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11 UNITED STATES DISTRICT COURT  
 12 NORTHERN DISTRICT OF CALIFORNIA  
 13 SAN JOSE DIVISION

14 DIGITAL ENVOY, INC.,  
 15 Plaintiff/Counterdefendant,  
 16 v.  
 17 GOOGLE, INC.,  
 18 Defendant/Counterclaimant.  
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Case No. C 04 01497 RS

**DECLARATION OF P. CRAIG CARDON  
 IN SUPPORT OF DIGITAL ENVOY,  
 INC.'S SURREPLY RE GOOGLE, INC.'S  
 MOTION TO STAGE DISCOVERY**

20 I, P. Craig Cardon, declare as follows:

21 1. On August 20, 2004, I received a fax letter from counsel for Google, Stephen  
 22 Holmes. A true and correct copy of this letter is attached as Exhibit A hereto. That letter asked  
 23 Digital Envoy to provide a California Code of Civil Procedure section 2019(d) trade secret  
 24 disclosure.

25 2. After receiving Mr. Holmes letter of August 20, 2004, that same day I sent him an  
 26 email reminding him that this case was in Federal court and not State court.

27 3. On August 23, 2004, I spoke with Mr. Holmes and told him that no case in the  
 28 Northern District nor any opinion of the Ninth Circuit had ever held that a CCP section 2019(d)

1 disclosure is required in Federal court. Mr. Holmes maintained that the case out of the Central  
2 District did mandate such disclosure in the Northern District.

3 4. Shortly after I got off of the phone with Mr. Holmes I received another letter from  
4 him asserting that the Central District case applied and requiring that Digital Envoy provide a CCP  
5 section 2019(d) disclosure. A true and correct copy of this letter is attached as Exhibit B.

6 I make the foregoing statements under penalty of perjury under the laws of the United  
7 State. Executed this 23<sup>rd</sup> day of August, 2004.

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P. CRAIG CARDON