

EXHIBIT A

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6 Attorneys for Defendant
GOOGLE INC., a Delaware corporation

7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION
11

12 DAVID ALMEIDA, individually and on
13 behalf of all others similarly situated,
14 Plaintiff,

15 v.

16 GOOGLE, INC., a Delaware corporation; and
DOES 1 through 10, inclusive,
17 Defendants.
18

Case No. C 08-02088 RMW

**DEFENDANT GOOGLE INC.'S
OBJECTIONS AND RESPONSES TO
PLAINTIFF'S FIRST SET OF
INTERROGATORIES**

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20 REQUESTING PARTY: PLAINTIFF DAVID ALMEIDA
21 RESPONDING PARTY: DEFENDANT GOOGLE, INC.
22 SET NO.: ONE
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1 Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Defendant Google
2 Inc. ("Google") responds and objects to Plaintiff's First Set of Interrogatories as follows:

3 **GENERAL OBJECTIONS**

4 Google makes the following General Objections to Plaintiff's First Set of Interrogatories,
5 which apply to each Interrogatory regardless of whether the General Objections are specifically
6 incorporated in the Specific Objections and Responses below:

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8 1. Google objects to the requests to the extent that they seek information that was
9 prepared in anticipation of litigation, constitutes attorney work product, discloses mental
10 impressions, conclusions, opinions or legal theories of any attorney for or other representative of
11 Google, contains privileged attorney-client communications, or is otherwise protected from
12 disclosure by any other privileges, immunities, laws, or rules. Any disclosure of such protected
13 or privileged information is inadvertent and shall not be construed as a waiver of those privileges
14 or protections. Google reserves the right to correct the record with regard to any such
15 inadvertent disclosure.

16 2. Google objects to Plaintiff's First Set of Interrogatories and the Definitions and
17 Instructions attached thereto to the extent they purport to impose upon Google duties and/or
18 responsibilities greater than those imposed by the Federal Rules of Civil Procedure, the local
19 rules and any orders of the presiding Court, or other applicable law. Google will comply with its
20 obligations under the Rules and the law, which Plaintiff has no authority to increase or alter.

21 3. Google objects to each request to the extent that it seeks information protected
22 from discovery by the right to privacy or any other applicable privilege, including the right to
23 privacy of third parties, or by Google's obligations under applicable law to protect such
24 confidential information.

25 4. Google objects to each request to the extent that it seeks the disclosure of
26 confidential, proprietary, or trade-secret information. Google will provide such information only
27 pursuant to an appropriate protective order.

28 5. Google objects to each request to the extent that it calls for a legal conclusion.

1 6. Google objects to these requests to the extent that they are compound.

2 7. Google objects to each definition, instruction or request to the extent that it seeks
3 documents or information (1) not currently in Google's possession, custody, or control; (2) that
4 Google cannot locate after a reasonably diligent search; or (3) that refer to persons, entities, or
5 events not known to Google. Such instructions, definitions, or requests are objectionable where
6 they seek to require more of Google than any obligation imposed by the Federal Rules of Civil
7 Procedure; subject Google to unreasonable and undue annoyance, oppression, burden, and
8 expense; and/or seek to impose upon Google an obligation to investigate or discover information
9 or materials from sources equally accessible to Plaintiffs.

10 8. Google objects to the requests to the extent that they are unduly burdensome,
11 overly broad, oppressive, calls for information that is neither relevant to any issue in the above-
12 captioned litigation nor reasonably calculated to lead to the discovery of admissible evidence,
13 and/or constitutes an abuse of process in view of the cost necessary to investigate and/or identify
14 information weighed against Plaintiff's need for such information.

15 9. Google objects to each request, to the extent that it is vague, ambiguous, or
16 confusing, by failing to adequately define terms or by failing to describe the documents or
17 information sought with reasonable particularity. Google objects to the requests and definitions,
18 to the extent that they purport to attribute any special or unusual meaning to any terms or phrases
19 on the ground that such enlargement, expansion, or alteration renders such a term or request
20 vague, ambiguous, unintelligible, overly broad, unduly burdensome, and/or uncertain.

21 10. Google objects to the requests to the extent that each request is duplicative of
22 another request.

23 11. Consistent with Rule 33(d) of the Federal Rules of Civil Procedure, Google
24 objects to providing responses to requests that can be derived from documents that have or will
25 be produced (when requested in compliance with Rules 26 and 34) and where the burden to
26 derive such information is substantially the same for Plaintiff as it is for Google.

27 12. Google objects to the requests to the extent that they seek to restrict the facts,
28 witnesses, and evidence on which Google may rely on at trial. By responding and objecting to

1 these interrogatories, Google does not intend to, and does not, limit the evidence on which it may
2 rely to support its contentions and defenses at trial, or to rebut or impeach contentions,
3 assertions, and evidence presented by Plaintiffs.

4 13. Google objects to the requests to the extent that they seek information to which
5 Plaintiff already has access, or information that is publicly available.

6 14. Google objects to the definition of "Google," "You," and "Your," to the extent
7 that it improperly expands the scope of discovery by seeking information and documents that are
8 not currently in the possession, custody, or control of Google. Google responds on behalf of
9 itself and no other person or entity. Google also objects to this definition to the extent the
10 definition purports to include Google's outside counsel, and to the extent the definition purports
11 to include "agents," "representatives," "all persons" or "other persons acting or purporting to
12 act," because those phrases are vague and overbroad. Google also objects to the extent that this
13 definition purports to include counsel as "agents" of Google.

14 15. Google objects to the definition of "Third Party" to the extent that it improperly
15 expands the scope of discovery by seeking information and documents that are not currently in
16 the possession, custody, or control of Google.

17 16. Google objects to the definition of "AdWords Customer" to the extent that it
18 purports to include the term "established" on the ground that the term "established" is vague,
19 ambiguous and overbroad. In addition, Google objects to the definition of "AdWords Customer"
20 as overbroad to the extent it includes customers yet unknown to Google.

21 17. Google further objects to the extent that the requests seek a complete and
22 exhaustive response regarding any issue in this litigation, before discovery has been completed.
23 Any responses Google makes to any proper discovery requests by Plaintiffs will remain at all
24 times subject to additional or different information that discovery or further investigation,
25 analysis, or recollection may disclose. Accordingly, Google reserves the right to amend or
26 supplement its objections and responses.

27 18. Google's responses are made based on its understanding and interpretation of
28 each request. Google reserves the right to supplement its objections and responses should

1 Plaintiffs subsequently put forth an interpretation of any request that differs from that of Google.

2 19. Google reserves the right to make any use of, or to introduce at any hearing or
3 trial, information that bears on Google's responses to these requests, but discovered subsequent
4 to Google's responses herein.

5 20. The responses below shall not be construed as an admission as to the relevance or
6 admissibility of any statement or characterization contained in any request. The fact that Google
7 has answered part or all of any Request is not intended to be, and shall not be construed as, a
8 waiver by Google of any part of any objection to any Request. Google reserves all objections,
9 including without limitation objections as to competency, relevance, materiality, privilege,
10 authenticity, or admissibility.

11 21. Google reserves the right to object on any ground at any time to such other or
12 supplemental discovery requests as Plaintiffs may propound involving or relating to the same
13 subject matter of these requests.

14 **SPECIFIC RESPONSES AND OBJECTIONS**

15 **INTERROGATORY NO. 1:**

16 Identify the date when You first permitted AdWords Customers to separately set Content
17 Bids.

18 **RESPONSE TO INTERROGATORY NO. 1:**

19 Google incorporates by reference its general objections stated above. Subject to the
20 foregoing objections, and without waiving them, Google responds as follows:

21 In or around November 2005, Google launched a feature that permitted AdWords
22 advertisers who chose to enable the feature to set a separate CPC Content Bid.

23 **INTERROGATORY NO. 2:**

24 Identify the date when You first included a CPC Content Bid Input on the Signup
25 Bidding Page.

26 **RESPONSE TO INTERROGATORY NO. 2:**

27 Google incorporates by reference its general objections stated above. Subject to the
28 foregoing objections, and without waiving them, Google responds as follows:

1 In or around October 2007, Google launched an experimental program under which
2 some—but not all—AdWords customers viewed a CPC Content Bid Input on the Signup
3 Bidding Page.

4 **INTERROGATORY NO. 3:**

5 Identify the number of AdWords Customers within the United States for each month and
6 year from the date identified in Interrogatory No. 2 up to and including the present who initiated
7 one or more AdWords Campaigns where the AdWords Customer left the CPC Content Bid Input
8 blank on the Signup Bidding Page.

9 **RESPONSE TO INTERROGATORY NO. 3:**

10 Google incorporates by reference its general objections stated above. In particular,
11 Google objects that this Interrogatory is overly broad and extremely burdensome. Google further
12 objects that this Interrogatory calls for confidential, commercially sensitive, proprietary
13 information which Google will not disclose without an appropriate protective order. Google is
14 willing to meet and confer with Plaintiff about an appropriate response to this Interrogatory.

15 **INTERROGATORY NO. 4:**

16 Identify the number of AdWords Customers within the United States for each month and
17 year from the date identified in Interrogatory No. 2 up to and including the present who initiated
18 one or more AdWords Campaigns where the AdWords Customer left the CPC Content Bid Input
19 blank on the Signup Bidding Page and where the AdWords Customer was charged for clicks that
20 those ads received on Content Network sites.

21 **RESPONSE TO INTERROGATORY NO. 4:**

22 Google incorporates by reference its general objections stated above. In particular,
23 Google objects that this Interrogatory is overly broad and extremely burdensome. Google further
24 objects that this Interrogatory calls for confidential, commercially sensitive, proprietary
25 information which Google will not disclose without an appropriate protective order. Google is
26 willing to meet and confer with Plaintiff about an appropriate response to this Interrogatory.

27 **INTERROGATORY NO. 5:**

28 Identify the number of AdWords Campaigns for each month and year from the date

1 identified in Interrogatory No. 2 up to and including the present that were initiated by AdWords
2 Customers located within the United States and where the AdWords Customer left the CPC
3 Content Bid Input blank on the Signup Bidding Page.

