

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 BROWN KELLNER LLP  
 644 South Figueroa Street  
 5 Los Angeles, California 90017  
 Telephone: (213) 217-5000  
 6 Facsimile: (213) 217-5010

7 Attorneys for Plaintiff  
 David Almeida

8  
 9 **UNITED STATES DISTRICT COURT**  
 10 **NORTHERN DISTRICT OF CALIFORNIA**

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

13 Plaintiff,

14 vs.

15 GOOGLE, INC., a Delaware Corporation;  
 16 and DOES 1 through 10, inclusive,

17 Defendants.

CASE NO. CV 08-02088 RMW

HON. RONALD M. WHYTE

**DECLARATION OF MICHAEL V.  
 STORTI IN SUPPORT OF PLAINTIFF'S  
 NOTICE OF NON-OPPOSITION TO  
 DEFENDANT GOOGLE, INC.'S MOTION  
 TO DISMISS**

Hearing

Date: April 2, 2010

Time: 9:00 a.m.

Dept: 6

20  
 21 **DECLARATION OF MICHAEL V. STORTI**

22 I, Michael V. Storti, declare as follows:

23 1. I am over the age of 18 and a resident of California. I make this declaration of my  
 24 personal and first-hand knowledge, and, if called and sworn as a witness, I would and could  
 25 testify competently hereto.  
 26  
 27  
 28



**EXHIBIT A**

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  
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 **UNITED STATES DISTRICT COURT**  
10 **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 VOLUNTARY  
DISMISSAL PURSUANT TO FED.  
R. CIV. P. 41(a)(1)**

21 Through this Stipulation, and for the reasons set forth below, plaintiff David  
22 Almeida (“Plaintiff”) and defendant Google, Inc. (“Defendant”) stipulate to the  
23 dismissal, with prejudice, of Plaintiff’s claims against Defendant, pursuant to  
24 Federal Rule of Civil Procedure 41(a)(1):

25 WHEREAS, on or about April 22, 2008, Plaintiff commenced the above  
26 captioned action;

27 WHEREAS, on or about July 14, 2008, Defendant filed its answer;  
28

1           WHEREAS Plaintiff alleged in his Complaint that he “enrolled in AdWords  
2 in November 2006” and “left the CPC content bid input blank”;

3           WHEREAS it was brought to Plaintiff’s attention by Google in the course of  
4 discovery that Plaintiff enrolled in AdWords prior to deployment of the “CPC  
5 content bid input” described in the Complaint;

6           WHEREAS on November 11, 2009 Plaintiff filed a motion for leave to  
7 amend the Complaint to substitute a new class representative into this action;

8           WHEREAS on November 30, 2009 the Court denied Plaintiff’s motion for  
9 leave to amend;

10           WHEREAS the Court ordered Plaintiff to submit evidence sufficient to  
11 create an inference that he used the “CPC content bid input”;

12           WHEREAS Plaintiff has not, to date, submitted evidence sufficient to show  
13 that he used the interface in question;

14           WHEREAS counsel for Plaintiff never responded to Defendant’s request  
15 that Plaintiff dismiss this action voluntarily in light of the foregoing circumstances,  
16 and consequently, Defendant filed a motion to dismiss on February 22, 2010;

17           WHEREAS, Fed. R. Civ. P. 41(a)(1)(A)(ii) allows for voluntary dismissal  
18 without court order by a stipulation signed by all parties who have appeared;

19           WHEREAS, the putative class has not been certified.

20           IT IS HEREBY STIPULATED AND AGREED that Plaintiff dismisses his  
21 claims against Defendant, with prejudice-, and that Google is the prevailing party  
22 in this action for all purposes.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: March \_\_, 2010

KABATECK BROWN KELLNER LLP

By \_\_\_\_\_  
Alfredo Torrijos  
Attorneys for Plaintiff

Dated: March \_\_, 2010

KEKER & VAN NEST LLP

By \_\_\_\_\_  
David J. Silbert  
Attorneys for Defendant