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 GOOGLE INC.



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

15 In re Google AdWords Litigation

Case No. 08-cv-03369 JW HRL

**UNOPPOSED MOTION FOR  
 ADMINISTRATIVE RELIEF TO  
 MODIFY CASE MANAGEMENT  
 SCHEDULE**

[Civil L.R. 7-11, 16-2(d)]

1 **I. INTRODUCTION**

2 The parties respectfully request a 90-day extension of the current case management  
3 deadlines. The primary reason for the requested extension is that defendant Google Inc. has  
4 voluntarily agreed to supplement its document production regarding certain historical webpages  
5 and certain data relating to the named plaintiffs' advertisements. The information was not  
6 previously produced because it is not reasonably accessible in Google's databases. Google will  
7 nevertheless undertake the substantial burden to obtain the information from its raw data logs.  
8 This information is not readily accessible and may take Google several weeks to obtain and  
9 produce. A brief extension will allow the noticed party depositions and expert discovery to occur  
10 with the benefit of these documents. A brief extension will also accommodate the parties'  
11 continued meet-and-confer efforts regarding their respective discovery disputes and any limited  
12 remaining discovery. The parties agree that absent unforeseen and extraordinary circumstances,  
13 they will not seek any further extensions of the class certification case management deadlines.

14 **II. FACTUAL AND PROCEDURAL BACKGROUND**

15 This consolidated action is a nationwide putative class action under Rule 23 of the Federal  
16 Rules of Civil Procedure. Plaintiffs assert claims for alleged violation of California Business and  
17 Professions Code sections 17200 and 17500 relating to Google's AdWords program for  
18 advertisers. Plaintiffs allege that Google has harmed plaintiffs and the putative class by charging  
19 them for clicks on advertisements that Google placed on parked domains and error webpages.

20 **A. Consolidation and Initial Discovery.**

21 By orders dated February 25, 2009, the Court consolidated four related class actions under  
22 the above caption, appointed interim lead class counsel, and bifurcated class and merits  
23 discovery. On April 24, 2009, plaintiffs filed their consolidated complaint. On May 18, 2009,  
24 Google filed its answer to the consolidated complaint.

25 The parties then promptly commenced discovery. The parties exchanged initial  
26 disclosures on June 11, 2009. Plaintiffs served document requests on Google on May 27, 2009,  
27 to which Google responded on July 13, 2009. Google also served document requests and  
28 interrogatories on plaintiffs on July 13, 2009. Plaintiffs served responses and objections to

1 Google's document requests and interrogatories on September 18, 2009.

2 During this time, the parties negotiated (1) a document production protocol governing the  
3 format of the parties' document production; (2) a Stipulated Protective Order, entered by the  
4 Court on August 31, 2009, and (3) a Stipulated Expert Witness Discovery Order, filed with the  
5 Court on August 31, 2009, but not yet entered by the Court.

6 In response to plaintiffs' document requests, Google commenced a rolling production of  
7 documents in November 2009, with additional productions occurring in December 2009, January  
8 2010, March 2010, and April 2010, amounting to more than 775,000 images as of April 2, 2010.

9 Plaintiffs made a document production of their own in December 2010.

10 **B. Adding and Dropping of New Named Plaintiffs and Related Discovery.**

11 Plaintiff Bolaji Olabode was added as a named plaintiff to the consolidated action by  
12 stipulation and order dated October 2, 2009. Plaintiff Olabode was later dropped as a party after  
13 he died, and plaintiffs West Coast Cameras, Inc. and Richard Oesterling were added in his place  
14 by order dated February 17, 2010. Pursuant to that order, plaintiffs filed an amended complaint  
15 on February 22, 2010, and Google filed an amended answer on March 4, 2010. Also on March 4,  
16 2010, plaintiffs supplemented their initial disclosures and plaintiffs West Coast Cameras, Inc. and  
17 Richard Oesterling responded to Google's written discovery.

18 **C. Informal Resolution of Discovery Disputes, Supplementation, Additional  
19 Discovery, and Depositions.**

20 In March 2010, Google raised various issues with plaintiffs' responses to Google's first  
21 set of interrogatories. After meeting and conferring, plaintiffs agreed to supplement their  
22 responses, which they did in April 2010. Certain of the plaintiffs also voluntarily supplemented  
23 their responses to Google's requests for production. Plaintiffs also voluntarily supplemented their  
24 document production in May 2010.

25 On May 7 and 12, 2010, plaintiffs raised certain issues with Google's document  
26 production. The parties met and conferred over the next several weeks in an effort to resolve  
27 certain of those issues without Court intervention. Google agreed to voluntarily supplement its  
28 production as to certain requests, and accordingly made a supplemental production on May 24,

1 2010, bringing the total images Google has produced to date to more than 780,000.

2 From February 2010 to May 2010, plaintiffs propounded five sets of interrogatories  
3 totaling 51 interrogatories and a second set of document requests comprised of one additional  
4 document request. As of June 18, 2010, Google has served responses to each of plaintiffs' five  
5 sets of interrogatories and second set of document requests. In April 2010 and continuing  
6 through the present, plaintiffs have raised issues with certain of Google's responses. After  
7 meeting and conferring, Google agreed to supplement certain interrogatories. Google last served  
8 supplemental responses on June 17, 2010.