4 **RESPONSE TO INTERROGATORY NO. 5:**

5 Google incorporates by reference its general objections stated above. In particular,
6 Google objects that this Interrogatory is overly broad and extremely burdensome. Google further
7 objects that this Interrogatory seeks information that is not reasonably calculated to lead to
8 discovery of admissible evidence. Google further objects that this Interrogatory calls for
9 confidential, commercially sensitive, proprietary information which Google will not disclose
10 without an appropriate protective order. Google is willing to meet and confer with Plaintiff
11 about an appropriate response, if any, to this Interrogatory.

12 **INTERROGATORY NO. 6:**

13 Identify the total amount charged to AdWords Customers within the United States for
14 each month and year from the date identified in Interrogatory No. 2 up to and including the
15 present for clicks that AdWords ads received on Content Network sites where the AdWords
16 Customer left the CPC Content Bid Input blank for those ads.

17 **RESPONSE TO INTERROGATORY NO. 6:**

18 Google incorporates by reference its general objections stated above. In particular,
19 Google objects that this Interrogatory is overly broad and extremely burdensome. Google further
20 objects that this Interrogatory calls for confidential, commercially sensitive, proprietary
21 information which Google will not disclose without an appropriate protective order. Google is
22 willing to meet and confer with Plaintiff about an appropriate response to this Interrogatory.

23 **INTERROGATORY NO. 7:**

24 Identify the number of AdWords Customers within the United States for each month and
25 year from the date identified in Interrogatory No. 2 up to and including the present who initiated
26 one or more AdWords Campaigns where the AdWords Customer set the CPC Content Bid Input
27 on the Signup Bidding Page to zero.

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1 **RESPONSE TO INTERROGATORY NO. 7:**

2 Google incorporates by reference its general objections stated above. Subject to the
3 foregoing objections, and without waiving them, Google responds as follows:

4 If an Adwords customer attempted to set the CPC Content Bid Input on the Signup
5 Bidding Page to zero, he received a message instructing him to set the bid to a value greater than
6 zero.

7 **INTERROGATORY NO. 8:**

8 Identify the number of AdWords Customers for each month and year from the date
9 identified in Interrogatory No. 2 up to and including the present who changed their Content
10 Network bid to zero or opted out of the Content Network after being charged for clicks that
11 AdWords ads received on Content Network sites where the AdWords Customer left the CPC
12 Content Bid Input blank on the Signup Bidding Page.

13 **RESPONSE TO INTERROGATORY NO. 8:**

14 Google incorporates by reference its general objections stated above. In particular,
15 Google objects that this Interrogatory is overly broad and extremely burdensome. Google further
16 objects that this Interrogatory calls for confidential, commercially sensitive, proprietary
17 information which Google will not disclose without an appropriate protective order. Google is
18 willing to meet and confer with Plaintiff about an appropriate response to this Interrogatory.

19 **INTERROGATORY NO. 9:**

20 Identify and describe the procedure or procedures, as they existed during the month of
21 November 2006, by which You set the Content Bid and the cost-per-click charged to AdWords
22 Customers for clicks to AdWords ads placed on the Content Network when the AdWords
23 Customer had left the CPC Content Bid Input blank.

24 **RESPONSE TO INTERROGATORY NO. 9:**

25 Google incorporates by reference its general objections stated above. In particular,
26 Google objects that this Interrogatory is not reasonably calculated to lead to discovery of
27 admissible evidence, since it asks about procedures that were in place during a specific period
28 (the month of November 2006) that is before the CPC Content Bid Input appeared on the Signup

1 Bidding Page, which is the subject of Plaintiff's Complaint.

2 **INTERROGATORY NO. 10:**

3 Identify any and all changes made to the procedure or procedures identified in
4 Interrogatory No. 9, and the date(s) when these changes were implemented, regardless of
5 whether those changes occurred prior to or subsequent to November 2006.

6 **RESPONSE TO INTERROGATORY NO. 10:**

7 Google incorporates by reference its general objections stated above. In particular,
8 Google objects that this Interrogatory is overly broad and not reasonably calculated to lead to
9 discovery of admissible evidence to the extent it asks about procedures that were in place before
10 the CPC Content Bid Input appeared on the Signup Bidding Page. Subject to the foregoing
11 objections, and without waiving them, Google responds as follows:

12 Since October 2007, if an AdWords customer did not set a specific content bid for ads
13 running on the content network, his bid was set to "Auto" by default. Auto bids are based on an
14 average of all keyword cost-per-click ("CPC") bids, including default ad group CPCs and
15 individual keyword CPCs, for the ad group. The customer can change this automatic bid, or opt
16 out of the content network altogether, at any time. To determine the cost-per-click charged,
17 Google uses data available to it to discount the cost of content network clicks based on their
18 effectiveness compared to a search click. Thus, for example, if Google's data shows that a click
19 from a content page is less likely to turn into actionable business results—such as online sales,
20 registrations, phone calls, or newsletter signups—it reduces the price that the customer pays for
21 that click.

22 **INTERROGATORY NO. 11:**

23 Identify and describe the procedure or procedures, if any, as they existed during the
24 month of November 2006, by which AdWords Customers could opt-out during the Advertising
25 Campaign Creation Process from having AdWords ads placed on the Content Network.

26 **RESPONSE TO INTERROGATORY NO. 11:**

27 Google incorporates by reference its general objections stated above. In particular,
28 Google objects that this Interrogatory is not reasonably calculated to lead to discovery of

1 admissible evidence, since it asks about procedures that were in place during a specific period
2 (the month of November 2006) that is before the CPC Content Bid Input appeared on the Signup
3 Bidding Page, which is the subject of Plaintiff's Complaint.

4 **INTERROGATORY NO. 12:**

5 Identify and describe any and all changes made to the procedure or procedures identified
6 in Interrogatory No. 11, and the date(s) when these changes were implemented, regardless of
7 whether those changes occurred prior to or subsequent to November 2006.

8 **RESPONSE TO INTERROGATORY NO. 12:**

9 Google incorporates by reference its general objections stated above. In particular,
10 Google objects that this Interrogatory is overly broad and not reasonably calculated to lead to
11 discovery of admissible evidence to the extent it asks about procedures that were in place before
12 the CPC Content Bid Input appeared on the Signup Bidding Page. Subject to the foregoing
13 objections, and without waiving them, Google responds as follows:

14 At all relevant times, AdWords customers have been free to turn the content network
15 "off" by following simple and clear procedures after an ad campaign has been created, but
16 generally not during the Advertising Campaign Creation Process itself. In some contexts,
17 however, the customer could do so during the Campaign Creation Process such as when an
18 advertiser created a new campaign that matched the settings of an existing campaign, where the
19 content network was turned "off" in the existing campaign. In addition, for a small number of
20 current advertisers involved in a beta test, the initial campaign creation and the choice of
21 settings, including the option to opt out of the content network, appear on the same page.

22 **INTERROGATORY NO. 13:**

23 Identify and describe any procedure or procedures, if any, by which You track complaints
24 from and/or provide refunds to AdWords Customers who were charged for clicks to AdWords
25 ads placed on the Content Network but who left the CPC Content Bid Input blank.

26 **RESPONSE TO INTERROGATORY NO. 13:**

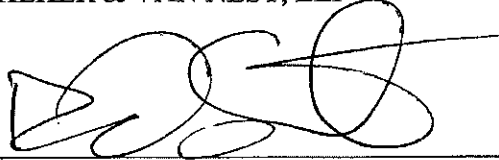
27 Google incorporates by reference its general objections stated above. In particular,
28 Google objects to this Interrogatory as compound, since it calls for answers to multiple discrete

1 questions or subparts. Google further objects to this Interrogatory to the extent that it seeks
2 information protected by the attorney-client privilege and/or work product doctrine. Google also
3 objects to this Interrogatory as overly broad to the extent it seeks information about procedures
4 in place before the CPC Content Bid Input appeared on the Signup Bidding Page, which is the
5 subject of Plaintiff's Complaint. Subject to the foregoing objections, and without waiving them,
6 Google responds as follows:

7 Google tracks certain advertising-related contacts in a database that *may* contain emails
8 (which may or may not be "complaints") from customers who were charged for clicks on the
9 content network after they left the CPC Content Bid Input on the Signup Bidding Page blank.
10 Other contacts about that subject, including, for example, any telephonic contacts, may or may
11 not be tracked. When requests for refunds are received, they are evaluated on a case-by-case
12 basis.

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14 Dated: December 5, 2008

KEKER & VAN NEST, LLP

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16 By: 

17 DAVID J. SILBERT
18 Attorneys for Defendant
19 GOOGLE, INC., a Delaware corporation
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1 PROOF OF SERVICE

2 I am employed in the City and County of San Francisco, State of California in the office of a
3 member of the bar of this court at whose direction the following service was made. I am over the
4 age of eighteen years and not a party to the within action. My business address is Kecker & Van
Nest, LLP, 710 Sansome Street, San Francisco, California 94111.

5 On December 5, 2008, I served the following document(s):

6 **DEFENDANT GOOGLE, INC.'S OBJECTIONS AND RESPONSES TO**
7 **PLAINTIFF'S FIRST SET OF INTERROGATORIES**

8 by E-MAIL VIA PDF FILE, by transmitting on this date via e-mail a true and correct copy
9 scanned into an electronic file in Adobe "pdf" format. The transmission was reported as
complete and without error

10 and

11 by regular UNITED STATES MAIL by placing a true and correct copy in a sealed envelope
12 addressed as shown below. I am readily familiar with the practice of Kecker & Van Nest, LLP
13 for collection and processing of correspondence for mailing. According to that practice, items
14 are deposited with the United States Postal Service at San Francisco, California on that same
15 day with postage thereon fully prepaid. I am aware that, on motion of the party served, service
is presumed invalid if the postal cancellation date or the postage meter date is more than one
day after the date of deposit for mailing stated in this affidavit.

