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 2 DAVID L. LANSKY, State Bar No. 199952 (dlansky@wsgr.com)  
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 10 Attorneys for Defendant/Counterclaimant  
 11 Google Inc.

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 13 UNITED STATES DISTRICT COURT  
 14 NORTHERN DISTRICT OF CALIFORNIA  
 15 SAN JOSE DIVISION

13	DIGITAL ENVOY, INC.,	)	CASE NO.: C 04 01497 RS
14		)	
15	Plaintiff/Counterdefendant,	)	<b>DECLARATION OF</b>
16		)	<b>DAVID L. LANSKY</b>
17	v.	)	<b>IN SUPPORT OF GOOGLE INC.'S</b>
18		)	<b>OPPOSITION TO DIGITAL</b>
19	GOOGLE INC.,	)	<b>ENVOY'S MOTION TO COMPEL</b>
20		)	
21	Defendant/Counterclaimant.	)	Judge: Hon. Richard Seeborg
22		)	Courtroom: 4, 5 <sup>th</sup> Floor
23		)	Date: December 5, 2005
24		)	Time: 10:00 a.m.

1 I, David L. Lansky, declare as follows:

2 1. I am an attorney at law duly licensed to practice in the State of California and  
3 before this Court. I am associated with Wilson Sonsini Goodrich & Rosati (“WSGR”), counsel  
4 for defendant and counterclaimant Google Inc. (“Google”). I have personal knowledge of the  
5 facts set forth herein 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 excerpts from the  
7 transcript of the September 21, 2005 hearing on Google’s Motion for Partial Summary Judgment  
8 on Digital Envoy’s Damage Claims.

9 3. Attached hereto as Exhibit B is a true and correct copy of excerpts from the  
10 transcript of the deposition of Mark Rose.

11 4. Attached hereto as Exhibit C is a true and correct copy of excerpts from the  
12 transcript of the deposition of Marissa Mayer.

13 5. I have reviewed Google’s production of documents in response to Digital Envoy’s  
14 discovery requests and the Court’s July 15, 2005 Order. Following the Order and Google’s  
15 document collection and review, Google produced 1,207 pages of communications with its top  
16 100 advertisers concerning its AdSense program. Google also produced one AdSense revenue  
17 projection it prepared for an advertiser, which I am informed and believe to be the only such  
18 projection Google located.

19 6. While Digital Envoy formally served a notice for a 30(b)(6) deposition of Google  
20 in May, 2005, it apprised Google of its intended topics much earlier, in correspondence dated  
21 March 30, 2005.

22 7. On April 1, 2005, Digital Envoy requested that it be permitted to redepose Matt  
23 Cutts on issues relating to Google’s counterclaims which were added after his first deposition in  
24 the case. Google agreed to that request. It further agreed that Mr. Cutts would testify on specific  
25 topics in Digital Envoy’s 30(b)(6) deposition notice relating to Google’s counterclaims. For its  
26 part, Digital Envoy agreed that Google would be permitted to depose a Digital Envoy designee  
27 on limited topics in a notice served on June 8, 2005. The parties have repeatedly agreed to  
28 continue the dates of these limited depositions but have made no other agreements concerning

1 depositions, extensions of the discovery cut-off or extensions of the deadline for filing motions  
2 to compel. In fact, in letters of May 18 and May 19, 2005 Google expressly confirmed with  
3 Digital Envoy that it was not agreeing to extend the deadline for motions to compel.

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 November 14, 2005 at Palo Alto, California.

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/s/ David L. Lansky  
David L. Lansky

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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 DAVID L. LANSKY IN SUPPORT OF GOOGLE INC.’S OPPOSITION TO DIGITAL ENVOY’S MOTION TO COMPEL**. In compliance with General Order 45.X.B, I hereby attest that David Lansky has concurred in this filing.

DATED: November 14, 2005

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

By:                   /s/ David H. Kramer                    
David H. Kramer  
Attorneys for Defendant / Counterclaimant  
GOOGLE INC.