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19
20 **UNITED STATES DISTRICT COURT**

21 **NORTHERN DISTRICT OF CALIFORNIA**

22 DAVID ALMEIDA, individually and on
behalf of all others similarly situated,

23 Plaintiff,

24 vs.

25 GOOGLE, INC., a Delaware Corporation,

26 Defendants.
27
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CASE NO. 08-CV-02088

Judge: Hon. Ronald M. Whyte

**DECLARATION OF WILLEM F.
JONCKHEER IN SUPPORT OF JOINT
OPPOSITION TO GOOGLE'S
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES SHOULD
BE RELATED PURSUANT TO CIVIL
LOCAL RULE 3-12**

1 1. I am an attorney duly licensed by the State of California and am admitted to practice before
2 this Court. I am a partner at Schubert Jonckheer Kolbe & Kralowec LLP, attorneys of record for plaintiff in
3 *Levitte v. Google, Inc.*, Case No. C 08-03369 JW (“*Levitte*”). I make this declaration in support of the Joint
4 Opposition to Google’s Administrative Motion to Consider Whether Cases Should Be Related filed on
5 behalf of plaintiffs in *Levitte, RK West, Inc. v. Google, Inc.*, Case No. C 08-03452 (“*RK West*”), and
6 *Pulaski & Middleman, LLC v. Google, Inc.*, Case No. C 08-03888 SI (“*Pulaski*”). The matters set forth
7 herein are of my own personal knowledge, and if called and sworn as a witness I could competently testify
8 regarding them.

9 2. Attached hereto as Exhibit 1 is a true and correct copy of a complaint captioned *Almeida v.*
10 *Google, Inc.*, Case No. 08-CV-02088 (“*Almeida*”) filed in the Northern District of California, pending
11 before Judge Whyte.

12 3. Attached hereto as Exhibit 2 is a true and correct copy of a complaint captioned *Levitte v.*
13 *Google, Inc.*, Case No. 08-CV-03369 filed in the Northern District of California, pending before Judge
14 Ware.

15 4. Attached hereto as Exhibit 3 is a true and correct copy of a complaint captioned *RK West,*
16 *Inc. v. Google, Inc.*, Case No. 08-CV-03452 filed in the Northern District of California, pending before the
17 Judge Whyte.

18 5. Attached hereto as Exhibit 4 is a true and correct copy of a complaint captioned *Pulaski &*
19 *Middleman, LLC v. Google, Inc.*, Case No. 08-CV-03888 filed in the Northern District of California,
20 pending before Judge Ilston.

21 6. Attached hereto as Exhibit 5 is a true and correct copy of a complaint captioned *CLRB*
22 *Hanson Ind. v. Google, Inc.*, Case No. 05-CV-03649-JW, pending before Judge Ware.

23 7. *Levitte, RK West* and *Pulaski* are all putative class actions on behalf of Google AdWords
24 customers who assert claims arising from the “parked domain” aspect of the AdWords program.

25 8. *Almeida* is a putative class action on behalf of Google AdWords customers who assert
26 claims arising from the “CPC content bid” aspect of the AdWords program.

1 9. On August 29, 2008, *RK West* filed an administrative motion asking the Court to consider
2 whether *Levitte*, *RK West* and *Pulaski* are related cases.

3 10. On September 2, 2008, *Pulaski* filed an administrative motion asking the Court to consider
4 whether *Levitte*, *RK West* and *Pulaski* are related cases.

5 11. On September 3, 2008, *Levitte* filed an administrative motion asking the Court to consider
6 whether *Levitte*, *RK West* and *Pulaski* are related cases.

7 12. On September 4, 2008, Google filed an Opposition to *RK West*'s administrative motion
8 concurrently with its own administrative motion asking the Court to consider whether *Almeida*, *Levitte*, *RK*
9 *West* and *Pulaski* are related cases.

10 13. On September 8, 2008, Google filed a Consolidated Opposition to *Levitte*'s and *Pulaski*'s
11 administrative motions.

12 14. Plaintiffs and Google all agree that *Levitte*, *RK West* and *Pulaski* are related cases.

13 15. Google bases its argument for relating the four putative class actions on the fact that each
14 involves the AdWords program. However, as explained in the accompanying memorandum, Google fails to
15 address, in both its opposition and administrative motion, how the parked domain aspect of AdWords at
16 issue in *Almeida* can logically be said to be substantially similar to the parked domain aspect of AdWords
17 at issue in *Levitte*, *RK West* and *Pulaski*.

18 16. Google argues that *Almeida* is the low-numbered case for purposes of the local rule.
19 However, because *Almeida* does not deal with the substantially the same parties as those in *Levitte*, *RK*
20 *West*, and *Pulaski*, and because the issues in *Almeida* do not arise from a substantially similar transaction or
21 event as those in the other three putative class actions, the low-numbered cases for purposes of relating is
22 the *Levitte* case, and not *Almeida*. Therefore, if the Court relates *Levitte*, *RK West*, and *Pulaski*, then the
23 appropriate Judge to hear the cases is Judge Ware, and not Judge Whyte.

24 I declare under penalty of perjury under the laws of the United States that the foregoing is true and
25 correct. Executed this 9th day of September, 2008 at San Francisco, California.

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/s/ Willem F. Jonckheer

Willem F. Jonckheer