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

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13 HAL K. LEVITTE, Individually and On
 14 Behalf of All Others Similarly Situated,

15 Plaintiff,

16 v.

17 GOOGLE, INC., a Delaware corporation,

18 Defendant.

19 **Case No. C08-03369 JW**

20 **ADMINISTRATIVE MOTION TO**
 21 **CONSIDER WHETHER CASES SHOULD**
 22 **BE RELATED PURSUANT TO CIVIL**
 23 **LOCAL RULE 3-12**

24 **Judge: Hon. James Ware**

25 TO THE CLERK AND ALL PARTIES OF RECORD AND THEIR COUNSEL HEREIN:

26 Pursuant to Civil Local Rule 3-12, Hal K. Levitte, plaintiff in the action *Levitte v. Google, Inc.*, Case No. C08-03369 (“*Levitte*”), files this administrative motion requesting the Court to consider whether the subsequently filed class actions captioned *RK West, Inc. v. Google, Inc.*, Case No. C08-03452 (“*RK West*”) (filed July 17, 2008) and *Pulaski & Middleman, LLC v. Google Inc.*, Case No. C08-03888 (“*Pulaski*”) (filed August 14, 2008) should be related to this action. *Levitte, RK West*, and *Pulaski* are all currently pending in the United States District Court for the Northern District of California before different judges. Specifically, *Levitte* is pending before Judge Ware, *RK West* is pending before Judge Whyte, and *Pulaski* is pending before Judge Illston.

1 Plaintiff Levitte believes that *RK West* and *Pulaski* should be related to *Levitte*, the earliest-
2 filed case, because the three cases concern substantially the same parties, property, transactions and
3 events (*see* Civil L.R. 3-12(a)(1)). Plaintiffs in *Levitte*, *RK West*, and *Pulaski* all seek to represent a
4 putative class consisting of persons or entities located within the United States who contracted for
5 and participated in Google’s AdWords program. Google, Inc. (“Google”) is the named defendant in
6 all three actions. The transactions and events in all three actions involve Google’s inclusion of low-
7 quality parked domains and error pages websites within its AdWords advertising program. *Levitte*
8 and *Pulaski* assert claims against Google for Google’s inclusion of low-quality parked domain and
9 error page websites within its AdWords advertising program. *RK West* asserts claims against Google
10 only for Google’s inclusion of low-quality parked domain websites within its AdWords advertising
11 program. *Levitte* is the first-filed case in this district seeking relief based on the theory that Google’s
12 inclusion of low-quality parked domain and error page websites within its AdWords advertising
13 program, and related charges, are unlawful.

13 There will be an unduly burdensome duplication of labor and expense and potentially
14 conflicting results if the cases remain before different judges (*see* Civil L.R. 3-12(a)(2)) because
15 plaintiffs in *Levitte*, *RK West*, and *Pulaski* all represent identical putative classes against the same
16 defendant, and all three actions allege nearly identical claims against Google, arising from Google’s
17 inclusion of low-quality parked domains and error pages websites within Google’s AdWords
18 advertising program. In fact, *RK West* has moved for an order seeking to relate *Levitte*, *RK West*, and
19 *Pulaski* before this Court. See Docket Nos. 10-12, Case No. 08-03452, Administrative Motion to
20 Consider Whether Cases Should be Related Pursuant to Civil Local Rule 3-12, Declaration of Brian
21 S. Kabateck in Support of Motion, and Proposed Order, filed August 29, 2008. *Levitte*’s counsel is
22 also advised that the *Pulaski* plaintiff has filed an administrative motion to have the *Pulaski* action
23 related to *Levitte* and *RK West*, and requesting that *Pulaski* and *RK West* be reassigned to this Court.

24 Furthermore, this Court has extensive knowledge of Google and Google’s AdWords
25 advertising program, based upon another case pending before this Court since 2005, namely *CLRB*
26 *Hanson Industries, LLC v. Google, Inc.*, Case No. C05-03649 JW (“*CLRB*”). As this Court is aware,
27 *CLRB* alleges that Google’s AdWords advertising program unlawfully overcharges advertisers in
28 excess of advertisers’ set “daily budgets” for their advertising campaigns.

Finally, *Levitte*, *RK West*, and *Pulaski* are the only pending class actions within this district
that concern Google’s unlawful and improper inclusion of low-quality parked domain and error page
websites within its AdWords advertising program.

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Accordingly, plaintiff Levitte respectfully requests that this Court issue an order deeming *RK West* and *Pulaski* as related cases, so that the Clerk can reassign *RK West* and *Pulaski* to this Court, pursuant to Local Rule 3-12(f)(3).

Dated: September 3, 2008

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/s/

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