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E-Filed 1/22/2007

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

KINDERSTART.COM, LLC, on behalf of itself
and all others similarly situated,

Plaintiffs,

v.

GOOGLE INC.,

Defendant.

Case Number C 06-2057 JF (RS)

ORDER¹ RE MOTION FOR
SANCTIONS

[re: docket no. 60]

Defendant Google Inc. (“Google”) moves for sanctions under Fed. R. Civ. P. 11 against KinderStart.Com, LLC (“KinderStart”) and its counsel Gregory J. Yu (“Yu”). Google asserts that three types of allegations in KinderStart’s operative Second Amended Complaint (“SAC”) are sanctionable: (i) allegations that Google skews its search results and reserves top placement for entities that compensate Google; (ii) allegations that Google represents that it will always display a notice when it removes a listing from its search results, but does not do so; and (iii) allegations that Google removes certain websites from its search engine results and lowers PageRanks for political and religious reasons. Google Motion 1-2.

¹ This disposition is not designated for publication and may not be cited.

1 KinderStart provides Yu's declaration in opposition to the motion. Yu describes his
2 investigation preceding the filing of the SAC. Specifically, Yu declares that

3 [t]he allegations in the SAC that a top search listing was guaranteed by Google in
4 exchange for consideration are indeed supported by investigation by me prior to
5 the filing of the SAC on September 1, 2006. I twice personally interviewed a
6 witness who received such an admission from the CEO of a Website that received
7 a top listing from Google for delivering consideration to Google.

8 Yu Declaration in Opposition to Google Motion ¶ 5. Yu also declares:

9 I affirm that I personally conducted investigation underlying the allegations
10 related to discrimination of search results and Website blockage on political and
11 religious grounds in SAC ¶¶ 99, 166, 167 and 257. As to political grounds, I
12 consulted two different Websites that took controversial political stands and faced
13 punishment as a result by Google. As to religious grounds, I personal [sic]
14 investigated how a certain religious sect faced a loss of traffic and referrals from
15 Google.

16 Overall, in repeated instances in my investigation behind the allegations set forth
17 in the SAC, potential class members and witnesses expressed fear of retaliation
18 for exposing their identity and that of their Websites to Defendant Google. Given
19 that there is a stay on discovery and any subpoenas by KinderStart, specific details
20 are limited as to what search results based on key words are being sold for
21 consideration, what and when censorship is to be disclosed by Google, and how
22 and why certain sites carrying various political and religious content are
23 inequitably being punished and isolated from search or view by users.

24 *Id.* ¶¶ 3-4.

25 For the reasons stated on the record during oral argument on January 19, 2007, the Court
26 seeks greater detail regarding the allegations pertaining to the sale of search result position and
27 the removal of certain websites from search results and the lowering of PageRanks for religious
28 or political reasons. In particular, the Court seeks the following information from Yu:

- 29 1. The identity of the parties who allege that Google has removed certain websites from its
30 search results and lowered PageRanks for religious or political reasons, or that Google
31 has received compensation for improved positions in search results;
- 32 2. The time, place, and manner of Yu's interviews with these parties;
- 33 3. The specific content of the allegations that these parties make against Google, including
34 the date and manner in which the alleged conduct occurred, and the parties' bases for
35 believing their accusations to be true.

36 Yu is directed to provide this information in the form of declarations from the individuals that he
37 interviewed. The declarations shall be submitted to the Court *in camera* within fifteen days of
38

1 the issuance of this order.

2 After the Court has received and reviewed the materials, it will determine whether to
3 impose Rule 11 sanctions and will issue an appropriate order.

4 IT IS SO ORDERED.

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6 DATED: January 22, 2007.

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10 JEREMY FOGEL
11 United States District Judge
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1 This Order has been served upon the following persons:

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