

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

11 DIGITAL ENVOY, INC.,)
 12)
 Plaintiff/Counterdefendant,)
 13)
 v.)
 14)
 GOOGLE INC.,)
 15)
 Defendant/Counterclaimant.)

CASE NO. C 04 01497 RS
DECLARATION OF DAVID H. KRAMER IN SUPPORT OF GOOGLE INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING DIGITAL ENVOY, INC.'S DAMAGES CLAIMS

Judge: Hon. Richard Seeborg
 Courtroom: 4, 5th Floor
 Date: September 21, 2005
 Time: 9:30 a.m.

16
17
18
19
20
21
22
23
24
25
26
27
28

1 I, David H. Kramer, declare as follows:

2 1. I am an attorney at law duly licensed to practice in the State of California and before
3 this Court. I am a member at Wilson Sonsini Goodrich & Rosati, counsel for defendant and
4 counterclaimant Google Inc. ("Google"). I have personal knowledge of the facts set forth herein
5 and, if called as a witness, could and would testify competently thereto.

6 2. Attached hereto as Exhibit A is a true and correct copy of the November 30, 2000
7 agreement between Google and Digital Envoy (along with its two amendments and subsequent
8 ratification), which Digital Envoy has acknowledged as authentic in its pleadings in this case.

9 3. Attached hereto as Exhibit B is a true and correct copy of a redlined draft of the
10 Product and Electronic Database Evaluation and License Agreement between Google and Digital
11 Envoy, Bates numbered GOOG 009217-9225. This document was authenticated by Steve
12 Schimmel during his deposition on September 23, 2004, described as Google's revisions to the
13 contract and marked as Plaintiff's Exhibit 21.

14 4. Attached hereto as Exhibit C is a true and correct copy of excerpts from the
15 deposition testimony of Matthew D. Cutts, taken on September 1, 2004.

16 5. Attached hereto as Exhibit D is a true and correct copy of excerpts from the
17 deposition testimony of Steven L. Schimmel, taken on September 23, 2004.

18 6. Attached hereto as Exhibit E is a true and correct copy of excerpts from the
19 deposition testimony of Kulpreet Rana, taken on November 16, 2004.

20 7. Attached hereto as Exhibit F is a true and correct copy of excerpts from the
21 deposition testimony of Robert B. Friedman, taken on November 17, 2004.

22 8. Attached hereto as Exhibit G is a true and correct copy of Digital Envoy, Inc.'s
23 Responses to Google, Inc.'s Second Set of Interrogatories, Interrogatory Nos. 5 and 6, dated
24 November 3, 2004.

25 9. Attached hereto as Exhibit H is a true and correct copy of Digital Envoy, Inc.'s Rule
26 26(a)(1) Disclosures, dated August 4, 2004.

27

28

1 10. Attached hereto as Exhibit I is a true and correct copy of Digital Envoy, Inc.'s
2 Responses to Google, Inc.'s Fourth Set of Interrogatories, Interrogatory Nos. 11-14, 17 and 18,
3 dated March 7, 2005.

4 I declare under penalty of perjury under the laws of the United States of America that the
5 foregoing is true and correct. Executed on August 17, 2005, at Palo Alto, California.

6
7 /s/ David H. Kramer
8 David H. Kramer
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28