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7  
 8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA  
 10 SAN JOSE DIVISION  
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12 STEVE MIZERA, An Individual, Individually  
 13 and on behalf of all others similarly situated,

14 Plaintiffs,

15 v.

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

18 Defendants.

Case No. C 05-02885 RS

**E-FILING**

**[PROPOSED] ORDER GRANTING  
 MOTION TO DISMISS**

**Date: October 26, 2005**

**Time: 9:30 a.m.**

**Judge: Hon. Richard Seeborg**

Date Comp. Filed: July 17, 2005

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1 On October 26, 2005, defendant Google, Inc. came before this Court and moved to  
2 dismiss plaintiffs' unjust-enrichment claim under Federal Rule of Civil Procedure 12(b)(6), on  
3 the ground that actual contracts exist and govern the relationship between Google and members  
4 of the putative class, thereby precluding plaintiffs from asserting unjust-enrichment claims on  
5 behalf of the class.

6 Having considered the moving and opposing papers, and all other matters presented to  
7 this Court, the motion is GRANTED.

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9 Dated: \_\_\_\_\_, 2005

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THE HONORABLE RICHARD SEEBORG  
United States Magistrate Judge

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