Hibnick v. Google Inc. Doc. 106 Att. 21

## EXHIBIT 25

## EXHIBIT 25 REPLY DECLARATION OF GARY E. MASON

Copy

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January 3, 2011

JAN -5 2011
PERKINS COIE LLP

The Honorable James Ware, Judge
United States District Court for the Northern District of California
San Jose Division
280 South 1st Street
San Jose, CA 95113

Dear Judge Ware,

I am a member of the class in re Google Buzz User Privacy Litigation, No: 5-10-cv-00672-JW.

I am writing to object to the excessive attorneys' fees sought by the class counsel.

Most importantly the relief in the settlement for each individual member of the class, with the possible exception of the 7 class representatives, amounts to zero. As such this settlement should be deemed as worse than, or at most equivalent to, a coupon settlement. Therefore attorneys' fees should be awarded on the basis of Class Action Fairness Act of 2005 (28 U.S.C.A. 1712(a)). Thus, the awarded attorneys' fees should stand at zero.

Furthermore, should the attorneys fees be calculated based on lodestar method, it should be noted that class counsel failed in their representation of the class:

First, I was unaware even of the existence of this class action until I was contacted by Google on November 2, 2010, as perhaps the majority of the class was.

Second, if any substantial portion of the class were to opt out, the expenses that would be incurred by that portion would already be far greater than the proposed settlement fund of 8.5 million.

Third, the settlement brings no financial remedy for the class.

Therefore, the quality of the work performed should be assessed as low, resulting in a significant decrease of the lodestar product.

In no case can the court in good conscience approve the attorneys' fees as a portion of the settlement fund. Should the court see that class counsel deserves certain compensation, the amount must be stated explicitly.

Respectfully.

Dmitrii Tisnek

D.O.B. January 6, 1980