16 Brian S. Kabateck, Esq.
17 Richard L. Kellner, Esq.
18 Alfredo Torrijos Esq.
19 KABATECK BROWN KELLNER, LLP
644 South Figueroa Street
20 Los Angeles, CA 90017
TEL: (213) 217-5000
FAX: (213) 217-5010
21 EMAIL: bsk@kbklawyers.com
22 EMAIL: rlk@kbklawyers.com
EMAIL: at@kbklawyers.com

23 Executed on December 5, 2008, at San Francisco, California.

24 I declare under penalty of perjury under the laws of the State of California that the above is true
25 and correct.

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27 
28 Lauren Hartz-Lewis

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VERIFICATION

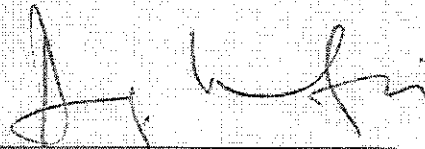
I, ANGELA LAI, declare:

I am an employee of Google, Inc., a corporation organized and existing under the laws of Delaware, which is the Defendant in the above-entitled action, and I have been authorized to make this verification on its behalf.

I have read the foregoing DEFENDANT GOOGLE INC.'S OBJECTIONS AND RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Mountain View, California, on February 28, 2009.



ANGELA LAI

EXHIBIT B

1 BRIAN S. KABATECK, SBN 152054
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2 RICHARD L. KELLNER, SBN 171416
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6 Telephone: (213) 217-5000
Facsimile: (213) 217-5010

7
8 Attorneys for Plaintiff
and the Proposed Class
9

10 **UNITED STATES DISTRICT COURT**
11 **NOTHERN DISTRICT OF CALIFORNIA**

12
13 DAVID ALMEIDA on behalf of
14 himself and all others similarly
situated,

15 Plaintiff,

16 vs.

17 GOOGLE, INC., a Delaware
18 corporation; and
19 DOES 1 through 10, inclusive,
20 Defendant.

CASE NO. CV 08-02088 RMW

**PLAINTIFF ALMEIDA'S
RESPONSES TO DEFENDANT
GOOGLE INC.S' AMENDED FIRST
SET OF INTERROGATORIES**

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22 PROPOUNDING PARTY: Defendant, Google, Inc.
23 RESPONDING PARTY: Plaintiff, David Almeida
24 SET NUMBER: One (Nos. 1-7)
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2 TO ALL PARTIES AND TO THEIR RESPECTIVE ATTORNEYS OF
3 RECORD:

4 PLEASE TAKE NOTICE THAT pursuant to the provisions of Rule 33 of the
5 Federal Rules of Civil Procedure Plaintiff Almeida ("Plaintiff") hereby submits the
6 following objections and responses to the First Set of Interrogatories to Plaintiff
7 Almeida propounded by Defendant Google Inc. ("Google" or "Defendant").

8 **PRELIMINARY STATEMENT**

9 These responses are based upon diligent exploration by Plaintiff and his
10 counsel, but reflect only the current state of Plaintiff's understandings and beliefs
11 regarding the matters about which inquiry is made. As discovery in this action
12 proceeds, Plaintiff anticipates that additional responsive documents may be
13 discovered. Without in any way obligating it to do so, Plaintiff reserves the right to
14 modify or supplement its responses herein with such documents. Furthermore, the
15 responses are given without prejudice to using or relying at trial on subsequently
16 discovered and/or collateral information, or on documents omitted from these
17 responses as a result of mistake, error or oversight.

18 Plaintiff does not intend to nor does it waive the attorney-client privilege, the
19 attorney work-product protection, or any other privilege from disclosure, which may
20 attach to information called for in response to the Requests. Additionally, Plaintiff's
21 responses are made without waiver of, and with the explicit preservation of: (a) all
22 questions as to competency, relevancy, materiality, privilege, and admissibility as
23 evidence for any purpose in the trial of this action, or any other action or proceeding;
24 (b) the right to further object, on any ground, to these or other requests, or any
25 discovery procedures related to the subject matter of this case; and (c) the right at
26 any time to revise, correct, add to, or clarify any of Plaintiff's responses.

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1 not seek information or documents relevant to the subject matter of the pending
2 action, or are not reasonably calculated to lead to the discovery of admissible
3 evidence.

4 8. By making the responses herein, Plaintiff does not concede that the
5 information set forth in these responses is relevant to this action. Plaintiff expressly
6 reserves the right to object to further discovery into the subject matter of any of these
7 responses.

8 9. Plaintiff's investigation into the factual background of the matters
9 alleged in this action is ongoing and incomplete at this time. Accordingly, these
10 responses reflect only Plaintiff's current knowledge of the facts to date. Plaintiff
11 therefore reserves its right to supplement, amend, or modify its responses as his
12 investigation continues and as discovery proceeds, and to rely on any such
13 information discovered after the time of these responses, at any time up to and
14 including trial. Plaintiff further reserves his right to correct any responses to any
15 interrogatory made as a result of mistake or inadvertence, and to assert any
16 applicable objections at any time up to and including trial. Except as expressly
17 admitted in these responses, no facts should be taken as admitted, implied or inferred
18 from these responses. Further, no inference as to the existence of any responsive
19 information or documents should be made from the assertion of any objection to any
20 interrogatory.
21

22 **OBJECTIONS AND RESPONSES TO INTERROGATORIES**

23 **INTERROGATORY NO. 1:**

24 Please IDENTIFY and DESCRIBE all COMMUNICATIONS between YOU
25 and GOOGLE RELATING TO COST PER CLICK advertising.

26 **RESPONSE TO INTERROGATORY NO. 1:**

27 Plaintiff incorporates his General Objections as if fully stated herein. Plaintiff
28 additionally objects to this interrogatory on the grounds it is outside the scope of

1 permissible discovery because it seeks information not in Plaintiff's possession,
2 custody, or control. Plaintiff objects to this request as it is overly broad as it pertains
3 to information within the possession, custody or control of Google, including but not
4 limited to communication between Plaintiff and Defendant. Plaintiff object to the
5 interrogatory as vague and ambiguous. Moreover, the Request is unduly
6 burdensome, oppressive, and is not reasonably calculated to lead to the discovery of
7 admissible evidence.

8 **INTERROGATORY NO. 2:**

9 Please IDENTIFY and DESCRIBE all COMMUNICATIONS between YOU
10 and any other PERSON RELATING TO COST PER CLICK advertising.

11 **RESPONSE TO INTERROGATORY NO. 2:**

12 Plaintiff incorporates his General Objections as if fully stated herein. Plaintiff
13 additionally objects to this interrogatory on the grounds it is outside the scope of
14 permissible discovery because it seeks information not in Plaintiff's possession,
15 custody, or control. Plaintiff objects to the interrogatory as vague and ambiguous.
16 Moreover, the Request is unduly burdensome, oppressive, and is not reasonably
17 calculated to lead to the discovery of admissible evidence. Plaintiff objects to the
18 interrogatory as irrelevant to the extent it seeks information related to Internet
19 advertising with an entity other than GOOGLE. Plaintiff further objects to the extent
20 the interrogatory seek information protected from disclosure by the attorney-client
21 privilege or seeks the disclosure of expert reports prior to the deadline provided for
22 in the April 2, 2009 Scheduling Order.

23 **INTERROGATORY NO. 3:**

24 If YOU contend that GOOGLE violated a provision of any contract or
25 agreement with YOU, please IDENTIFY the specific provision(s) that GOOGLE
26 allegedly violated, and state all acts that support YOUR contention.

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1 **RESPONSE TO INTERROGATORY NO. 3:**

2 Plaintiff incorporates his General Objections as if fully stated herein. Plaintiff
3 additionally objects to this interrogatory on the grounds it is outside the scope of
4 permissible discovery because it seeks information not in Plaintiff's possession,
5 custody, or control. Plaintiff objects to the interrogatory as vague and ambiguous.
6 Moreover, the Request is unduly burdensome, oppressive, and is not reasonably
7 calculated to lead to the discovery of admissible evidence.

8 **INTERROGATORY NO. 4:**

9 Please state all facts that support YOUR contention in paragraph 18 of the
10 COMPLAINT that "[PLAINTIFF'S] claims are typical of the claims of the members
11 of the Class."

12 **RESPONSE TO INTERROGATORY NO. 4:**

13 Plaintiff incorporates his General Objections as if fully stated herein. Plaintiff
14 additionally objects to this interrogatory on the grounds it is outside the scope of
15 permissible discovery because it seeks information not in Plaintiff's possession,
16 custody, or control. Plaintiff objects to the interrogatory as vague and ambiguous.
17 Plaintiff further objects to the extent the interrogatory seek information protected
18 from disclosure by the attorney-client privilege or seeks the disclosure of expert
19 reports prior to the deadline provided for in the April 2, 2009 Scheduling Order.

20 **INTERROGATORY NO. 5:**

21 Please state the amount of YOUR alleged damages in this matter, and state all
22 facts that support your allegations of damages.

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1 **RESPONSE TO INTERROGATORY NO. 5:**

2 Plaintiff incorporates his General Objections as if fully stated herein. Plaintiff
3 additionally objects to this interrogatory on the grounds it is outside the scope of
4 permissible discovery because it seeks information not in Plaintiff's possession,
5 custody, or control. Plaintiff objects to the interrogatory as vague and ambiguous.
6 Plaintiff further objects to the extent the interrogatory seek information protected
7 from disclosure by the attorney-client privilege or seeks the disclosure of expert
8 reports prior to the deadline provided for in the April 2, 2009 Scheduling Order.

9 **INTERROGATORY NO. 6:**

10 If YOU contend that YOU have standing to sue GOOGLE under California
11 Business & Professions Code sections 17200, et seq., please state all facts supporting
12 YOUR contention.

13 **RESPONSE TO INTERROGATORY NO. 6:**

14 Plaintiff incorporates his General Objections as if fully stated herein. Plaintiff
15 additionally objects to this interrogatory on the grounds it is outside the scope of
16 permissible discovery because it seeks information not in Plaintiff's possession,
17 custody, or control. Plaintiff objects to the interrogatory as vague and ambiguous.
18 Plaintiff further objects to the extent the interrogatory seek information protected
19 from disclosure by the attorney-client privilege or seeks the disclosure of expert
20 reports prior to the deadline provided for in the April 2, 2009 Scheduling Order.

