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10 Attorneys for Plaintiff  
 ROCKY MOUNTAIN BANK, a  
 11 Wyoming corporation

12 **UNITED STATES DISTRICT COURT**  
 13 **NORTHERN DISTRICT OF CALIFORNIA**

15 ROCKY MOUNTAIN BANK, a  
 Wyoming corporation,

16 Plaintiff,

17 v.

18 GOOGLE INC., a Delaware  
 19 corporation,

20 Defendant.

Case No. 5:09-CV-04385 PVT

**PLAINTIFF'S NOTICE OF  
 MOTION AND MOTION FOR  
 TEMPORARY RESTRAINING  
 ORDER AND PRELIMINARY  
 INJUNCTION**  
 (~~FILED UNDER SEAL~~)

Hearing Date: \_\_\_\_\_  
 Time: a.m.  
 Room:

Trial Date: Not Scheduled  
 Date Action Filed: \_\_\_\_\_  
 Judge: Hon. \_\_\_\_\_

1 **TO DEFENDANT AND TO THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on September \_\_\_\_\_, 2009, at \_\_\_\_\_, or  
3 as soon thereafter as counsel may be heard, before the Honorable \_\_\_\_\_  
4 in Courtroom \_\_\_\_ of the above-referenced court located at  
5 \_\_\_\_\_, San Jose, California, Plaintiff Rocky  
6 Mountain Bank will and hereby does move this Court for a temporary restraining  
7 order (“TRO”) and preliminary injunction pursuant to Rule 65 of the Federal Rules  
8 of Civil Procedure.

9 In its motion for injunctive relief, Plaintiff asks this Court to enter a  
10 temporary restraining order, preliminary injunction, and permanent injunction,  
11 ordering that:

12 a. Google and the Gmail Account holder are permanently enjoined  
13 from accessing, using, or distributing the Confidential Customer Information;

14 b. Google immediately deactivate the Gmail Account and delete  
15 the Inadvertent Email and attachment from its system;

16 c. Google immediately disclose the status of the Gmail Account,  
17 specifically, whether the Gmail Account is dormant or active, whether the  
18 Inadvertent Email was opened or otherwise manipulated, and in the event  
19 that the Gmail Account is not dormant, the identity and contact information  
20 for the Gmail Account holder; and

21 4. Any other and further relief the Court deems just and proper under the  
22 circumstances.

23 This motion is based on this Notice of Motion and Motion for Temporary  
24 Restraining Order and Preliminary Injunction, the Memorandum of Points and  
25 Authorities filed herewith, and the Verified Complaint for Declaratory and  
26 Injunctive Relief filed herewith, and such other matters that may properly come  
27 before the Court on this Motion.

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Respectfully submitted this 18<sup>th</sup> day of September, 2009.

**KUTAK ROCK LLP**

By: /s/ Grace Y. Horoupian  
Grace Y. Horoupian  
ATTORNEYS FOR PLAINTIFF  
ROCKY MOUNTAIN BANK