9 The parties have noticed the depositions of eight fact witnesses—each of the six named  
10 plaintiffs and two Google witnesses (Google 30(b)(6) deposition and deposition of Google  
11 employee Jonathan Alferness). Absent modification of the current case management schedule,  
12 the depositions are presently set to begin on June 30, 2010 and continue through July 16, 2010.  
13 Without a brief extension, depositions of these fact witnesses would likely occur without the  
14 benefit of the certain historical webpages and certain data regarding plaintiffs' advertisements  
15 placed on parked domains and error webpages that Google will produce in the weeks ahead.

16 **D. Prior and Current Case Management Schedules.**

17 On September 17, 2009, the Court ordered the following case management schedule:

18 May 24, 2010	Deadline to complete class certification discovery, including expert 19 discovery
20 July 9, 2010	Deadline for filing the motion for class certification
21 August 27, 2010	Completion of all briefing on the motion for class certification
22 September 20, 2010	Hearing on the motion for class certification

23 Given the scope of discovery and Google's rolling production of documents through  
24 March 2010, and the need to perform additional discovery by the parties, the parties agreed to  
25 modify the case management schedule. The parties moved the Court accordingly, and on March  
26 9, 2010, the Court ordered the following modified case management schedule:

27 July 19, 2010	Deadline to complete class certification discovery, including expert 28 discovery
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September 3, 2010	Deadline for filing the motion for class certification
October 22, 2010	Completion of all briefing on the motion for class certification
November 15, 2010	Hearing on the motion for class certification

To accommodate expert discovery, the parties agreed to modify the case management schedule to allow a 30-day expert discovery period after the close of fact discovery. The parties' agreement did not otherwise change the schedule. On April 26, 2010, the Court ordered the following case management schedule:

July 19, 2010	Deadline to complete fact class certification discovery; deadline to exchange initial expert reports
August 19, 2010	Deadline for any rebuttal expert reports to be exchanged and to complete all expert class certification discovery
September 3, 2010	Deadline for filing the motion for class certification
October 22, 2010	Completion of all briefing on the motion for class certification
November 15, 2010	Hearing on the motion for class certification

**III. THE CASE MANAGEMENT SCHEDULE SHOULD BE MODIFIED TO EXTEND ALL DEADLINES BY A PERIOD OF APPROXIMATELY 90 DAYS**

The parties have been able to resolve their discovery disputes without burdening the Court with discovery motions. Recently, to resolve various discovery disputes, Google has agreed to supplement its document production regarding certain historical webpages and certain data relating to the named plaintiffs' advertisements placed on parked domains and errors web pages. The information was not previously produced because it is not reasonably accessible in Google's databases. Google will nevertheless undertake the substantial burden to obtain the information from its raw data logs. But doing so will take time, and require substantial engineering time and computer hours. Google estimates that it could take several weeks to obtain the requested information. The parties agree that the currently scheduled depositions and contemplated expert discovery should take place after the supplemental production. Also, a brief extension will allow the parties additional time to attempt to resolve any outstanding discovery disputes and complete any limited remaining discovery. Accordingly, the parties request a 90-day extension of the current case management schedule.

1 The proposed modified dates are as follows:

2 July 26, 2010	Deadline for Google to complete supplemental production of documents regarding certain historical webpages and certain data relating to the named plaintiffs' advertisements placed on parked domains and errors web pages
3 August 9, 2010 – September 17, 2010	Period during which parties will conduct fact depositions
4 October 4, 2010	Deadline to complete fact class certification discovery; deadline to exchange initial expert reports
5 November 19, 2010	Deadline for any rebuttal expert reports to be exchanged and to complete all expert class certification discovery
6 December 17, 2010	Deadline for filing the motion for class certification
7 January 28, 2011	Completion of all briefing on the motion for class certification
8 February 28, 2011	Hearing on the motion for class certification

9  
10  
11  
12 The parties have met and conferred regarding this motion, and plaintiffs do not oppose it.  
13 The parties respectfully request that the Court enter the proposed order submitted concurrently  
14 herewith. The parties agree that absent unforeseen and extraordinary circumstances, they will not  
15 seek any further extensions of the class certification case management deadlines.

16 **IV. CONCLUSION**

17 For each of the reasons stated above, Google respectfully requests that the Court grant its  
18 unopposed motion for administrative relief.

19 Dated: June 23, 2010

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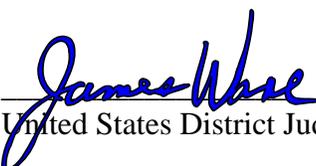
21 /s/ Leo P. Norton

22 Leo P. Norton  
23 Attorneys for Defendant  
GOOGLE INC.  
24 Email: lnorton@cooley.com

25 **IT IS SO ORDERED:**

26 **This is the FINAL continuance.**

27 Dated: June 29, 2010

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United States District Judge

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UNITED STATES DISTRICT COURT  
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**CERTIFICATE OF SERVICE**

CERTIFICATE OF SERVICE

I hereby certify that on June 23, 2010, I filed the foregoing UNOPPOSED MOTION FOR ADMINISTRATIVE RELIEF TO MODIFY CASE MANAGEMENT SCHEDULE with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following attorneys of record at the following listed email addresses.

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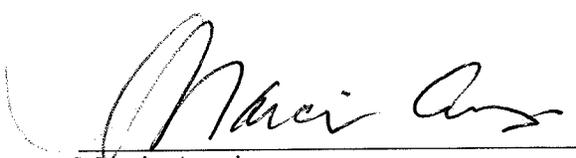
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