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

15 MARY MCKINNEY, Individually and on behalf of All Others Similarly Situated,) 5:10-cv-01177-JW
16 Plaintiff,) <u>CLASS ACTION</u>
17 v.) NOTICE OF WITHDRAWAL OF
18 GOOGLE, INC., a Delaware Corporation; HTC CORP., a Delaware Corporation; and T- 19 MOBILE USA, INC., a Delaware Corporation.) MOTION FOR LEAVE TO FILE SECOND
20 Defendants.) AMENDED COMPLAINT
) Date: November 29, 2010
) Time: 9:00 AM
) Courtroom: 8, 4th Floor
) Judge: Hon. James Ware

22 During the hearing this Court held on Monday, November 1, 2010, regarding the motions
 23 to dismiss and compel arbitration filed by Defendants Google, Inc., HTC Corp., and T-Mobile
 24 USA, Inc., the court indicated that Plaintiff McKinney would be allowed to amend her complaint
 25 once those motions were resolved. As this Court is aware, on October 21, 2010, McKinney filed
 26 a motion for leave to amend her complaint, which is set for argument on November 29, 2010.
 27 Doc. 63. McKinney’s attorneys have conferred with attorneys for the Defendants, whose briefs in
 28 opposition would have been due on November 8, 2010. All parties had the same understanding

1 regarding the comments made by the court.

2 After those discussions, all parties have agreed that McKinney may withdraw her motion
3 for leave to amend without prejudice. Pursuant to C.D. Cal. LR 7-7(a), Plaintiff hereby withdraws
4 her Motion for Leave To File Second Amended Complaint. This precludes any reason for going
5 forward with the hearing on November 29, 2010.

6 DATED: November 4, 2010

Attorneys for Plaintiff Mary McKinney and the
Proposed Class

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By: s/Sara D. Avila

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Sara D. Avila

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1 I, Sara D. Avila, am the ECF user whose ID and password are being used to file this
2 Motion and accompanying papers. In compliance with General Order 45, section X.B., I hereby
3 attest that I have on file the concurrences for any signatures indicated by a “conformed” signature
4 (/S) within this e-filed document.

5 DATED: November 4, 2010

Attorneys for Plaintiff Mary McKinney and the
Proposed Class

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