21 **INTERROGATORY NO. 7:**

22 Please describe in detail the role and duties of each PERSON who is or was
23 involved with any of YOUR GOOGLE AdWords advertisements.

24 **RESPONSE INTERROGATORY NO. 7:**

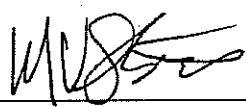
25 Plaintiff incorporates his General Objections as if fully stated herein. Plaintiff
26 additionally objects to this interrogatory on the grounds it is outside the scope of
27 permissible discovery because it seeks information not in Plaintiff's possession,
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1 custody, or control. Plaintiff objects to the interrogatory as vague and ambiguous.
2 Plaintiff further objects to the extent the interrogatory seek information protected
3 from disclosure by the attorney-client privilege or seeks the disclosure of expert
4 reports prior to the deadline provided for in the April 2, 2009 Scheduling Order.
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7 Dated: May 1, 2009

KABATECK BROWN KELLNER LLP

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By: 

Michael Storti
Counsel for Plaintiff and the class

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 644 South Figueroa Street, Los Angeles, CA 90017.

On May 1, 2009, I served the following documents:

**PLAINTIFF ALMEIDA'S RESPONSES TO DEFENDANT
GOOGLE, INC.'S AMENDED FIRST SET OF
INTERROGATORIES**

**PLAINTIFF ALMEIDA'S RESPONSES TO DEFENDANT
GOOGLE, INC.'S FIRST SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS**

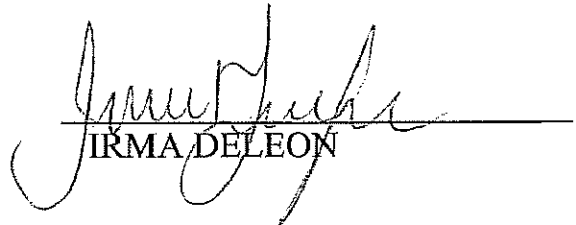
on the interested parties in this action:

SEE ATTACHED LIST

VIA U.S. MAIL - As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

VIA EMAIL – see attached list

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.


IRMA DELEON

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ATTACHED LIST

David J. Silbert
(dsilbert@kvn.com)
Alyse Bertenthal
(abertenthal@kvn.com)
Keker & Van Nest, LLP
710 Sansome Street
San Francisco, CA 94111

EXHIBIT C

1 BRIAN S. KABATECK, SBN 152054
(bsk@kbklawyers.com)
2 RICHARD L. KELLNER, SBN 171416
(rlk@kbklawyers.com)
3 ALFREDO TORRIJOS, SBN 222458
(at@kbklawyers.com)
4 KABATECK KELLNER LLP
5 644 South Figueroa Street
Los Angeles, California 90017
6 Telephone: (213) 217-5000
Facsimile: (213) 217-5010

7
8 Attorneys for Plaintiff
and the Proposed Class
9

10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**

12
13 DAVID ALMEIDA on behalf of
14 himself and all others similarly
situated,

15 Plaintiff,

16 vs.

17 GOOGLE, INC., a Delaware
18 corporation; and
19 DOES 1 through 10, inclusive,
20 Defendant.

CASE NO. CV 08-02088 RMW

**PLAINTIFF ALMEIDA
RESPONSES TO DEFENDANT
GOOGLE INC.'S AMENDED FIRST
REQUEST FOR THE
PRODUCTION OF DOCUMENTS**

21
22 PROPOUNDING PARTY: Defendant, GOOGLE INC.

23 RESPONDING PARTY: Plaintiff, David Almeida

24 SET NUMBER: One (Nos. 1-32)
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1
2 TO ALL PARTIES AND TO THEIR RESPECTIVE ATTORNEYS OF
3 RECORD:

4 PLEASE TAKE NOTICE THAT pursuant to the provisions of Rule 34 of the
5 Federal Rules of Civil Procedure Plaintiff Almeida ("Plaintiff") hereby submits the
6 following objections and responses to the First Request for Production of Documents
7 to Plaintiff Almeida propounded by Defendant Google, Inc. ("Google" or
8 "Defendant").

9 **PRELIMINARY STATEMENT**

10 These responses are based upon diligent exploration by Plaintiff and his
11 counsel, but reflect only the current state of Plaintiff's understandings and beliefs
12 regarding the matters about which inquiry is made. As discovery in this action
13 proceeds, Plaintiff anticipates that additional responsive documents may be
14 discovered. Without in any way obligating it to do so, Plaintiff reserves the right to
15 modify or supplement its responses herein with such documents. Furthermore, the
16 responses are given without prejudice to using or relying at trial on subsequently
17 discovered and/or collateral information, or on documents omitted from these
18 responses as a result of mistake, error or oversight.

19 Plaintiff does not intend to nor does it waive the attorney-client privilege, the
20 attorney work-product protection, or any other privilege from disclosure, which may
21 attach to information called for in response to the Requests. Additionally, Plaintiff's
22 responses are made without waiver of, and with the explicit preservation of: (a) all
23 questions as to competency, relevancy, materiality, privilege, and admissibility as
24 evidence for any purpose in the trial of this action, or any other action or proceeding;
25 (b) the right to further object, on any ground, to these or other requests, or any
26 discovery procedures related to the subject matter of this case; and (c) the right at
27 any time to revise, correct, add to, or clarify any of Plaintiff's responses.
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1 **GENERAL OBJECTIONS**

2 Plaintiff makes the following general objections to Google's First Request for
3 the Production of Documents to Plaintiff David Almeida:

4 1. Plaintiff objects to all instructions, as well as to each and every
5 individual request to the extent they attempt to impose an obligation on Plaintiff
6 different from or greater than that required by the Federal Rules of Civil Procedure.

7 2. Plaintiff objects to all instructions, as well as to each and every
8 individual request to the extent that they attempt or purport to require the disclosure
9 of information protected by the attorney-client privilege.

10 3. Plaintiff objects to all instructions, as well as to each and every
11 individual request to the extent that they attempt or purport to require the disclosure
12 of information protected by the work product doctrine.

13 4. Plaintiff objects to the propounding of multiple requests that seek
14 identical or virtually identical information on the grounds that such requests are
15 unduly oppressive and burdensome, are intended only to harass and burden Plaintiff,
16 and are unreasonably cumulative and duplicative.

17 5. Plaintiff objects to all instructions, as well as to each and every
18 individual request to the extent they seek information not within the possession of
19 Plaintiff. Google's attempt to cause Plaintiff to obtain such information exceeds the
20 scope of allowable discovery.

21 6. Plaintiff objects to all instructions, as well as to each and every
22 individual request to the extent they demand that Plaintiff produce documents which
23 are as readily available to Google as they are to Plaintiff, on the ground that since
24 such documents are just as readily obtainable by Google, Plaintiff should not bear
25 the burden of producing such documents.

26 7. Plaintiff objects to all instructions, as well as to each and every
27 individual request to the extent they are overbroad and unduly burdensome, do not
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1 seek information or documents relevant to the subject matter of the pending action,
2 or are not reasonably calculated to lead to the discovery of admissible evidence.

3 8. Plaintiff objects to all instructions, as well as to each and every
4 individual request to the extent they seek to impose an obligation on Plaintiff to
5 create and maintain wholly new documents, through recording communications that
6 have not otherwise been recorded, solely for the purpose of discovery in the
7 litigation.

8 9. By making the responses herein, Plaintiff does not concede that the
9 information set forth in these responses is relevant to this action. Plaintiff expressly
10 reserves the right to object to further discovery into the subject matter of any of these
11 responses.

12 10. Plaintiff's investigation into the factual background of the matters
13 alleged in this action is ongoing and incomplete at this time. Accordingly, these
14 responses reflect only Plaintiff's current knowledge of the facts to date. Plaintiff
15 therefore reserves its right to supplement, amend, or modify its responses as his
16 investigation continues and as discovery proceeds, and to rely on any such
17 information discovered after the time of these responses, at any time up to and
18 including trial. Plaintiff further reserves his right to correct any responses to any
19 Requests for Production made as a result of mistake or inadvertence, and to assert
20 any applicable objections at any time up to and including trial. Except as expressly
21 admitted in these responses, no facts should be taken as admitted, implied or inferred
22 from these responses. Further, no inference as to the existence of any responsive
23 information or documents should be made from the assertion of any objection to any
24 Requests for Production.
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1 **OBJECTIONS AND RESPONSES TO REQUESTS**

2 **REQUEST FOR PRODUCTION NO. 1:**

3 Please produce all DOCUMENTS RELATING TO COST PER CLICK
4 advertising that YOU have placed, or contemplated placing, on GOOGLE.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

6 Plaintiff incorporates his General Objections as if fully stated herein.
7 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
8 and unduly burdensome. Plaintiff also objects that this Request seeks information
9 that is beyond the scope of discovery allowed by the Federal Rules of Civil
10 Procedure in that it seeks DOCUMENTS that are not reasonably calculated to lead
11 admissible evidence. Plaintiff objects to this request as it is overly broad as it
12 pertains to DOCUMENTS within the possession, custody or control of Google.
13 Plaintiff objects to this Request as vague and ambiguous. Plaintiff objects to the
14 extent that this Request seeks DOCUMENTS protected by the attorney work-product
15 privilege and/or the attorney-client privilege. Finally, Plaintiff objects that this
16 Request is duplicative of other Requests propounded on Plaintiff. Subject to and
17 without waiving the foregoing objections, Plaintiff responds as follows:

18 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
19 possession, custody, or control that can be located through a reasonable search.

