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 RICHARD W. WIEKING
 CLERK
 U.S. DISTRICT COURT
 NO. DISTRICT OF CALIF.

7 Attorney for Objector

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

<p>11 IN RE:</p> <p>12 CLRB HANSON INDUSTRIES, LLC d/b/a</p> <p>13 INDUSTRIAL PRINTING, and HOWARD</p> <p>14 STERN, on behalf of themselves and all others</p> <p>15 similarly situated,</p> <p>16 Plaintiffs,</p> <p>17 v.</p> <p>18 GOOGLE, INC.</p> <p>19 Defendant.</p>	<p>CASE NO: C 05-03649 JW PVT</p> <p>OBJECTION TO PROPOSED SETTLEMENT NOTICE OF APPEARANCE AND INTENT TO BE HEARD</p> <p>Date: July 14, 2009</p>
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2 COMES NOW, Randy R. Lyons and Chase Thompson individually and d/b/a Etech,
3 Digital Playroom, Inc. and Universal Pro Audio, LLC (collectively "Objector") by and through
4 the undersigned attorney and files this Objection to the Proposed Settlement in this matter. In
5 support thereof, Objector states as follows:
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7 1. Each Objector has regularly advertised on Google during the class period and each Objector
8 believes that they either were charged (during the relevant class period) more than their per-day
9 daily budget on one or more days during the relevant period and/or paused their Adwords
10 advertising during the relevant period and were wrongfully charged during the period that their
11 advertising campaign was paused. Each Objector believes they are identified as Class Members,
12 but due to the complexity of the Class definition each Objector (or undersigned counsel) has
13 emailed the Claims Administrator asking that the Claims Administrator confirm whether
14 Defendant's records identify them as a Class Member. As of the date of filing this Objection, no
15 reply has been received.
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17 2. The Proposed Settlement is intended to benefit all Class Members, consistent with Federal
18 Rules of Civil Procedure and applicable law. Thus any such settlement must be a fair, adequate
19 and reasonable to those Class Members.
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21 3. The Court has preliminarily approved an agreement between Defendant and class
22 representatives to settle this matter (the "Proposed Settlement").

23 4. Objector has become sufficiently acquainted with the Proposed Settlement and believes, as
24 well as alleges, that the Proposed Settlement is not fair, adequate or reasonable, all of which
25 criteria are legal standards to be applied by this Court in determining whether to approve the
26 Proposed Settlement as presented to the Court by adverse litigating parties. It is the duty of this
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1 Court to assure itself, the class and the public that the applicable and governing criteria material
2 to the Proposed Settlement are present.

3 5. Objector, through undersigned counsel, now enters an appearance in this cause to participate
4 in further proceedings in this Court and to prosecute this action to the end purpose that any a
5 settlement or resolution proposed or approved by the Court is, in all respects, fair, adequate and
6 reasonable.
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8 6. On the basis of the information ascertained from the Proposed Settlement conditionally
9 approved by the Court, your Objector alleges that the Settlement as proposed is not fair,
10 adequate or reasonable due to the fact that it is apparent from the Notice and the Proposed
11 Settlement that Defendants have available information sufficient to identify all Class Members
12 and to compute with reasonable certainty the amount that each identified Class Member will
13 ultimately receive based on the allocation formula. This is obvious due to the fact that the
14 Defendant will provide this information to the Claims Administrator within ten (10) days after
15 the Settlement is approved. If Class Members were provided this information in the Notice they
16 would be able to ascertain what Defendant and Class Counsel already know, but have failed to
17 disclose. The formula disclosed in the Notice is meaningless to Class Members because it is
18 impossible to know the benefit that will be available to each Class member, without knowing the
19 estimate of Class Member's individual overcharges and the total of Class Member's Total
20 Overcharges (information which is acknowledged to be available but which is being hidden from
21 Class Members). It is imperative to understanding whether a proposed Settlement is fair,
22 adequate and reasonable that Class Members be able to ascertain what their actual benefit will be
23 and how this relates to actual overcharges. One can assume, because this information is being
24 kept from Class Members, that the \$20,000,000 fund (which will be reduced by \$5,000,000 for
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1 attorneys' fees alone) represents mere pennies on the dollar. As a result of Class Counsel and
2 Defendant's actions, not only is the Notice inadequate, but the Settlement can be presumed to be
3 totally inadequate and unreasonable in light of the total overcharges, which is known to Class
4 Counsel and Defendant, but which is being withheld from the Court and Class Members.
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6 7. The parties have not given putative class members sufficient information regarding the
7 terms of the settlement and have succeeded in making the settlement so opaque and complex as
8 to not be fully understood.

9 8. Objector objects to the requested attorneys' fees as being excessive.

10 9. Objector objects to the requested representative fee as being excessive.

11 10. Objector adopts any other bona fide Objections by other Class Members. For all the
12 foregoing reasons, Objector respectfully submits that the terms of the Proposed Settlement are
13 insufficient, unfair, unjust, unreasonable and inadequate to the absent Class Members.
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16 **WHEREFORE**, having demonstrated the unfairness, inadequacy and unreasonableness of
17 the Proposed Settlement, Objector requests appropriate general relief as follows:


- 18
19 (a.) That the Court not approve the Settlement as proposed.
20 (b.) That the Court not award the attorneys' fees as requested.
21 (c.) That the Court not grant the payments to class representatives.
22 (d.) That the Court enters such other further Orders as may be necessary and just, to
23 effect substantial justice in this cause between the parties and the absent Class Members.
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NOTICE OF APPEARANCE AND INTENT TO BE HEARD

1. Notice is hereby given that the undersigned counsel for Objector intends to appear on behalf of said Class Member/Objector at the Fairness Hearing scheduled on July 14, 2009 and requests to be heard. Any presentation will take no longer than 30 minutes.
2. For purposes of this proceeding said Class Member/Objector's address, phone number and contact information should be c/o undersigned counsel.

Respectfully submitted,


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CERTIFICATE OF SERVICE


I hereby certify that on the 9th day of July, 2009, I have forwarded a true and correct copy of the foregoing Objection and Notice of Intent to Appear via regular US mail delivery as shown below, to the following:

Clerk of the Court
United States District Court, Northern District of California
San Jose Division
United States Courthouse
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Steve A. Miller