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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/Counterdefendant,  
 21 v.  
 22 GOOGLE, INC.,  
 23 Defendant/Counterclaimant.

Case No. C 04 01497 RS  
**DECLARATION OF ANDREW LINDER**  
**[EXHIBIT A THERETO SUBMITTED**  
**UNDER SEAL]**  
 The Honorable Richard Seeborg

1 I, Andrew Lindner, declare as follows:

2 1. I am over twenty-one years of age, not under any disability and  
3 otherwise competent to testify. I have personal knowledge of the facts set forth  
4 herein.

5 2. I am a Partner of Frontier Funds, a venture capital firm headquartered  
6 in Charlotte, North Carolina.

7 3. Frontier Funds is an investor in Digital Envoy, Inc. ("Digital Envoy").  
8 Prior to Frontier Funds investing in Digital Envoy, I was responsible for conducting  
9 due diligence into the business of Digital Envoy.

10 4. In connection with my due diligence of Digital Envoy, on April 5,  
11 2001, I had a telephone conversation with Matt Cutts, who was a senior software  
12 engineer for Google. I spoke with Mr. Cutts about Google's use of Digital Envoy's  
13 data and technology.

14 5. Soon after my conversation with Mr. Cutts I made notes of those  
15 aspects of our conversation that I deemed important. A true and correct copy of  
16 those notes is attached hereto as Exhibit A.

17 6. These notes were made when my memory of the conversation was  
18 fresh and accurately reflect the conversation. These notes were made in the course  
19 of regularly conducted business activity and it was regular practice for me to make  
20 these notes.

21 7. At no time did Mr. Cutts tell me that any portion of our conversation  
22 was confidential.

23 I declare under penalty of perjury under the laws of the United States of  
24 America that the foregoing is true and correct.

25 /s/ Andrew Lindner  
26 Andrew Lindner  
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