20 **REQUEST FOR PRODUCTION NO. 2:**

21 Please produce all DOCUMENTS RELATING TO COST PER CLICK
22 advertising that YOU have placed, or contemplated placing, on any other website.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

24 Plaintiff incorporates his General Objections as if fully stated herein.
25 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
26 and unduly burdensome. Plaintiff objects to this Request as vague and ambiguous.
27 Plaintiff objects to the extent that this Request seeks DOCUMENTS protected by the
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1 attorney work-product privilege and/or the attorney-client privilege. Plaintiff objects
2 that this Request is duplicative of other Requests propounded on Plaintiff. Finally,
3 Plaintiff objects that this Request seeks information that is beyond the scope of
4 discovery allowed by the Federal Rules of Civil Procedure in that it seeks
5 DOCUMENTS that are not reasonably calculated to lead admissible evidence.
6 DOCUMENTS RELATING TO COST PER CLICK advertising with entities other
7 than GOOGLE are not relevant to this action. Subject to and without waiving the
8 foregoing objections, Plaintiff responds as follows:

9 No DOCUMENTS will be produced.

10 **REQUEST FOR PRODUCTION NO. 3:**

11 Please produce all DOCUMENTS RELATING TO all contracts or agreements
12 between YOU and GOOGLE.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

14 Plaintiff incorporates his General Objections as if fully stated herein.
15 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
16 and unduly burdensome. Plaintiff also objects that this Request seeks information
17 that is beyond the scope of discovery allowed by the Federal Rules of Civil
18 Procedure in that it seeks DOCUMENTS that are not reasonably calculated to lead
19 admissible evidence. Plaintiff objects to this request as it is overly broad as it
20 pertains to DOCUMENTS within the possession, custody or control of Google.
21 Plaintiff objects to this Request as vague and ambiguous. Furthermore, Plaintiff
22 objects to this request as it is overly broad as it pertains to documents within the
23 possession, custody or control of GOOGLE, including but not limited to agreements
24 between Plaintiff and Defendant. Plaintiff objects to the extent that this Request
25 seeks DOCUMENTS protected by the attorney work-product privilege and/or the
26 attorney-client privilege. Finally, Plaintiff objects that this Request is duplicative of
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1 other Requests propounded on Plaintiff. Subject to and without waiving the
2 foregoing objections, Plaintiff responds as follows:

3 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
4 possession, custody, or control that can be located through a reasonable search.

5 **REQUEST FOR PRODUCTION NO. 4:**

6 Please produce all DOCUMENTS RELATING TO all contracts or agreements
7 RELATING TO COST PER CLICK advertising between YOU and any other
8 PERSON.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

10 Plaintiff incorporates his General Objections as if fully stated herein.
11 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
12 and unduly burdensome. Plaintiff objects to this Request as vague and ambiguous.
13 Plaintiff objects to the extent that this Request seeks DOCUMENTS protected by the
14 attorney work-product privilege and/or the attorney-client privilege. Plaintiff objects
15 that this Request is duplicative of other Requests propounded on Plaintiff. Finally,
16 Plaintiff objects that this Request seeks information that is beyond the scope of
17 discovery allowed by the Federal Rules of Civil Procedure in that it seeks
18 DOCUMENTS that are not reasonably calculated to lead admissible evidence.
19 DOCUMENTS RELATING TO internet advertising with entities other than
20 GOOGLE are not relevant to this action. Subject to and without waiving the
21 foregoing objections, Plaintiff responds as follows:

22 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
23 possession, custody, or control that can be located through a reasonable search and
24 relate to online advertising done through Google.

25 **REQUEST FOR PRODUCTION NO. 5:**

26 Please produce all DOCUMENTS RELATING TO GOOGLE's AdWords that
27 YOU reviewed at the time YOU first signed up to advertise on GOOGLE's
28 AdWords.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

2 Plaintiff incorporates his General Objections as if fully stated herein.
3 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
4 and unduly burdensome. Plaintiff also objects that this Request seeks information
5 that is beyond the scope of discovery allowed by the Federal Rules of Civil
6 Procedure in that it seeks DOCUMENTS that are not reasonably calculated to lead
7 admissible evidence. Plaintiff objects to this Request as vague and ambiguous.
8 Plaintiff objects to the extent that this Request seeks DOCUMENTS protected by the
9 attorney work-product privilege and/or the attorney-client privilege. Finally,
10 Plaintiff objects that this Request is duplicative of other Requests propounded on
11 Plaintiff. Subject to and without waiving the foregoing objections, Plaintiff f
12 responds as follows:

13 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
14 possession, custody, or control that can be located through a reasonable search.

15 **REQUEST FOR PRODUCTION NO. 6:**

16 Please produce all DOCUMENTS evidencing any and all times you visited the
17 AdWords website.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

19 Plaintiff incorporates his General Objections as if fully stated herein.
20 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
21 and unduly burdensome. Plaintiff also objects that this Request seeks information
22 that is beyond the scope of discovery allowed by the Federal Rules of Civil
23 Procedure in that it seeks DOCUMENTS that are not reasonably calculated to lead
24 admissible evidence. Plaintiff objects to this Request as vague and ambiguous.
25 Plaintiff objects to the extent that this Request seeks DOCUMENTS protected by the
26 attorney work-product privilege and/or the attorney-client privilege. Finally,
27 Plaintiff objects that this Request is duplicative of other Requests propounded on
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1 Plaintiff. Subject to and without waiving the foregoing objections, Plaintiff responds
2 as follows:

3 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
4 possession, custody, or control that can be located through a reasonable search.

5 **REQUEST FOR PRODUCTION NO. 7:**

6 Please produce all DOCUMENTS RELATING TO every online
7 advertisement YOU have purchased and/or placed.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

9 Plaintiff incorporates his General Objections as if fully stated herein.
10 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
11 and unduly burdensome. Plaintiff objects to this Request as vague and ambiguous.
12 Plaintiff objects to the extent that this Request seeks DOCUMENTS protected by the
13 attorney work-product privilege and/or the attorney-client privilege. Plaintiff objects
14 that this Request is duplicative of other Requests propounded on Plaintiff. Finally,
15 Plaintiff objects that this Request seeks information that is beyond the scope of
16 discovery allowed by the Federal Rules of Civil Procedure in that it seeks
17 DOCUMENTS that are not reasonably calculated to lead admissible evidence.
18 DOCUMENTS RELATING TO online advertising with entities other than
19 GOOGLE are not relevant to this action. Subject to and without waiving the
20 foregoing objections, Plaintiff responds as follows:

21 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
22 possession, custody, or control that can be located through a reasonable search and
23 relate to online advertising done through Google.

24 **REQUEST FOR PRODUCTION NO. 8:**

25 Please produce all DOCUMENTS RELATING TO all COMMUNICATIONS
26 between YOU and GOOGLE, including without limitation any complaint
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1 RELATING TO COST PER CLICK advertising, and/or my request for a refund or
2 credit.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

4 Plaintiff incorporates his General Objections as if fully stated herein.
5 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
6 and unduly burdensome. Plaintiff also objects that this Request seeks information
7 that is beyond the scope of discovery allowed by the Federal Rules of Civil
8 Procedure in that it seeks DOCUMENTS that are not reasonably calculated to lead
9 admissible evidence. Plaintiff objects to this Request as vague and ambiguous.
10 Plaintiff objects to the extent that this Request seeks DOCUMENTS protected by the
11 attorney work-product privilege and/or the attorney-client privilege. Finally,
12 Plaintiff objects that this Request is duplicative of other Requests propounded on
13 Plaintiff. Subject to and without waiving the foregoing objections, Plaintiff responds
14 as follows:

15 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
16 possession, custody, or control that can be located through a reasonable search.

17 **REQUEST FOR PRODUCTION NO. 9:**

18 Please produce all DOCUMENTS, including without limitation, credit card
19 statements, RELATING TO any AdWords financial transaction, including without
20 limitation any charge, withdrawal, credit, charge-back, during the period from five
21 years prior to the date of these requests through the present.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

23 Plaintiff incorporates his General Objections as if fully stated herein.
24 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
25 and unduly burdensome. Plaintiff also objects that this Request seeks information
26 that is beyond the scope of discovery allowed by the Federal Rules of Civil
27 Procedure in that it seeks DOCUMENTS that are not reasonably calculated to lead
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1 admissible evidence. Plaintiff objects to this Request as vague and ambiguous.
2 Plaintiff objects to the extent that this Request seeks DOCUMENTS protected by the
3 attorney work-product privilege and/or the attorney-client privilege. Finally,
4 Plaintiff objects that this Request is duplicative of other Requests propounded on
5 Plaintiff. Subject to and without waiving the foregoing objections, Plaintiff responds
6 as follows:

7 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
8 possession, custody, or control that can be located through a reasonable search.

9 **REQUEST FOR PRODUCTION NO. 10:**

10 Please produce all DOCUMENTS RELATING TO the return-on-investment,
11 conversions, and/or any other measure of performance of COST PER CLICK
12 advertising that YOU have placed on any website.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

14 Plaintiff incorporates his General Objections as if fully stated herein.
15 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
16 and unduly burdensome. Plaintiff objects to this Request as vague and ambiguous.
17 Plaintiff objects to the extent that this Request seeks DOCUMENTS protected by the
18 attorney work-product privilege and/or the attorney-client privilege. Plaintiff objects
19 that this Request is duplicative of other Requests propounded on Plaintiff. Finally,
20 Plaintiff objects that this Request seeks information that is beyond the scope of
21 discovery allowed by the Federal Rules of Civil Procedure in that it seeks
22 DOCUMENTS that are not reasonably calculated to lead admissible evidence.
23 DOCUMENTS RELATING TO online advertising with entities other than
24 GOOGLE are not relevant to this action. Subject to and without waiving the
25 foregoing objections, Plaintiff responds as follows:
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1 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
2 possession, custody, or control that can be located through a reasonable search and
3 relate to online advertising done through Google.

