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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CLRB Hanson Industries, LLC et al.,

NO. C 05-03649 JW

Plaintiff(s),

**ORDER DEEMING MOOT DEFENDANT
GOOGLE, INC.'S MOTION TO DISMISS**

v.

Google Inc. et al.,

Defendant(s).

On October 12, 2005, Defendant Google, Inc. filed a motion to dismiss Plaintiff's complaint for failure to state a claim, and noticed the motion for hearing on December 5, 2005. On November 14, 2005, Plaintiff filed a First Amended Complaint.

Rule 15(a) provides that a party may amend his pleading once as a matter of course at any time before a responsive pleading is served. A motion to dismiss is not a responsive pleading within the meaning of Rule 15(a). FED. R. CIV. P. 15(a); Allwaste, Inc. v. Hecht, 65 F3d 1523, 1530 (9th Cir. 1995).

Accordingly, Defendant's motion to dismiss is moot. The December 5, 2005 hearing date is vacated.

Dated: November 23, 2005

05cv3649dismiss

/s/James Ware

JAMES WARE

United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

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8 **Dated: November 28, 2005**

Richard W. Wieking, Clerk

9 **By: /s/JW Chambers**
10 **Ronald L. Davis**
11 **Courtroom Deputy**