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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

CLRB HANSON INDUSTRIES, LLC d/b/a  
 INDUSTRIAL PRINTING, and HOWARD  
 STERN, on behalf of themselves and all others  
 similarly situated,

Plaintiffs,

v.

GOOGLE, INC.,

Defendant.

CASE NO. C O5-03649 JW

**GOOGLE INC.’S NOTICE OF  
 ADMINISTRATIVE MOTION AND  
 MOTION FOR LEAVE TO FILE  
 DOCUMENTS UNDER SEAL IN  
 CONNECTION WITH ITS MOTION  
 FOR PARTIAL SUMMARY  
 JUDGMENT ON PLAINTIFFS’ “120%  
 RULE” AND “PARTIAL MONTH”  
 CLAIMS**

Date: November 10, 2008  
 Time: 9:00 a.m.  
 Dept.: Courtroom 8  
 Judge: Honorable James Ware



1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Pursuant to Federal Rule of Civil Procedure 26(c), Civil Local Rules 7-11, and 79-5,  
4 defendant Google Inc. (“Google”) makes this Miscellaneous Administrative Request for an  
5 Order allowing Google to file under seal certain documents filed in connection with Google’s  
6 Motion for Partial Summary Judgment on Plaintiffs’ “120% Rule” and “Partial Month” Claims.

7 Specifically, Google requests that the Court file the following documents and information  
8 set forth below under seal:

9 **Declaration of Adam Samet in support of Google’s Motion for Partial**  
10 **Summary Judgment on Plaintiffs’ “120% Rule” and “Partial Month”**  
11 **Claims; and Exhibits 1, 2, 3, and 4 attached thereto.**

12 Good cause exists justifying the filing of the above declaration and exhibits under seal  
13 because such the declaration and exhibits contain, discuss, or refer not only to Google’s trade  
14 secret and/or confidential competitive and business information, but also reflect Plaintiffs’  
15 confidential account data. The Declaration of Adam Samet and attached exhibits relate to  
16 Google’s confidential billing system and to Plaintiffs’ account data, which they may consider  
17 confidential. Accordingly, Google as well as the Plaintiffs could be irreparably harmed if such  
18 trade secret and/or confidential information are made available to the public.

19 **II. ARGUMENT**

20 **A. Good Cause Exists to Protect Google’s Trade Secret and/or**  
21 **Confidential Business and Competitive Information.**

22 Upon a showing of good cause, a court may make any order that justice requires to  
23 protect a party, including an order “that a trade secret or other confidential research,  
24 development, or commercial information not be revealed or be revealed only in a designated  
25 way.” FED. R. CIV. P. 26(c)(7). In particular, a court may order that court documents be filed  
26 under seal where such good cause is shown to override the public’s right to access. *See San Jose*  
27 *Mercury News, Inc. v. U.S. Dist. Ct.*, 187 F.3d 1096, 1103 (9<sup>th</sup> Cir. 1999). The factors relevant to  
28 a determination of whether the presumption of access is overcome include “the public interest in

1 understanding the judicial process and whether disclosure of the material could result in  
2 improper use of the material for . . . infringement upon trade secrets.” *Hagestad v. Tragesser*, 49  
3 F.3d 1430, 1433-34 (9<sup>th</sup> Cir. 1995) (“Every court has supervisory power over its own records and  
4 files, and access has been denied where court files might have become a vehicle for improper  
5 purposes.”) (citations and quotations omitted).

6 Good cause exists for this Court to grant this Miscellaneous Administrative Request.  
7 Google seeks to file under seal documents that relate to Google’s confidential information and  
8 Plaintiffs’ account data. Google seeks to file the Samet Declaration and the exhibits thereto  
9 under seal because they contain information relating to Google’s confidential and proprietary  
10 billing processes, and Plaintiffs’ confidential account data. Google treats such information as  
11 confidential and would suffer harm and/or competitive injury if such information were made  
12 public. Google is filing a public version of the declaration that redacts those portions that  
13 contain confidential information.

14 **B. The Request for Filing Under Seal is Narrowly Tailored.**

15 This Miscellaneous Administrative Request should be granted because it is narrowly  
16 tailored to cover only the documents and specific portions of the Declaration of Adam Samet to  
17 be filed for which good cause for filing under seal exists.

18 **III. CONCLUSION**

19 For the reasons set forth above, good cause exists to file the above-referenced documents,  
20 which relate to Google’s confidential information and Plaintiffs’ confidential account data under  
21 seal. Further, this request is narrowly tailored to seal only confidential information.

22 Accordingly, Google respectfully requests that the Court grant its Miscellaneous Administrative  
23 Request in the form of the [Proposed] Order filed herewith.

24 Dated: September 5, 2008

**PERKINS COIE LLP**

26 By: \_\_\_\_\_ /S/

David T. Biderman

27 Attorneys for Defendant Google Inc.