4 **REQUEST FOR PRODUCTION NO. 11:**

5 Please produce all DOCUMENTS RELATING TO any software, service, or
6 analysis, or any other tool or procedure, that YOU have used or contemplated using
7 to improve or assess the performance of COST PER CLICK advertising on
8 GOOGLE or any other website.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

10 Plaintiff incorporates his General Objections as if fully stated herein.
11 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
12 and unduly burdensome. Plaintiff objects to this request as it is overly broad as it
13 pertains to DOCUMENTS within the possession, custody or control of Google.
14 Plaintiff objects to this Request as vague and ambiguous. Plaintiff objects to the
15 extent that this Request seeks DOCUMENTS protected by the attorney work-product
16 privilege and/or the attorney-client privilege. Plaintiff objects that this Request is
17 duplicative of other Requests propounded on Plaintiff. Finally, Plaintiff objects that
18 this Request seeks information that is beyond the scope of discovery allowed by the
19 Federal Rules of Civil Procedure in that it seeks DOCUMENTS that are not
20 reasonably calculated to lead admissible evidence. DOCUMENTS RELATING TO
21 online advertising with entities other than GOOGLE are not relevant to this action.
22 Subject to and without waiving the foregoing objections, Plaintiff responds as
23 follows:

24 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
25 possession, custody, or control that can be located through a reasonable search and
26 relate to online advertising done through Google.

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1 **REQUEST FOR PRODUCTION NO. 12:**

2 Please produce all DOCUMENTS constituting or reflecting YOUR internal
3 budgets, financial plans or strategies regarding internet and non-internet advertising.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

5 Plaintiff incorporates his General Objections as if fully stated herein.
6 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
7 and unduly burdensome. Plaintiff objects to this Request as vague and ambiguous.
8 Plaintiff objects to the extent that this Request seeks DOCUMENTS protected by the
9 attorney work-product privilege and/or the attorney-client privilege. Plaintiff objects
10 that this Request is duplicative of other Requests propounded on Plaintiff. Finally,
11 Plaintiff objects that this Request seeks information that is beyond the scope of
12 discovery allowed by the Federal Rules of Civil Procedure in that it seeks
13 DOCUMENTS that are not reasonably calculated to lead admissible evidence.
14 DOCUMENTS RELATING TO non-internet advertising or of internet advertising
15 with entities other than GOOGLE are not relevant to this action. Subject to and
16 without waiving the foregoing objections, Plaintiff responds as follows:

17 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
18 possession, custody, or control that can be located through a reasonable search.

19 **REQUEST FOR PRODUCTION NO. 13:**

20 Please produce all DOCUMENTS RELATING TO YOUR use of third-party
21 services for internet advertising, including without limitation advertising or internet
22 consultants.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 13:**

24 Plaintiff incorporates his General Objections as if fully stated herein.
25 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
26 and unduly burdensome. Plaintiff objects to this Request as vague and ambiguous.
27 Plaintiff objects to the extent that this Request seeks DOCUMENTS protected by the
28 attorney work-product privilege and/or the attorney-client privilege. Plaintiff objects

1 that this Request is duplicative of other Requests propounded on Plaintiff. Finally,
2 Plaintiff objects that this Request seeks information that is beyond the scope of
3 discovery allowed by the Federal Rules of Civil Procedure in that it seeks
4 DOCUMENTS that are not reasonably calculated to lead admissible evidence.
5 DOCUMENTS RELATING TO online advertising with entities other than
6 GOOGLE are not relevant to this action. Subject to and without waiving the
7 foregoing objections, Plaintiff responds as follows:

8 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
9 possession, custody, or control that can be located through a reasonable search and
10 relate to online advertising done through Google.

11 **REQUEST FOR PRODUCTION NO. 14:**

12 Please produce DOCUMENTS sufficient to show the time and date of each
13 visit to any website that YOU have advertised or linked to in COST PER CLICK
14 advertising, during the period from five years prior to the date of these requests
15 through the present.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

17 Plaintiff incorporates his General Objections as if fully stated herein.
18 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
19 and unduly burdensome. Plaintiff objects to this request as it is overly broad as it
20 pertains to information within the possession, custody or control of Google. Plaintiff
21 objects to this Request as vague and ambiguous. Plaintiff objects to the extent that
22 this Request seeks DOCUMENTS protected by the attorney work-product privilege
23 and/or the attorney-client privilege. Plaintiff objects that this Request is duplicative
24 of other Requests propounded on Plaintiff. Finally, Plaintiff objects that this Request
25 seeks information that is beyond the scope of discovery allowed by the Federal Rules
26 of Civil Procedure in that it seeks DOCUMENTS that are not reasonably calculated
27 to lead admissible evidence. DOCUMENTS RELATING TO online advertising
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1 with entities other than GOOGLE are not relevant to this action. Subject to and
2 without waiving the foregoing objections, Plaintiff responds as follows:

3 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
4 possession, custody, or control that can be located through a reasonable search and
5 relate to online advertising done through Google.

6 **REQUEST FOR PRODUCTION NO. 15:**

7 Please produce DOCUMENTS sufficient to IDENTIFY all visits to any
8 website that YOU have advertised or linked to in COST PER CLICK advertising
9 generated through COST PER CLICK advertising.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

11 Plaintiff incorporates his General Objections as if fully stated herein.
12 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
13 and unduly burdensome. Plaintiff objects to this request as it is overly broad as it
14 pertains to information within the possession, custody or control of Google. Plaintiff
15 objects to this Request as vague and ambiguous. Plaintiff objects to the extent that
16 this Request seeks DOCUMENTS protected by the attorney work-product privilege
17 and/or the attorney-client privilege. Plaintiff objects that this Request is duplicative
18 of other Requests propounded on Plaintiff. Finally, Plaintiff objects that this Request
19 seeks information that is beyond the scope of discovery allowed by the Federal Rules
20 of Civil Procedure in that it seeks DOCUMENTS that are not reasonably calculated
21 to lead admissible evidence. DOCUMENTS RELATING TO online advertising
22 with entities other than GOOGLE are not relevant to this action. Subject to and
23 without waiving the foregoing objections, Plaintiff responds as follows:

24 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
25 possession, custody, or control that can be located through a reasonable search and
26 relate to online advertising done through Google.

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1 **REQUEST FOR PRODUCTION NO. 16:**

2 Please produce DOCUMENTS sufficient to show the date, time and amount of
3 each purchase or engagement of services made after a visit to any website that YOU
4 have advertised or linked to in COST PER CLICK advertising, during the period
5 from five years prior to the date of these requests through the present.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

7 Plaintiff incorporates his General Objections as if fully stated herein.
8 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
9 and unduly burdensome. Plaintiff objects to this request as it is overly broad as it
10 pertains to information within the possession, custody or control of Google. Plaintiff
11 objects to this Request as vague and ambiguous. Plaintiff objects to the extent that
12 this Request seeks DOCUMENTS protected by the attorney work-product privilege
13 and/or the attorney-client privilege. Plaintiff objects that this Request is duplicative
14 of other Requests propounded on Plaintiff. Finally, Plaintiff objects that this Request
15 seeks information that is beyond the scope of discovery allowed by the Federal Rules
16 of Civil Procedure in that it seeks DOCUMENTS that are not reasonably calculated
17 to lead admissible evidence. DOCUMENTS RELATING TO online advertising
18 with entities other than GOOGLE are not relevant to this action. Subject to and
19 without waiving the foregoing objections, Plaintiff responds as follows:

20 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
21 possession, custody, or control that can be located through a reasonable search and
22 relate to online advertising done through Google.

23 **REQUEST FOR PRODUCTION NO. 17:**

24 Please produce all DOCUMENTS constituting or RELATING TO
25 communications between you and your customers regarding reasons for their
26 purchases or engagement of YOUR services.

27 ///

28 ///

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

2 Plaintiff incorporates his General Objections as if fully stated herein.
3 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
4 and unduly burdensome. Plaintiff objects to this Request as vague and ambiguous.
5 Plaintiff objects to the extent that this Request seeks DOCUMENTS protected by the
6 attorney work-product privilege and/or the attorney-client privilege. Plaintiff objects
7 that this Request is duplicative of other Requests propounded on Plaintiff. Finally,
8 Plaintiff objects that this Request seeks information that is beyond the scope of
9 discovery allowed by the Federal Rules of Civil Procedure in that it seeks
10 DOCUMENTS that are not reasonably calculated to lead admissible evidence.
11 DOCUMENTS RELATING TO online advertising with entities other than
12 GOOGLE are not relevant to this action. Subject to and without waiving the
13 foregoing objections, Plaintiff responds as follows:

14 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
15 possession, custody, or control that can be located through a reasonable search and
16 relate to online advertising done through Google.

17 **REQUEST FOR PRODUCTION NO. 18:**

18 Please produce all DOCUMENTS RELATING TO any type of advertising
19 that YOU have done over the Internet, through any website, during the period from
20 five years prior to the date of these requests through the present, to the extent not
21 already produced in response to the other requests herein.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 18:**

23 Plaintiff incorporates his General Objections as if fully stated herein.
24 Additionally, Plaintiff objects Plaintiff incorporates his General Objections as if fully
25 stated herein. Additionally, Plaintiff objects to this Request on the grounds that it is
26 overly broad and unduly burdensome. Plaintiff objects to this request as it is overly
27 broad as it pertains to information within the possession, custody or control of
28 Google. Plaintiff objects to this Request as vague and ambiguous. Plaintiff objects

1 to the extent that this Request seeks DOCUMENTS protected by the attorney work-
2 product privilege and/or the attorney-client privilege. Plaintiff objects that this
3 Request is duplicative of other Requests propounded on Plaintiff. Finally, Plaintiff
4 objects that this Request seeks information that is beyond the scope of discovery
5 allowed by the Federal Rules of Civil Procedure in that it seeks DOCUMENTS that
6 are not reasonably calculated to lead admissible evidence. DOCUMENTS
7 RELATING TO online advertising with entities other than GOOGLE are not
8 relevant to this action. Subject to and without waiving the foregoing objections,
9 Plaintiff responds as follows:

10 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
11 possession, custody, or control that can be located through a reasonable search and
12 relate to online advertising done through Google.

