

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 ROBERT J. WADDELL, JR. (Admitted *Pro Hac Vice*)
 JOHN A. LOCKETT III (Admitted *Pro Hac Vice*)
 8 MCGUIREWOODS LLP
 1170 Peachtree Street, N.E., Suite 2100
 9 Atlanta, Georgia 30309
 Telephone: 404.443.5500
 10 Facsimile: 404.443.5751

11 PATRICK J. FLINN, Cal. Bar No. 104423
 ALSTON & BIRD LLP
 12 One Atlantic Center
 1201 West Peachtree Street
 13 Atlanta, Georgia 30309
 Telephone: 404-881-7000
 14 Facsimile: 404-881-7777

15 Attorneys for DIGITAL ENVOY, INC.

16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
 18 SAN JOSE DIVISION

19 DIGITAL ENVOY, INC.,
 20 Plaintiff/Counter defendant,
 21 v.
 22 GOOGLE, INC.,
 23 Defendant/Counterclaimant.
 24

Case No. C 04 01497 RS

**[PROPOSED] ORDER GRANTING
 DIGITAL ENVOY'S MOTION TO
 DISMISS GOOGLE'S DECLARATORY
 JUDGMENT COUNTERCLAIM AND
 MOTION FOR ENTRY OF JUDGMENT**

1 Before the Court is plaintiff and counterdefendant Digital Envoy's Motion to Dismiss
2 Google's Counterclaim for Declaratory Judgment pursuant to Fed. R. Civ. P. 12(b)(1) and Motion
3 for Entry of Judgment on Digital Envoy's claims pursuant to Fed. R. Civ. P. 54(b). Having
4 considered the parties' moving and opposing papers and heard the argument of counsel, the Court
5 HEREBY ORDERS that:

- 6 1. Digital Envoy's Motion to Dismiss Google's counterclaim for Declaratory
7 Judgment is GRANTED;
 - 8 2. Digital Envoy's Motion for Entry of Judgment on all of its claims is GRANTED.
- 9 IT IS SO ORDERED.

10 DATED: March __, 2006

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

By _____
The Honorable Richard Seeborg
United States Magistrate Judge