

1 DAVID H. KRAMER, State Bar No. 168452  
 2 WILSON SONSINI GOODRICH & ROSATI  
 3 Professional Corporation  
 4 650 Page Mill Road  
 5 Palo Alto, CA 94304-1050  
 6 Telephone: (650) 493-9300  
 7 Facsimile: (650) 565-5100  
 8 DKramer@wsgr.com

9 JONATHAN M. JACOBSON, N.Y. State Bar No. 1350495  
 10 WILSON SONSINI GOODRICH & ROSATI  
 11 Professional Corporation  
 12 1301 Avenue of the Americas, 40th Floor  
 13 New York, NY 10019-6022  
 14 Telephone: (212) 999-5800  
 15 Facsimile: (212) 999-5899  
 16 JJacobson@wsgr.com

17 Attorneys for Defendant  
 18 Google Inc.

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE DIVISION

19 CARL E. PERSON,  
 20 Plaintiff,  
 21 v.  
 22 GOOGLE INC.,  
 23 Defendant.

) CASE NO.: C 06-7297 JF (RS)  
 )  
 ) **DECLARATION OF DAVID H.**  
 ) **KRAMER IN OPPOSITION TO**  
 ) **PLAINTIFF PERSON'S**  
 ) **ADMINISTRATIVE MOTION**

) Before: Hon. Jeremy Fogel  
 )  
 )  
 )  
 )  
 )  
 )

1 I, David H. Kramer, declare as follows:

2 1. I am a partner with Wilson Sonsini Goodrich & Rosati (“WSGR”) and counsel of  
3 record for Defendant Google Inc. (“Google”) in this action. The following facts are true of my  
4 personal knowledge and if called and sworn as a witness, I could and would testify competently  
5 to them.

6 2. This action was originally filed by Plaintiff Carl Person in the United States  
7 District Court of the District of New York. A true and correct copy of the docket sheet for the  
8 action, retrieved from PACER, is attached hereto as Exhibit A.

9 3. Attached hereto as Exhibit B are excerpts from Person’s Opposition to Google’s  
10 original Motion to Dismiss the action which reflect his first amendment of his Complaint. Judge  
11 Patterson in New York subsequently twice denied Mr. Person’s request to further amend his  
12 Complaint. *See* Docket Nos. 18 and 19 in Exhibit A. Without ruling on the substance of  
13 Google’s motion, he transferred the case to this Court based on the forum selection clause in the  
14 parties’ Agreement.

15 4. Attached hereto as Exhibit C is a true and correct copy of an email Person sent to  
16 our firm on October 15, 2006, acknowledging that Judge Patterson had denied his request to  
17 further amend and that Judge Patterson had ruled that Person had previously amended his  
18 Complaint. In his email, Mr. Person asked that Google consent to further amendments of the  
19 Complaint. Google rejected the request, believing that the proposed amendments were frivolous.

20 5. After Judge Patterson transferred this action to this Court, the Court set a March  
21 2, 2007 date for a case management conference. On January 24, I sent an email to Mr. Person  
22 regarding Google’s intent to renew Google’s Motion to Dismiss on March 2, 2007. A copy of  
23 my message is attached hereto as Exhibit D. Mr. Person did not respond to the message.  
24 Accordingly, on January 25, 36 days before the March 2, 2007 hearing date, Google  
25 electronically filed its renewed Motion to Dismiss. That same day, Google faxed a copy of its  
26 motion to Mr. Person, and sent an additional copy to him via U.S. Mail.

27  
28