13 **REQUEST FOR PRODUCTION NO. 19:**

14 Please produce all DOCUMENTS RELATING TO COMMUNICATIONS
15 between YOU and any PERSON RELATING TO advertisements on the CONTENT
16 NETWORK.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 19:**

18 Plaintiff incorporates his General Objections as if fully stated herein.
19 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
20 and unduly burdensome. Plaintiff also objects that this Request seeks information
21 that is beyond the scope of discovery allowed by the Federal Rules of Civil
22 Procedure in that it seeks DOCUMENTS that are not reasonably calculated to lead
23 admissible evidence. Plaintiff objects to this request as it is overly broad as it
24 pertains to information within the possession, custody or control of Google. Plaintiff
25 objects to this Request as vague and ambiguous. Plaintiff objects to this request as it
26 is overly broad as it pertains to DOCUMENTS within the possession, custody or
27 control of Google. Plaintiff objects to the extent that this Request seeks
28 DOCUMENTS protected by the attorney work-product privilege and/or the attorney-

1 client privilege or seeks the disclosure of expert reports prior to the deadline
2 provided for in the April 2, 2009 Scheduling Order. Finally, Plaintiff objects that
3 this Request is duplicative of other Requests propounded on Plaintiff. Subject to and
4 without waiving the foregoing objections, Plaintiff responds as follows:

5 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
6 possession, custody, or control that can be located through a reasonable search.

7 **REQUEST FOR PRODUCTION NO. 20:**

8 Please produce all DOCUMENTS RELATING TO YOUR allegations in the
9 COMPLAINT that GOOGLE improperly charges advertisers for advertisements on
10 the CONTENT NETWORK when the CPC bid input field for the CONTENT
11 NETWORK is left blank.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 20:**

13 Plaintiff incorporates his General Objections as if fully stated herein.
14 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
15 and unduly burdensome. Plaintiff also objects that this Request seeks information
16 that is beyond the scope of discovery allowed by the Federal Rules of Civil
17 Procedure in that it seeks DOCUMENTS that are not reasonably calculated to lead
18 admissible evidence. Plaintiff objects to this Request as vague and ambiguous.
19 Plaintiff objects to this request as it is overly broad as it pertains to DOCUMENTS
20 within the possession, custody or control of Google. Plaintiff objects to the extent
21 that this Request seeks DOCUMENTS protected by the attorney work-product
22 privilege and/or the attorney-client privilege or seeks the disclosure of expert reports
23 prior to the deadline provided for in the April 2, 2009 Scheduling Order. Finally,
24 Plaintiff objects that this Request is duplicative of other Requests propounded on
25 Plaintiff. Subject to and without waiving the foregoing objections, Plaintiff responds
26 as follows:

27 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
28 possession, custody, or control that can be located through a reasonable search.

1 **REQUEST FOR PRODUCTION NO. 21:**

2 Please produce all DOCUMENTS RELATING TO YOUR allegations in the
3 COMPLAINT that GOOGLE fails to disclose to advertisers that they will be charged
4 for advertisements on the CONTENT NETWORK when the CPC bid input field for
5 the CONTENT NETWORK is left blank.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 21:**

7 Plaintiff incorporates his General Objections as if fully stated herein.
8 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
9 and unduly burdensome. Plaintiff also objects that this Request seeks information
10 that is beyond the scope of discovery allowed by the Federal Rules of Civil
11 Procedure in that it seeks DOCUMENTS that are not reasonably calculated to lead
12 admissible evidence. Plaintiff objects to this Request as vague and ambiguous.
13 Plaintiff objects to this request as it is overly broad as it pertains to DOCUMENTS
14 within the possession, custody or control of Google. Plaintiff objects to the extent
15 that this Request seeks DOCUMENTS protected by the attorney work-product
16 privilege and/or the attorney-client privilege or seeks the disclosure of expert reports
17 prior to the deadline provided for in the April 2, 2009 Scheduling Order. Finally,
18 Plaintiff objects that this Request is duplicative of other Requests propounded on
19 Plaintiff. Subject to and without waiving the foregoing objections,
20 Plaintiff responds as follows:

21 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
22 possession, custody, or control that can be located through a reasonable search.

23 **REQUEST FOR PRODUCTION NO. 22:**

24 Please produce all DOCUMENTS RELATING TO any damages that YOU
25 suffered as a result of GOOGLE's alleged acts as described in YOUR COMPLAINT.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 22:**

27 Plaintiff incorporates his General Objections as if fully stated herein.
28 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad

1 and unduly burdensome. Plaintiff also objects that this Request seeks information
2 that is beyond the scope of discovery allowed by the Federal Rules of Civil
3 Procedure in that it seeks DOCUMENTS that are not reasonably calculated to lead
4 admissible evidence. Plaintiff objects to this Request as vague and ambiguous.
5 Plaintiff objects to this request as it is overly broad as it pertains to DOCUMENTS
6 within the possession, custody or control of Google. Plaintiff objects to the extent
7 that this Request seeks DOCUMENTS protected by the attorney work-product
8 privilege and/or the attorney-client privilege or seeks the disclosure of expert reports
9 prior to the deadline provided for in the April 2, 2009 Scheduling Order. Finally,
10 Plaintiff objects that this Request is duplicative of other Requests propounded on
11 Plaintiff. Subject to and without waiving the foregoing objections, Plaintiff responds
12 as follows:

13 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
14 possession, custody, or control that can be located through a reasonable search.

15 **REQUEST FOR PRODUCTION NO. 23:**

16 Please produce all DOCUMENTS RELATING TO the size of the class that
17 YOU seek to represent through YOUR COMPLAINT.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 23:**

19 Plaintiff incorporates his General Objections as if fully stated herein.
20 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
21 and unduly burdensome. Plaintiff also objects that this Request seeks information
22 that is beyond the scope of discovery allowed by the Federal Rules of Civil
23 Procedure in that it seeks DOCUMENTS that are not reasonably calculated to lead
24 admissible evidence. Plaintiff objects to this Request as vague and ambiguous.
25 Plaintiff objects to the extent that this Request seeks DOCUMENTS protected by the
26 attorney work-product privilege and/or the attorney-client privilege or seeks the
27 disclosure of expert reports prior to the deadline provided for in the April 2, 2009
28 Scheduling Order. Finally, Plaintiff objects that this Request is duplicative of other

1 Requests propounded on Plaintiff. Subject to and without waiving the foregoing
2 objections, Plaintiff responds as follows:

3 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
4 possession, custody, or control that can be located through a reasonable search.

5 **REQUEST FOR PRODUCTION NO. 24:**

6 Please produce all DOCUMENTS RELATING TO YOUR contention in
7 paragraph 16 of the COMPLAINT that "[t]he disposition of the claims of the
8 [CLASS MEMBERS] in a single class action will provide substantial benefits to all
9 parties and to the court."

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 24:**

11 Plaintiff incorporates his General Objections as if fully stated herein.
12 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
13 and unduly burdensome. Plaintiff also objects that this Request seeks information
14 that is beyond the scope of discovery allowed by the Federal Rules of Civil
15 Procedure in that it seeks DOCUMENTS that are not reasonably calculated to lead
16 admissible evidence. Plaintiff objects to this Request as vague and ambiguous.
17 Plaintiff objects to this request as it is overly broad as it pertains to DOCUMENTS
18 within the possession, custody or control of Google. Plaintiff objects to the extent
19 that this Request seeks DOCUMENTS protected by the attorney work-product
20 privilege and/or the attorney-client privilege or seeks the disclosure of expert reports
21 prior to the deadline provided for in the April 2, 2009 Scheduling Order. Finally,
22 Plaintiff objects that this Request is duplicative of other Requests propounded on
23 Plaintiff. Subject to and without waiving the foregoing objections, Plaintiff responds
24 as follows:

25 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
26 possession, custody, or control that can be located through a reasonable search.

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1 **REQUEST FOR PRODUCTION NO. 25:**

2 Please produce all DOCUMENTS RELATING TO any actual or potential
3 conflicts between YOU and any putative CLASS MEMBER.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 25:**

5 Plaintiff incorporates his General Objections as if fully stated herein.
6 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
7 and unduly burdensome. Plaintiff also objects that this Request seeks information
8 that is beyond the scope of discovery allowed by the Federal Rules of Civil
9 Procedure in that it seeks DOCUMENTS that are not reasonably calculated to lead
10 admissible evidence. Plaintiff objects to this Request as vague and ambiguous.
11 Plaintiff objects to this request as it is overly broad as it pertains to DOCUMENTS
12 within the possession, custody or control of Google. Plaintiff objects to the extent
13 that this Request seeks DOCUMENTS protected by the attorney work-product
14 privilege and/or the attorney-client privilege or seeks the disclosure of expert reports
15 prior to the deadline provided for in the April 2, 2009 Scheduling Order. Finally,
16 Plaintiff objects that this Request is duplicative of other Requests propounded on
17 Plaintiff. Subject to and without waiving the foregoing objections, Plaintiff responds
18 as follows:

19 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
20 possession, custody, or control that can be located through a reasonable search.

21 **REQUEST FOR PRODUCTION NO. 26:**

22 Please produce all DOCUMENTS RELATING TO COMMUNICATIONS
23 between YOU and any putative CLASS MEMBER.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 26:**

25 Plaintiff incorporates his General Objections as if fully stated herein.
26 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
27 and unduly burdensome. Plaintiff also objects that this Request seeks information
28

1 that is beyond the scope of discovery allowed by the Federal Rules of Civil
2 Procedure in that it seeks DOCUMENTS that are not reasonably calculated to lead
3 admissible evidence. Plaintiff objects to this Request as vague and ambiguous.
4 Plaintiff objects to the extent that this Request seeks DOCUMENTS protected by the
5 attorney work-product privilege and/or the attorney-client privilege or seeks the
6 disclosure of expert reports prior to the deadline provided for in the April 2, 2009
7 Scheduling Order. Finally, Plaintiff objects that this Request is duplicative of other
8 Requests propounded on Plaintiff. Subject to and without waiving the foregoing
9 objections, Plaintiff responds as follows:

10 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
11 possession, custody, or control that can be located through a reasonable search.

