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13  
14 **UNITED STATES DISTRICT COURT**  
15 **NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION**  
16

17 MARY McKINNEY, et al.,

18 *Plaintiff,*

19 vs.

20 GOOGLE, INC., a Delaware corporation,  
HTC CORP., a Taiwanese corporation, and  
21 T-MOBILE USA, INC., a Delaware  
corporation,

22 *Defendants,*  
23

) Case No. 10-cv-01177-JW

) CLASS ACTION COMPLAINT

) **UNOPPOSED ADMINISTRATIVE**  
) **MOTION TO CONSIDER WHETHER**  
) **CASES SHOULD BE RELATED**

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that, pursuant to Local Rules 3-12, Plaintiff Nathan Nabors  
3 submits this administrative motion for the Court to consider whether *Mary McKinney v. Google Inc.,*  
4 *et al.*, Case No 10-cv-01177-JW, filed on March 22, 2010, a putative class action lawsuit filed on  
5 August 31, 2010, should be related to *Nathan Nabors v Google Inc.*, Case No. 10-cv-03897-HRL.  
6 That action has been assigned to the Honorable United States Magistrate Howard R. Lloyd.

7 These actions involve substantially the same transactions, events, questions of law, and  
8 allege essentially the same violations of law against substantially the same defendants. In particular,  
9 both the action *Nabors* and the instant action, *McKinney*, allege violations of sections 201 and 207 of  
10 the Federal Communications act and breach of warranty and the Magnuson-Moss Warranty Act.

11 There are, however, two differences between *McKinney* and *Nabors* of which the Court  
12 should be aware. First, *McKinney* was brought by a Pennsylvania resident on behalf of a national  
13 class, while *Nabors* was brought by a Florida resident on behalf of a Florida class of consumers and  
14 a California class of consumers. Second, the instant action only names one defendant, Google, Inc.,  
15 whereas *McKinney* names two additional defendants (manufacturer of the Google Phone, HTC Corp.  
16 and service provider for the Google Phone, T-Mobile USA, Inc.).

17 It appears likely that there will be an unduly burdensome duplication of labor and expenses  
18 and potentially conflicting results if the cases are heard before different judges. Given the  
19 similarities of these actions, assignment of these cases to a single Federal District Court Judge will  
20 conserve judicial resources and promote efficient determination of the actions while avoiding  
21 potentially conflicting results. These two cases pending in this District are at a preliminary stage and,  
22 thus, assignment to a single judge would not prejudice any of the parties. Accordingly, plaintiff  
23 Mary McKinney respectfully requests that the action entitled *Mary McKinney v. Google Inc., et al.*,  
24 be deemed related to *Nathan Nabors v Google Inc.*, the first filed case in this District, which is  
25 presently assigned to the Honorable United States Magistrate Howard R. Lloyd.

1 DATED: October 4, 2010

Respectfully submitted,

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4 By: /s/ Sara D. Avila  
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**CERTIFICATE OF SERVICE**

I hereby certify that I have this 4<sup>th</sup> day of October 2010, served via the Court's electronic filing system, a true and correct copy of the above and foregoing on counsel as follows:

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