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9 Attorneys for Defendant
 10 GOOGLE INC.

11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA
 13 SAN JOSE DIVISION

14 In re Google AdWords Litigation

15 Case No. 08-cv-03369 JW RS

16 **STIPULATED EXPERT WITNESS**
 17 **DISCOVERY ORDER**

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 19
 20 Plaintiffs and Defendant Google Inc. (“Google”) (Plaintiff and Google collectively the
 21 “Parties”), by and through their respective counsel, hereby stipulate and agree to the following
 22 procedures governing disclosure of materials related to expert witnesses in the above-captioned
 23 proceedings (the “Google AdWords Litigation”):

24 1. With respect to any person or entity who Plaintiffs or Google (either one, a
 25 “Party”) have identified as an expert whose opinions may be presented at trial pursuant to Rules
 26 702, 703 or 705 of the Federal Rules of Evidence (an “Expert”), such Party shall produce the
 27 following documents pursuant to such deadlines as may be ordered by the Court:
 28

1 (a) a complete statement of all opinions to be expressed by the Expert and the
2 basis and reasons for them (the “Expert Report”);

3 (b) all facts or data considered by the Expert in forming the opinions reflected
4 in the Expert Report;

5 (c) any exhibits to be used to summarize or support the opinions reflected in
6 the Expert Report (to the extent such exhibits exist at the time the Expert Report is produced);

7 (d) a complete statement of the qualifications of the Expert, including a list of
8 all publications authored by the Expert within the preceding ten years;

9 (e) a listing of any other cases, or any administrative proceeding, in which the
10 Expert has served an Expert Report, or has testified as an expert at trial or by deposition, within
11 the preceding four years;

12 (f) a complete statement of the compensation paid or to be paid to the Expert
13 by all Parties sponsoring that Expert in connection with his/her work in this matter.

14 No party shall be required to produce any documents other than those documents
15 expressly identified in this paragraph.¹

16 2. Notwithstanding the provision of Fed. R. Civ. P. 26 or applicable case law, neither
17 an Expert nor the Party retaining such Expert shall be required to produce, testify at deposition or
18 trial concerning, or answer interrogatories that relate to:

19 (a) draft reports, draft studies, draft work papers; preliminary or intermediate
20 calculations, computations, or data runs; or other preliminary, intermediate or draft materials
21 prepared by, for, or at the direction of the Expert, including any such materials prepared by, for or

22 ¹ Notwithstanding the foregoing, (i) documents previously produced in the Google AdWords
23 Litigation in discovery need not be produced again, but may be identified by Bates number, (ii)
24 documents previously filed in the Google AdWords Litigation need not be produced, but may be
25 identified by docket number and date filed, (iii) documents or pleadings previously served to all
26 parties in the Google AdWords Litigation need not be produced, but may be identified by
27 document title and date served, (iv) transcripts of hearings or depositions in the Google AdWords
28 Litigation need not be produced, but may be identified by name of deponent and/or the date(s) of
the hearing or deposition and the relevant pages, (v) deposition exhibits from depositions taken in
the Google AdWords Litigation need not be produced, but may be identified by Exhibit Number,
and (vi) cases, statutes, treatises and similarly publicly available literature need not be produced,
but may be identified in “Bluebook-style” citation form.

1 at the direction of the Expert's employees, assistant(s), clerical or support staff; regardless of the
2 form in which the draft materials are recorded; or

3 (b) communications or documents constituting or reflecting communications
4 between an Expert and counsel to a Party or between an Expert and a non-testifying consulting
5 expert retained by a Party, regardless of the form of the communication, except to the extent that
6 the communications: (i) relate to compensation for the Expert's study or testimony; (ii) identify
7 facts or data that the party's attorney provided and that the Expert considered in forming the
8 opinions to be expressed; or (iii) identify assumptions that the Party's attorney provided and that
9 the Expert relied on in forming the opinions to be expressed.

10 Dated: August 28, 2009 COOLEY GODWARD KRONISH LLP

11
12 By: _____ /s/Peter J. Willsey
13 Peter J. Willsey

14 Attorneys for Defendant GOOGLE, INC.

15 Dated: August 28, 2009 SCHUBERT JONCKHEER KOLBE &
16 KRALOWEC LLP
17 ROBERT C. SCHUBERT S.B.N. 62684
18 WILLEM F. JONCKHEER S.B.N. 178748
19 KIMBERLY A. KRALOWEC S.B.N. 163158

20
21 By: _____ /s/Willem F. Jonckheer
22 Willem F. Jonckheer

23 Attorneys for Plaintiffs

24 **ATTESTATION OF FILER**

25 I, Sarah R. Boot, hereby attest that concurrence in the filing of the document has been
26 obtained from each of the other signatories.

27 Dated: August 28, 2009 COOLEY GODWARD KRONISH LLP

28
29 By: _____ /s/Sarah R. Boot
30 Sarah R. Boot

31 Attorneys for Defendant GOOGLE INC.

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PURSUANT TO THE STIPULATION, IT IS SO ORDERED.

Dated: _____, 2009

By: _____
The Honorable James Ware
United States District Court Judge

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