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6 Attorneys for Defendant GOOGLE, INC.

7  
 8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA  
 10 SAN JOSE DIVISION

11 ADVANCED INTERNET TECHNOLOGIES,  
 12 INC., a North Carolina corporation,  
 Individually and on behalf of all others  
 13 similarly situated,

14 Plaintiffs,

15 v.

16 GOOGLE, INC., a Delaware corporation, and  
 DOES 1 through 100, Inclusive,

17 Defendants.

18  
 19 STEVE MIZERA, an Individual, individually  
 and on behalf of all others similarly situated,

20 Plaintiff,

21 v.

22 GOOGLE, INC., a Delaware corporation; and  
 DOES 1 through 100, inclusive,

23 Defendants.  
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Case No. C 05 02579 RMW  
 Consolidated with  
 Case No. C 05 02885 RMW

**DECLARATION OF DAVID J. SILBERT**

Judge: Hon. Ronald M. Whyte

Date Comp. Filed: June 24, 2005

Trial Date: None set

1 I, David J. Silbert, declare that the following is true:

2 1. I am an attorney licensed to practice in the State of California and before this Court. I  
3 am a partner in the law firm of Kecker & Van Nest, LLP, counsel for defendant Google, Inc.  
4 (“Google”) in these coordinated actions. I make this declaration of my own personal knowledge,  
5 and if called to do so, I would testify to these facts under oath.

6 2. Attached hereto as Exhibits A, B, and C are true and correct copies of Google’s  
7 Motion to Stay Pending Settlement filed on March 9, 2006; Plaintiff’s Opposition to Defendant’s  
8 Motion to Stay filed on March 13, 2006; and Google’s Reply in Support of Motion to Stay  
9 Pending Settlement, filed on March 16, 2006.

10 3. On March 27, 2006, plaintiffs AIT and Mizera, and former plaintiff Click Defense,  
11 served written responses to Google’s document requests. Those responses contain numerous  
12 objections and refusals to produce documents that Google believes are unfounded. Neither AIT,  
13 Mizera, nor Click Defense has yet produced any documents.

14 4. In late January or early February 2006, approximately one week before plaintiffs’  
15 class-certification motion was due, plaintiffs asked Google to stipulate to continue the deadline  
16 for them to file their motion. Google agreed to do so. Further, in order to preserve the scheduled  
17 hearing date, Google stipulated that plaintiffs could have four additional weeks to file their  
18 motion, while Google’s deadline for filing its opposition would be moved by only two weeks,  
19 thereby reducing by two weeks Google’s time to oppose the motion. Attached hereto as Exhibit  
20 D is a true and correct copy of the Stipulation and [Proposed] Order filed on February 6, 2006  
21 effecting that agreement.

22 5. On March 28, 2006 I spoke by telephone to plaintiffs’ counsel Darren Kaplan and  
23 asked whether plaintiffs would stipulate to vacate the existing class-certification dates to allow  
24 the Court to consider and rule on Google’s motion to stay. Mr. Kaplan declined to so stipulate.

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1 I declare under penalty of perjury under the laws of the State of California that the  
2 foregoing is true and correct, and that this declaration was executed on March 29, 2006 in San  
3 Francisco, California.

4  
5 /s/ David Silbert  
6 DAVID J. SILBERT  
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