

1 TIMOTHY T. SCOTT (SBN 126971)
tscott@kslaw.com
2 GEOFFREY M. EZGAR (SBN 184243)
gezgar@kslaw.com
3 LEO SPOONER III (SBN 241541)
lspooner@kslaw.com
4 KING & SPALDING LLP
5 333 Twin Dolphin Drive, Suite 400
6 Redwood Shores, CA 94065
7 Telephone: (650) 590-0700
Facsimile: (650) 590-1900

8 SCOTT T. WEINGAERTNER
sweingaertner@kslaw.com
9 ROBERT F. PERRY
rperry@kslaw.com
10 CHRISTOPHER C. CARNAVAL
ccarnaval@kslaw.com
11 MARK H. FRANCIS
mfrancis@kslaw.com
12 KING & SPALDING LLP
13 1185 Avenue of the Americas
14 New York, NY 10036-4003
15 Telephone: (212) 556-2100
Facsimile: (212) 556-2222

16 Attorneys for Defendant
17 GOOGLE INC.

18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**
20 **SAN JOSE DIVISION**

21 TEXTSCAPE LLC,
22 Plaintiff,
23 v.
24 GOOGLE INC.
25 Defendant.
26

Case No. 5:09-cv-04552-JF

Honorable: Judge Jeremy Fogel

**DECLARATION OF SCOTT T.
WEINGAERTNER IN SUPPORT OF
GOOGLE INC.'S MOTION FOR
SUMMARY JUDGMENT OF
INVALIDITY OF CLAIM 1 OF U.S.
PATENT NO. 5,713,740**

1 STATE OF NEW YORK)

2) ss

3 COUNTY OF NEW YORK)

4

5 I, Scott T. Weingaertner, declare as follows:

6 1. I am a partner at King & Spalding LLP, 1185 Avenue of the Americas, New
7 York, New York, and I represent Defendant Google Inc. (“Google”) in this action. I submit this
8 Declaration in support of *Google Inc.’s Motion for Summary Judgment of Invalidity of Claim 1*
9 *of U.S. Patent No. 5,713,740.*

10 2. Attached as Exhibit A is a true and correct copy of U.S. Patent No. 5,713,740,
11 which issued on February 3, 1998 and is entitled “System and method for converting written text
12 into a graphical image for improved comprehension by the learning disabled.”

13 3. Attached as Exhibit B is a true and correct copy of U.S. Patent and Trademark
14 Office Grant of Request for Reexamination of U.S. Patent No. 5,713,740 based on a substantial
15 new question of patentability raised by Defendant.

16 4. Attached as Exhibit C is a true and correct copy of *Plaintiff’s Disclosure of*
17 *Asserted Claims and Infringement Contentions*, served by Textscape LLC (“Textscape”) upon
18 Google on March 26, 2010.

19 5. Attached as Exhibit D is a true and correct copy of excerpts of the April 7, 2010
20 *Deposition of R. David Middlebrook in Textscape LLC v. Adobe Systems Inc.*, 3:09-cv-4550-BZ
21 (N.D. Cal.).

22 6. Attached as Exhibit E is a true and correct copy of U.S. Patent No. 5,339,391
23 (“the ‘391 patent”), which issued on August 16, 1994 and is entitled “Computer display unit with
24 attributed enhanced scroll bar”

25 7. Attached as Exhibit F is a true and correct copy of excerpts from the Prosecution
26 History of the ‘391 patent received from the U.S. Patent Office, with an application (07/523,117)
27 initially filed on May 14, 1990.

28

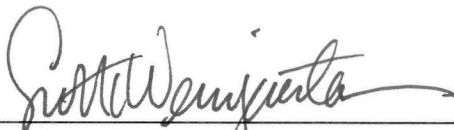
1 8. Attached as Exhibit G is a true and correct copy of U.S. Patent No. 5,510,808
2 (“the ‘808 patent”), which issued on April 23, 1996 and is entitled “Scrollbar having system of
3 user supplied information.”

4 9. Attached as Exhibit H is a true and correct copy of excerpts from the Prosecution
5 History of the ‘808 patent received from the U.S. Patent Office, with an application (07/531,213)
6 initially filed on May 31, 1990.

7 10. Attached as Exhibit I is a true and correct copy of the District Court’s *Order*
8 *Granting Defendant’s Motion for Summary Judgment in Textscape LLC v. Adobe Systems Inc.*,
9 3:09-cv-4550-BZ, Dkt. 57 (N.D. Cal. June 7, 2010).

10 11. The picture of the “Accused Web Chrome Browser” in § V.B of *Google Inc.’s*
11 *Motion for Summary Judgment of Invalidity of Claim 1 of U.S. Patent No. 5,713,740* (page 7) is a
12 true and correct screenshot of the Chrome Web Browser as operated on a Windows-based
13 computer and identifying the search results of the term “taxonomic” on a webpage from
14 www.wikipedia.org.

15
16 I declare under penalty of perjury that the foregoing is true and correct. Executed on
17 June 16, 2010.

18
19 By 
20 Scott T. Weingaertner
21
22
23
24
25
26
27