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

18	CLICK DEFENSE, INC., a Colorado)	Case No.: 5:05-cv-02579-RMW
19	corporation, Individually and on behalf of all)	
20	others similarly situated,)	E-FILING
)	
21	Plaintiff,)	CLICK DEFENSE, INC.'S MOTION TO
)	ENLARGE TIME
22)	
	vs.)	Date: September 2, 2005
23)	Time: 9:00 a.m.
24	GOOGLE, INC., et al,)	Judge: Hon. Ronald M. Whyte
)	
25	Defendant)	

26
 27 **NOTICE OF MOTION TO ENLARGE TIME**

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on September 2, 2005, at 9:00a.m., or as soon thereafter as
3 this matter may be heard before the Honorable Ronald M. Whyte of the United States District
4 Court for the Northern District of District of California, 280 South First Street, San Jose,
5 California, Plaintiff, Click Defense, Inc. (“Click Defense”), will and hereby does move the Court
6 to formally enlarge the time for Click Defense to serve and file its opposition to the Motion to
7 Dismiss pursuant to Civil Local Rule 6-1(b).
8

9 This motion is supported by the following Memorandum of Points and Authorities, the
10 Declaration of Darren T. Kaplan, the arguments of counsel, and any other matters properly
11 before the Court.
12

13 **MEMORANDUM OF POINTS AND AUTHORITIES**

14 On July 27, 2005, Defendant Google, Inc. (“Google”) moved to dismiss two of four
15 causes of action asserted in Plaintiff’s complaint pursuant to Federal Rule of Civil
16 Procedure 12(b)(6). The motion set a hearing date of September 2, 2005. Plaintiff’s attorneys
17 wrongfully assumed that their opposition to the motion would be due no earlier than 14 days
18 prior to the date set for hearing as would be the procedure in the United States District Court for
19 the Central District of California (*see* United States District Court for the Central District of
20 California L.R. 7-9) instead of the 21 days before the hearing required under the Court’s Civil
21 L.R. 7-3(a). Accordingly, Click Defense’s attorneys served their opposition to the motion to
22 dismiss on Google on August 19, 2005 rather than on August 12, 2005,. Only upon receipt of
23 Google’s reply did Click Defense’s attorneys realize their error.
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1 Click Defense’s attorneys apologize to the Court and to Counsel for Google for their
2 mistake and Click Defense’s attorneys will not oppose the filing of a supplemental memorandum
3 by defendant as was proposed in footnote 1 of Google’s Reply.
4

5 In order to make certain that this Court will consider Plaintiff’s opposition to the Motion
6 to Dismiss and to preserve this record, Click Defense hereby requests that this Court formally
7 grant Click Defense an enlargement of time to file its opposition on August 19, 2005 as a
8 retroactive cure for Click Defense’s inadvertent error. The litigants have offered extremely
9 succinct briefing on this motion and it is doubtful that the shortened time Google received in
10 which to craft its Reply worked any prejudice.
11

12 Further, while we are mindful that the Court itself may suffer some inconvenience from
13 the shortened time to consider Plaintiff’s opposition, we trust that such inconvenience was
14 minimized by the fact that Plaintiff’s opposition totaled only seven pages.
15

16 Civil L.R. 6-1(b) provides that a Court may order an enlargement of time “that alters an
17 event or deadline already fixed by Court order or that involves papers required to be filed or
18 lodged with the Court .” We would respectfully suggest that such an enlargement is appropriate
19 here.
20

21 **CONCLUSION**

22 For all the foregoing reasons, Plaintiff respectfully requests that this Court grant its
23 motion to enlarge time and grant such other and further relief as the Court deems just and proper.
24

25 DATED: August 24, 2005

Respectfully submitted,

26 CHITWOOD HARLEY HARNES LLP

27 By: _____/s_____

Darren T. Kaplan (Admitted *pro hac vice*)
And KABATECK BROWN KELLNER LLP and LAW
28 OFFICES OF SHAWN KHORRAMI, Attorneys for
Plaintiff
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