## KinderStart.com LLC v. Google, Inc.

C 06-2057 JF

## EXHBIT 3

Request for Judicial Notice In support of Plaintiff's Motion for Sanctions Against Google, Inc. and its Legal Counsel under Rule 11

	Case 5:06-cv-02057-JF D	Ocument 69-4	Filed 11/16/2006	Page 2 of 3
1 2 3 4 5 6 7	Gregory J. Yu (State Bar No. 133955) GLOBAL LAW GROUP 2015 Pioneer Court, Suite P-1 San Mateo, CA 94403 Telephone: (650) 570-4140 Facsimile: (650) 570-4142 E-mail: glgroup [at] inreach [dot] com Attorney for Plaintiffs and Proposed Class and Subclasses			
8	UNITED STATES DISTRICT COURT			
9	NORTHERN DISTRICT OF CALIFORNIA			
10	SAN JOSE DIVISION			
11 12		DERSTART.COM LLC, a California ed liability company, on behalf of itself and thers similarly situated,	REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF PLAINTIFF'S MOTION FOR SANCTIONS AGAINST GOOGLE, INC. AND ITS LEGAL COUNSEL DAVID H. KRAMER UNDER FED. R.	
13	Plaintiffs,			
14	v.			
15	GOOGLE, INC., a Delaware corporation,			
16 17	Defendant.			
<ol> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> <li>26</li> <li>27</li> <li>28</li> </ol>	<ul> <li>Plaintiff KinderStart.com LLC ("KinderStart"), by and through its attorney,</li> <li>requests the Court to take judicial notice pursuant to Federal Rule of Evidence 201</li> <li>following facts and items: <ol> <li>Attached hereto is a true and correct copy of the FTC Consumer Alert</li> </ol> </li> <li>Frank about Search Engine Rank," September 2002. <ol> <li>Attached hereto is a true and correct copy of Home Page of the officia</li> </ol> </li> <li>the United States Court of Appeals for the Tenth Circuit, visited on October 19, 200</li> <li><a href="http://www.ck10.uscourts.gov">http://www.ck10.uscourts.gov</a>.</li> <li>Rule 201 provides in part that a "judicially noticed fact must be one not sub</li> </ul>			

sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b). "A court shall
 take judicial notice if requested by a party and supplied with the necessary information." *Id.*,
 201(d).

4 In this circuit, a district court has taken judicial notice for Web pages to a government 5 agency website containing rules and regulations. Jenkel v. City & County of San Francisco, 6 2006 U.S. Dist. LEXIS 49923, at 5 n.3 (Jul. 21, 2006) (court took notice of the web page for the 7 Rules Committee of the San Francisco Board of Supervisors). Here, plaintiffs are requesting 8 recognition of the Tenth Circuit's practice of releasing both published and unpublished 9 decisions. This is relevant because the case cited by Google, Search King v. Google, Inc., out of 10 the Western District of Oklahoma is within the Tenth Circuit. Accordingly, certain cases within 11 this circuit do have precedential value and are citable because of they are selected for publication 12 within the official reporter. Other cases are not so published and as a general rule are not cited 13 to the court for consideration. Search King falls into such class as an unpublished opinion not appearing in the official reporter. 14 15 As to releases and rules of the Federal Trade Commission, the Ninth Circuit has taken 16 notice pursuant to Rule 201. Romine v. Diversified Collection Servs., 155 F.3d 1142, 1146 (9th 17 Cir. 1998) (court took notice of an FTC staff letter on the meaning of a statutory term). It is 18

therefore proper to take judicial notice of the attached FTC Consumer Alert. The contents are
relevant because it highlights the industry practice among certain search engines that adjust or
rank listings according to payment from websites or URLs.

21 Dated: October 19, 2006 GLOBAL LAW GROUP 22 23 By: /s/ Gregory J. Yu Gregory J. Yu, Esq. 24 Attorney for Plaintiff KinderStart.com LLC and for the proposed Class and Subclasses 25 26 27 28 REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF PLAINTIFFS' MOTION FOR

SANCTIONS AGAINST GOOGLE UNDER RULE 11 -2-