>
14	v.	)	<b>INC.'S MOTION FOR PARTIAL</b>
		)	<b>SUMMARY JUDGMENT</b>
15		)	<b>REGARDING DIGITAL ENVOY,</b>
16	GOOGLE INC.,	)	<b>INC.'S DAMAGES CLAIMS</b>
		)	
17	Defendant/Counterclaimant.	)	Judge: Hon. Richard Seeborg
		)	Courtroom: 4, 5th Floor
18		)	Date: September 21, 2005
		)	Time: 9:30 a.m.
19		)	
		)	
20		)	
		)	

21 \_\_\_\_\_ )

22  
 23  
 24  
 25  
 26  
 27  
 28

1 Defendant and counterclaimant Google Inc.'s ("Google") Motion for Partial Summary  
2 Judgment Regarding Digital Envoy, Inc.'s ("Digital Envoy") Damages Claims came for hearing  
3 before this Court on September 21, 2005.

4 After consideration of the papers filed in connection with the motion, the argument of  
5 counsel, and all other matters presented to the Court, and good cause appearing therefor,

6 IT IS HEREBY ORDERED THAT:

7 Google's Motion for Partial Summary Judgment is **GRANTED**. Digital Envoy is not  
8 entitled to any recovery from Google in this case, as Digital Envoy cannot show Google engaged  
9 in willful misconduct; OR Digital Envoy's monetary recovery from Google in this case is  
10 \$308,600, the amount Google paid to Digital Envoy under the parties' agreement AND/OR  
11 Digital Envoy may not pursue any recovery in this case under Cal. Civ. Code § 3426.3(a).

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: \_\_\_\_\_, 2005

\_\_\_\_\_  
The Honorable Richard Seeborg  
United States District Magistrate Judge