

Case C 06-02057 JF

**DECLARATION OF GREGORY J. YU IN SUPPORT OF PLAINTIFFS'
ADMINISTRATIVE REQUEST UNDER LOCAL RULE 7-11**

Filed August 4, 2006

Declaration of Gregory J. Yu
Exhibit 1

1 Gregory J. Yu (State Bar No. 133955)
2 GLOBAL LAW GROUP
3 2015 Pioneer Court, Suite P-1
4 San Mateo, CA 94403
5 Telephone: (650) 570-4140
6 Facsimile: (650) 570-4142
7 E-mail: glgroup [at] inreach [dot] com

8 Attorney for Plaintiffs and Proposed Class and Subclasses

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

<p>11 KINDERSTART.COM LLC, a California 12 limited liability company, on behalf of itself and 13 all others similarly situated, 14 15 Plaintiffs, 16 17 v. 18 19 GOOGLE, INC., a Delaware corporation, 20 21 Defendant.</p>	<p>Case No. C 06-2057 JF DECLARATION OF GREGORY J. YU IN SUPPORT OF PLAINTIFF'S ADMINISTRATIVE REQUEST UNDER LOCAL RULE 7-11 REGARDING SCHEDULING, CASE MANAGEMENT, AND CONTENTS OF A PROPOSED SECOND AMENDED COMPLAINT</p>
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22 I, GREGORY J. YU, HEREBY DECLARE AS FOLLOWS:

23 1. I am legal counsel to plaintiff KinderStart.com LLC ("KSC") in the above action
24 and am authorized by my client to make this declaration in support of Plaintiff's administrative
25 request to continue tentatively scheduled September 29, 2006 hearing date in this action.

26 2. On July 20, 2006, I received an electronic mail from legal counsel to Defendant,
27 David H. Kramer, of Wilson, Sonsini, Goodrich & Rosati. He inquired about the timing of
28 Plaintiff's proposed Second Amended Complaint ("Proposed SAC") and decided to caution
plaintiffs about complying with Rule 11 of the Federal Rules of Civil Procedure when
considering and filing the Proposed SAC. On July 24, 2006, I e-mailed Mr. Kramer from
Virginia that I was there all week for a relative's funeral, and that I would respond after my
return on July 28, 2006.

1 3. Since the date of the filing and service of the First Amended Complaint (“FAC”)
2 on April 12, 2006, Plaintiffs have been receiving a stream of inquiries and information that
3 constitute and support fresh factual allegations underlying certain of Plaintiffs’ Counts as first
4 alleged in the FAC. Around and after the date of the June 30, 2006 hearing date, the following
5 are samples of recent developments that require proper and complete diligence by Plaintiffs.

6 a) On or about June 20, 2006, Plaintiffs received information from a person
7 outside of Defendant concerning various penalty practices visited upon Websites
8 previously and presumably indexed by Defendant. This is under further investigation
9 and evaluation.

10 b) On July 14, 2006, Plaintiffs received information from a Bay Area
11 marketing executive that Defendant could, did, and continues to, guarantee a #1 ranked
12 listing under search results for certain key words under certain conditions having nothing
13 to do with the normal operation of Defendant’s search engine and the PageRank
14 algorithm. This is under investigation.

15 c) One of the allegations in the FAC was that Defendant is a state actor. On
16 July 19, 2006, I received an e-mailed response from a federal agency pursuant to an
17 FOIA-type request dated July 6, 2006. The agency communication stated that that it
18 would require 20 days to respond, which would be August 11, 2006.

19 d) A witness in the Northeast United States with information on affected
20 Websites has been finally reached by Plaintiffs’ investigator. This information needs to
21 be verified for possible inclusion in the Proposed SAC.

22 With the above items as well as other items, Plaintiffs have been and are exercising due
23 diligence to properly evaluate and verify such information received in preparation of the
24 Proposed SAC. The ongoing investigation and evaluation is expected to be completed within
25 the next 60 days.

26 4. On August 2, 2006, Mr. Kramer telephoned me about the status of the proposed
27 SAC and we discussed continuing the tentative calendared date of September 29, 2006 for the
28 case management conference and the hearing of any further motions noticed by Defendant

1 following the Proposed SAC. He entertained the possibility of a deadline for the Proposed SAC
2 of September 15, 2006, and extending the hearing date out until December 15, 2006, subject to
3 conferring with Defendant. By e-mail on August 3, 2006, I proposed to Mr. Kramer an
4 alternative schedule leading up to a hearing date of December 1, 2006 and offered to prepare a
5 stipulation to this effect. Later that afternoon, on behalf of Defendant, Mr. Kramer by e-mail
6 declined this stipulation and proposal in their entirety. Instead, he requested that by today's date
7 Plaintiffs confirm that they would file the Proposed SAC by August 11, 2006.

8 I DECLARE UNDER PENALTY OF PERJURY, that the above is true and correct and
9 based on my personal knowledge.

10 Executed on this 4th day of August, 2006 in San Mateo, California.

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By: s/s Gregory J. Yu
GREGORY J. YU