12 **REQUEST FOR PRODUCTION NO. 27:**

13 Please produce all DOCUMENTS RELATING TO YOUR selection of legal
14 counsel, including any process for selecting legal counsel, any investigation of the
15 legal counsel that now represents YOU, and any investigation of other legal counsel.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 27:**

17 Plaintiff incorporates his General Objections as if fully stated herein.
18 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
19 and unduly burdensome. Plaintiff also objects that this Request seeks information
20 that is beyond the scope of discovery allowed by the Federal Rules of Civil
21 Procedure in that it seeks DOCUMENTS that are not reasonably calculated to lead
22 admissible evidence. Plaintiff objects to this Request as vague and ambiguous.
23 Plaintiff objects to the extent that this Request seeks DOCUMENTS protected by the
24 attorney work-product privilege and/or the attorney-client privilege. Finally,
25 Plaintiff objects that this Request is duplicative of other Requests propounded on
26 Plaintiff. Subject to and without waiving the foregoing objections, Plaintiff responds
27 as follows:
28

1 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
2 possession, custody, or control that can be located through a reasonable search.

3 **REQUEST FOR PRODUCTION NO. 28:**

4 Please produce all DOCUMENTS RELATING TO any actual or promised
5 payments to YOU by YOUR legal counsel.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 28:**

7 Plaintiff incorporates his General Objections as if fully stated herein.
8 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
9 and unduly burdensome. Plaintiff also objects that this Request seeks information
10 that is beyond the scope of discovery allowed by the Federal Rules of Civil
11 Procedure in that it seeks DOCUMENTS that are not reasonably calculated to lead
12 admissible evidence. Plaintiff objects to this Request as vague and ambiguous.
13 Plaintiff objects to the extent that this Request seeks DOCUMENTS protected by the
14 attorney work-product privilege and/or the attorney-client privilege. Finally,
15 Plaintiff objects that this Request is duplicative of other Requests propounded on
16 Plaintiff. Subject to and without waiving the foregoing objections, Plaintiff responds
17 as follows:

18 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
19 possession, custody, or control that can be located through a reasonable search.

20 **REQUEST FOR PRODUCTION NO. 29:**

21 Please produce all DOCUMENTS that YOU may use at any trial or hearing in
22 this matter, including without limitation any hearing on YOUR motion for class
23 certification.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 29:**

25 Plaintiff incorporates his General Objections as if fully stated herein.
26 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
27 and unduly burdensome. Plaintiff also objects that this Request seeks information
28

1 that is beyond the scope of discovery allowed by the Federal Rules of Civil
2 Procedure in that it seeks DOCUMENTS that are not reasonably calculated to lead
3 admissible evidence. Plaintiff objects to this Request as vague and ambiguous.
4 Plaintiff objects to this request as it is overly broad as it pertains to DOCUMENTS
5 within the possession, custody or control of Google. Plaintiff objects to the extent
6 that this Request seeks DOCUMENTS protected by the attorney work-product
7 privilege and/or the attorney-client privilege or seeks the disclosure of expert reports
8 prior to the deadline provided for in the April 2, 2009 Scheduling Order. Finally,
9 Plaintiff objects that this Request is duplicative of other Requests propounded on
10 Plaintiff. Subject to and without waiving the foregoing objections, Plaintiff responds
11 as follows:

12 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
13 possession, custody, or control that can be located through a reasonable search.

14 **REQUEST FOR PRODUCTION NO. 30:**

15 Please produce all COMMUNICATIONS between YOU and any expert who
16 may testify in this matter.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 30:**

18 Plaintiff incorporates his General Objections as if fully stated herein.
19 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
20 and unduly burdensome. Plaintiff also objects that this Request seeks information
21 that is beyond the scope of discovery allowed by the Federal Rules of Civil
22 Procedure in that it seeks DOCUMENTS that are not reasonably calculated to lead
23 admissible evidence. Plaintiff objects to this Request as vague and ambiguous.
24 Plaintiff objects to this request as it is overly broad as it pertains to DOCUMENTS
25 within the possession, custody or control of Google. Plaintiff objects to the extent
26 that this Request seeks DOCUMENTS protected by the attorney work-product
27 privilege and/or the attorney-client privilege or seeks the disclosure of expert reports
28

1 prior to the deadline provided for in the April 2, 2009 Scheduling Order. Finally,
2 Plaintiff objects that this Request is duplicative of other Requests propounded on
3 Plaintiff. Subject to and without waiving the foregoing objections, Plaintiff responds
4 as follows:

5 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
6 possession, custody, or control that can be located through a reasonable search.

7 **REQUEST FOR PRODUCTION NO. 31:**

8 Please produce DOCUMENTS sufficient to show all legal actions in which
9 YOU have been a party or have been deposed.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 31:**

11 Plaintiff incorporates his General Objections as if fully stated herein.
12 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
13 and unduly burdensome. Plaintiff also objects that this Request seeks information
14 that is beyond the scope of discovery allowed by the Federal Rules of Civil
15 Procedure in that it seeks DOCUMENTS that are not reasonably calculated to lead
16 admissible evidence. Plaintiff objects to this Request as vague and ambiguous.
17 Plaintiff objects to the extent that this Request seeks DOCUMENTS protected by the
18 attorney work-product privilege and/or the attorney-client privilege. Finally,
19 Plaintiff objects that this Request is duplicative of other Requests propounded on
20 Plaintiff. Subject to and without waiving the foregoing objections, Plaintiff responds
21 as follows:

22 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
23 possession, custody, or control that can be located through a reasonable search.

24 **REQUEST FOR PRODUCTION NO. 32:**

25 Please produce all DOCUMENTS constituting sworn testimony YOU have
26 given in any legal proceeding, including but not limited to deposition transcripts,
27 declarations, affidavits, or other sworn testimony.
28

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 32:**

2 Plaintiff incorporates his General Objections as if fully stated herein.
3 Additionally, Plaintiff objects to this Request on the grounds that it is overly broad
4 and unduly burdensome. Plaintiff also objects that this Request seeks information
5 that is beyond the scope of discovery allowed by the Federal Rules of Civil
6 Procedure in that it seeks DOCUMENTS that are not reasonably calculated to lead
7 admissible evidence. Plaintiff objects to this Request as vague and ambiguous.
8 Plaintiff objects to the extent that this Request seeks DOCUMENTS protected by the
9 attorney work-product privilege and/or the attorney-client privilege. Finally,
10 Plaintiff objects that this Request is duplicative of other Requests propounded on
11 Plaintiff. Subject to and without waiving the foregoing objections, Plaintiff responds
12 as follows:

13 Plaintiff will produce non-privileged, responsive DOCUMENTS in his
14 possession, custody, or control that can be located through a reasonable search.
15

16
17 Dated: May 1, 2009

KABATECK BROWN KELLNER LLP

18
19
20 By: 

21 Michael Storti

22 *Counsel for Plaintiff and the class*
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 644 South Figueroa Street, Los Angeles, CA 90017.

On May 1, 2009, I served the following documents:

PLAINTIFF ALMEIDA'S RESPONSES TO DEFENDANT GOOGLE, INC.'S AMENDED FIRST SET OF INTERROGATORIES

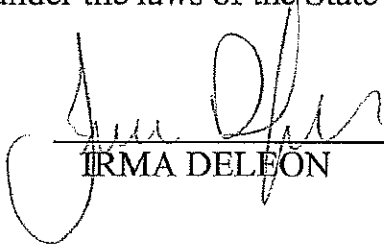
PLAINTIFF ALMEIDA'S RESPONSES TO DEFENDANT GOOGLE, INC.'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS

on the interested parties in this action:

SEE ATTACHED LIST

- VIA U.S. MAIL** - As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- VIA EMAIL** - see attached list

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



IRMA DELEON

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ATTACHED LIST

David J. Silbert
(dsilbert@kvn.com)
Alyse Bertenthal
(abertenthal@kvn.com)
Keker & Van Nest, LLP
710 Sansome Street
San Francisco, CA 94111

EXHIBIT D

1 BRIAN S. KABATECK, SBN 152054
(bsk@kbklawyers.com)
2 RICHARD L. KELLNER, SBN 171416
(rlk@kbklawyers.com)
3 ALFREDO TORRIJOS, SBN 222458
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4 KABATECK KELLNER LLP
644 South Figueroa Street
5 Los Angeles, California 90017
Telephone: (213) 217-5000
6 Facsimile: (213) 217-5010

7 Attorneys for Plaintiff
and the proposed class
8

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

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

15 Plaintiff,

16 vs.

17 GOOGLE, INC., a Delaware
Corporation; and DOES 1 through 10,
18 inclusive,

19 Defendants.
20

CASE NO. CV 08-02088 RMW

HON. RONALD M. WHYTE

**STIPULATION OF DISMISSAL
WITH PREJUDICE AND MUTUAL
WAIVER OF COSTS,
ATTORNEYS' FEES AND
EXPENSES**

21 WHEREAS, on or about April 22, 2008, Plaintiff commenced the above
22 captioned action (the "Action") in the United States District Court for the Northern
23 District of California;

24 WHEREAS, Plaintiff has agreed to dismiss his individual claims against
25 defendant Google, Inc. ("Defendant") with prejudice pursuant to Fed. R. Civ. P.
26 41(a)(1);
27

28

— 1 —

**STIPULATION OF DISMISSAL WITH PREJUDICE AND MUTUAL WAIVER OF COSTS,
ATTORNEYS' FEES AND EXPENSES
(CV 08-02088 RMW)**

1 IT IS HEREBY STIPULATED AND AGREED that each party shall bear
2 his or its own attorneys' fees, costs and expenses accrued or incurred in connection
3 with the Action and waives any and all claim(s) against one another for the
4 recovery of his or its attorneys' fees, costs and expenses accrued or incurred in
5 connection with the Action;

6 IT IS HEREBY FURTHER STIPULATED AND AGREED that Defendant
7 will not seek or pursue a malicious prosecution claim against Plaintiff arising from
8 or in connection with this Action.

9

10 Dated: July __, 2009

KABATECK BROWN KELLNER LLP

11

12

By _____
Alfredo Torrijos
Attorneys for Plaintiff

13

14

15 Dated: July __, 2009

KEKER & VAN NEST LLP

16

17

By _____
David J. Silbert
Attorneys for Defendant

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