

1 Troy P. Sauro, (SBN 224097)  
 TSauro@perkinscoie.com  
 2 Albert Gidari (*pro hac vice* pending)  
 AGidari@perkinscoie.com  
 3 PERKINS COIE LLP  
 Four Embarcadero Center, Suite 2400  
 4 San Francisco, CA 94111-4131  
 Telephone: (415) 344-7000  
 5 Facsimile: (415) 344-7050

6 Attorneys for Defendant  
 GOOGLE INC.

7  
 8 GRACE Y. HOROUPIAN (SBN 180337)  
**KUTAK ROCK LLP**  
 Suite 1100  
 9 18201 Von Karman Avenue  
 Irvine, CA 92612-1077  
 10 Telephone: (949) 417-0999  
 Facsimile: (949) 417-5394  
 11 Email: grace.horoupian@kutakrock.com

12 NEIL L. ARNEY (SBN 125682)  
**KUTAK ROCK LLP**  
 13 Suite 3100  
 1801 California Avenue  
 14 Denver, CO 80202  
 Telephone: (303) 297-2400  
 15 Facsimile: (303) 292-7799  
 Email: neil.arney@kutakrock.com

16 Attorneys for Plaintiff  
 17 ROCKY MOUNTAIN BANK, a  
 Wyoming corporation

19 **UNITED STATES DISTRICT COURT**  
 20 **NORTHERN DISTRICT OF CALIFORNIA**

21 ROCKY MOUNTAIN BANK, a  
 Wyoming corporation,

22 Plaintiff,

23 v.

24 GOOGLE INC., a Delaware  
 25 corporation,

26 Defendant.

Case No. 5:09-CV-04385 JW

**STIPULATED MOTION TO  
 VACATE HEARING ON  
 PLAINTIFF'S MOTION FOR  
 PRELIMINARY INJUNCTION AND  
 TO VACATE TEMPORARY  
 RESTRAINING ORDER**

27  
 28 **STIPULATED MOTION TO VACATE HEARING ON PLAINTIFF'S MOTION FOR PRELIMINARY  
 INJUNCTION AND TO VACATE TEMPORARY RESTRAINING ORDER  
 CASE NO. 5:09-CV-04385 JW**

1 Plaintiff Rocky Mountain Bank (the “Bank”), by and through its undersigned  
2 counsel, and Defendant Google Inc. (“Google”), by and through its undersigned  
3 counsel, hereby submit the following Stipulated Motion to Vacate Hearing on  
4 Preliminary Injunction (the “Hearing”) and Temporary Restraining Order and in  
5 support thereof, hereby stipulate and agree as follows:  
6

7  
8 (1) On September 24, 2009, Google lodged a Report with the Court in  
9 response to, and in compliance with, the Court’s September 23, 2009 Order  
10 Granting Temporary Restraining Order (the “TRO”).  
11

12 (2) In light of the Report the parties are in agreement that the relief  
13 requested in connection with the Bank’s motion for preliminary injunction is now  
14 moot and the Hearing may be vacated. In light of Google’s compliance with the  
15 TRO, the parties also agree that the TRO should be vacated, allowing the Gmail  
16 Account to be reactivated to allow the user access to the account.  
17

18 WHEREFORE, the parties request that the Court vacate the Hearing  
19 currently scheduled for September 28, 2009 at 9:00 a.m. and vacate the TRO.  
20 Should the Court not enter the Order Granting Stipulated Motion To Vacate  
21 Hearing On Plaintiff’s Motion For Preliminary Injunction And To Vacate  
22 Temporary Restraining Order, the parties stipulate and hereby request that the  
23 Court continue the September 28, 2009 hearing on Plaintiff’s Motion For  
24 Preliminary Injunction to October 1, 2009, or such later date that is convenient for  
25  
26  
27

28 ///

1 the Court, and permit the parties to fully brief the matter.

2 Respectfully submitted this 25<sup>th</sup> day of September, 2009.

3 **PERKINS COIE LLP**

**KUTAK ROCK LLP**

4  
5  
6 By: /s/ Troy P. Sauro

By: /s/ Grace Y. Horoupian

7 Troy P. Sauro  
8 ATTORNEYS FOR DEFENDANT  
9 GOOGLE INC.

Grace Y. Horoupian  
ATTORNEYS FOR PLAINTIFF  
ROCKY MOUNTAIN BANK

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28