

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.

Case No. C 04 01497 RS

**DECLARATION OF KENDALL M.
 BURTON IN SUPPORT OF DIGITAL
 ENVOY'S MISCELLANEOUS
 ADMINISTRATIVE REQUEST TO FILE
 UNDER SEAL THE SUPPLEMENTAL
 DECLARATION OF ROBERT J.
 WADDELL, JR. IN OPPOSITION TO
 GOOGLE INC.'S MOTION FOR
 PARTIAL SUMMARY JUDGMENT
 REGARDING DIGITAL ENVOY, INC.'S
 DAMAGES CLAIMS**

**Date: September 21, 2005
 Time: 9:30 a.m.
 Courtroom: 4, 5th Floor**

The Honorable Richard Seeborg

1 I, Kendall M. Burton, declare:

2 1. I am an attorney licensed to practice before this Court and am associated with
3 Sheppard Mullin Richter & Hampton LLP, counsel of record for Digital Envoy, Inc. ("Digital
4 Envoy") in this matter. I make this declaration based on my personal knowledge, except where
5 noted otherwise, and would competently testify to these facts if called to do so.

6 2. I submit this declaration in support of Digital Envoy's Miscellaneous
7 Administrative Request to File Under Seal, Pursuant to Local Rules 7-11 and 79-5, the
8 Supplemental Declaration of Robert J. Waddell, Jr. in Opposition to Google's Motion for Partial
9 Summary Judgment regarding Digital Envoy's Damages Claim, attaching as **Exhibit A** thereto an
10 Excerpt from the Deposition Transcript of Robert B. Friedman.

11 3. The Deposition Transcript of Robert B. Friedman contains information designated
12 by defendant Google, Inc. as "Highly Confidential—Attorney's Eyes Only" under the terms of the
13 Court's August 23, 2004 Stipulation and Protective Order Regarding Confidentiality. Without
14 concurring in Google's view, in light of its designation, Digital Envoy requests an order permitting
15 it to file under seal the Supplemental Declaration of Robert J. Waddell, Jr. in Opposition to
16 Google's Motion for Partial Summary Judgment regarding Digital Envoy's Damages Claim,
17 attaching as **Exhibit A** thereto an Excerpt from the Deposition Transcript of Robert B. Friedman.

18 I declare under the penalty of perjury that the above statements are true. Executed this
19 19th day of September 2005 in San Francisco, California.

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/s/ Kendall M. Burton
KENDALL M. BURTON