

1 DAVID H. KRAMER, State Bar No. 168452 (dkramer@wsgr.com)  
 COLLEEN BAL, State Bar No. 167637 (cbal@wsgr.com)  
 2 DAVID L. LANSKY, State Bar No. 199952 (dlansky@wsgr.com)  
 WILSON SONSINI GOODRICH & ROSATI  
 3 Professional Corporation  
 650 Page Mill Road  
 4 Palo Alto, CA 94304-1050  
 Telephone: (650) 493-9300  
 5 Facsimile: (650) 565-5100

6 Attorneys for Defendant/Counterclaimant  
 Google Inc.

7  
 P. CRAIG CARDON, State Bar No. 168646  
 8 BRIAN R. BLACKMAN, State Bar No. 196996  
 KENDALL M. BURTON, State Bar No. 228720  
 9 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
 Four Embarcadero Center, 17<sup>th</sup> Floor  
 10 San Francisco, California 94111-4106  
 Telephone: (415) 434-9100  
 11 Facsimile: (415) 434-3947

12 TIMOTHY H. KRATZ, (*Admitted Pro Hac Vice*)  
 LUKE ANDERSON, (*Admitted Pro Hac Vice*)  
 13 ROBERT J. WADDELL, JR. (*Admitted Pro Hac Vice*)  
 MCGUIREWOODS LLP  
 14 1170 Peachtree Street N.E., Suite 2100  
 Atlanta, Georgia 30309  
 15 Telephone: (404) 443-5500  
 Facsimile: (404) 443-5751

16 Attorneys for Plaintiff/Counterdefendant,  
 17 Digital Envoy, Inc.

18 UNITED STATES DISTRICT COURT  
 19 NORTHERN DISTRICT OF CALIFORNIA  
 20 SAN JOSE DIVISION

22	DIGITAL ENVOY, INC.,	)	CASE NO.: C 04 01497 RS
		)	
23	Plaintiff/Counterdefendant,	)	<b>STIPULATION AND [PROPOSED]</b>
		)	<b>ORDER RE: AMENDING</b>
24	v.	)	<b>SCHEDULING ORDER</b>
		)	
25	GOOGLE INC.,	)	
		)	
26	Defendant/Counterclaimant.	)	
		)	
27		)	
		)	

1 Google Inc. (“Google”) and Digital Envoy, Inc. (“Digital Envoy”) submit, through their  
2 counsel of record, this stipulation and proposed order to amend the Case Scheduling Order  
3 entered by the Court on this matter on August 27, 2004, and amended by Orders of the Court on  
4 October 21, 2005, December 5, 2005 and March 28, 2006.

5 In light of the resolution of Digital Envoy’s claims in the action and the pendency of  
6 Google’s counterclaims, the parties propose these amendments to the Scheduling Order in the  
7 interests of efficiency and economy:

8 1. EXPERT WITNESSES. The disclosure and discovery of expert witness opinions  
9 shall proceed as follows:

- 10 a. On or before **April 28, 2006**, defendant shall disclose expert testimony and  
11 reports in accordance with Rule 26(a)(2), F.R. Civ. P.
- 12 b. The deposition of defendant’s expert is scheduled to take place on **May 16,**  
13 **2006.**
- 14 c. On or before **May 19, 2006**, plaintiff shall disclose expert testimony and  
15 reports in accordance with Rule 26(a)(2), F.R. Civ. P.
- 16 d. The deposition of plaintiff’s expert will take place during the week of **May**  
17 **22, 2006.**
- 18 e. On or before **June 1, 2006**, all discovery of expert witnesses pursuant to  
19 Rule 26(b)(4), F.R. Civ. P. shall be completed.
- 20 f. The parties may serve subpoenas on the opposing party’s expert in advance  
21 of the deadline for that expert’s deposition, and the production of  
22 documents in response to such subpoena will take place on or before the  
23 date the expert’s deposition is to take place. The parties are not required to  
24 produce communications with the expert or draft reports.
- 25 g. Any pretrial motions concerning experts must be filed by **June 2, 2006**,  
26 with any opposition due **June 5, 2005** and will be deemed submitted on the  
27 papers.

1           2.       In all other respects, the Scheduling Order remains in full force and effect.  
2 Nothing contained in the parties' stipulation shall operate to re-open fact discovery or extend the  
3 period for fact discovery. Nothing in the stipulation shall prohibit any party from seeking to  
4 amend this or any subsequent Scheduling Order it is believes that such relief is warranted.

5  
6 Dated: April 11, 2006

MCGUIREWOODS LLP

7  
8 By: /s/ Timothy H. Kratz  
          Timothy H. Kratz

9 Attorneys for Plaintiff and Counterdefendant  
10 DIGITAL ENVOY, INC.

11  
12 Dated: April 11, 2006

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

13  
14 By: /s/ David L. Lansky  
          David L. Lansky

15 Attorneys for Defendant and Counterclaimant  
16 GOOGLE INC.

17  
18  
19 **ORDER**

20 PURSUANT TO STIPULATION, IT IS SO ORDERED.

21  
22 Dated: \_\_\_\_\_, 2006

23 HONORABLE RICHARD SEEBORG  
24 UNITED STATES DISTRICT JUDGE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATION**

I, David L. Lansky, am the ECF User whose identification and password are being used to file the **STIPULATION AND [PROPOSED] ORDER RE: AMENDING SCHEDULING ORDER**. In compliance with General Order 45.X.B, I hereby attest that all parties have concurred in this filing.

DATED: April 11, 2006

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

By:           /s/ David L. Lansky            
          David L. Lansky

Attorneys for Defendant / Counterclaimant  
GOOGLE INC.