

1 **MILSTEIN | ADELMAN, LLP**  
 2 SARA D. AVILA, State Bar No. 263213  
 3 [savila@maklawyers.com](mailto:savila@maklawyers.com)  
 4 2800 Donald Douglas Loop North  
 5 Santa Monica, California 90405  
 6 Telephone (310) 396-9600  
 7 Facsimile (310) 396-9635

8 **WHATLEY DRAKE & KALLAS, LLC**  
 9 Joe R. Whatley, Jr. (*pro hac vice* pending, NY Bar No.4406088)  
 10 [jwhatley@wdklaw.com](mailto:jwhatley@wdklaw.com)  
 11 Edith M. Kallas (*pro hac vice* pending, NY Bar No. 2200434)  
 12 [ekallas@wdklaw.com](mailto:ekallas@wdklaw.com)  
 13 Patrick J. Sheehan (*pro hac vice* pending, NY Bar No. 3016060)  
 14 [psheehan@wdklaw.com](mailto:psheehan@wdklaw.com)  
 15 1540 Broadway, 37th Floor  
 16 New York, New York 10036  
 17 Tel: (212) 447-7070  
 18 Fax: (212) 447-7077

19 Attorneys for Plaintiff  
 20 Additional Counsel Listed on Signature Page

21 **UNITED STATES DISTRICT COURT**  
 22 **NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION**

23 MARY MCKINNEY, Individually and on )	5:10-cv-01177-JW (Hon. James Ware)
24 behalf of all others similarly situated, )	
25 )	
26 <i>Plaintiff,</i> )	<b>PARTIES’ STIPULATION AND</b>
27 )	<b>[PROPOSED] ORDER CONTINUING</b>
28 v. )	<b>THE HEARING DATE OF</b>
29 )	<b>DEFENDANTS’ MOTION TO</b>
30 )	<b>DISMISS [N.D. CAL. L.R. 7-7(b)]</b>
31 )	
32 GOOGLE, INC., a Delaware corporation; )	Current Hearing Date: April 25, 2011
33 and, HTC CORP., a Delaware corporation. )	Proposed Hearing Date: May 2, 2011
34 )	
35 <i>Defendants</i> )	
36 )	
37 )	
38 )	

39 Pursuant to Civil Local Rule 7-7(b), the parties stipulate to a continuance of the hearing  
 40 date on Defendant Google Inc. and HTC Corp. (collectively “Defendants”) Motion to Dismiss  
 41 Plaintiff’s Second Amended Complaint to May 2, 2011.

42 WHEREAS, the hearing is currently set for April 25, 2011;

43 WHEREAS, an opposition has been filed to Defendants’ Motion to Dismiss;

1           WHEREAS, the parties affected by the motion have not previously stipulated to continue  
2 the hearing date;

3           WHEREAS, Plaintiff requested a continuance of the hearing date because, unless the  
4 hearing is rescheduled, they must travel by airplane to San Jose on Easter Sunday to attend the  
5 hearing scheduled for Monday, April 24, 2011 at 9:00am;

6           WHEREAS, Defendants have agreed, subject to this Court's approval, to continue the  
7 hearing date to May 2, 2011, or any date on or after June 6, 2011, that is convenient for the Court.  
8 Counsel is unavailable May 9, 2011 through May 30.

9           WHEREAS, this extension will alter a time frame set by the local rules of this Court and  
10 therefore requires a Court order for such an extension;

11           NOW THEREFORE, Plaintiff and Defendants, through their counsel of record, and  
12 subject to this Court's approval, stipulate to the following: The April 25, 2011 hearing on  
13 Defendants' Motion to Dismiss shall be continued to May 2, 2011, or any date on or after June 6,  
14 2011, that is convenient to the Court.

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ORDER

PURSUANT TO STIPULATION, the hearing on Defendants’ Motion to Dismiss Plaintiff’s  
Second Amended Complaint is continued to \_\_\_\_\_.

**IT IS SO ORDERED.**

Date:

\_\_\_\_\_  
HON. JAMES WARE, U.S. DISTRICT COURT

**CERTIFICATION**

1 I, Sara D. Avila, am the ECF User whose identification and password are being  
2 used to file this STIPULATION AND [PROPOSED] ORDER. In compliance with General Order  
3 45.X.B., I hereby attest that France Jaffe and Rosemarie Ring concurred in this filing.  
4

5  
6 DATED: April 13, 2011

Attorney for Plaintiff Mary McKinney and the  
Proposed Class

7  
8  
9  
10 By: /s/ Sara D. Avila  
MILSTEIN ADELMAN, LLP  
Gillian L. Wade  
Sara D. Avila

11  
12 WHATLEY DRAKE & KALLAS, LLC  
Joe R. Whatley, Jr.  
Edith M. Kallas  
Patrick J. Sheehan

13  
14  
15 LAW OFFICE OF HOWARD  
RUBINSTEIN  
Howard Rubinstein  
[howardr@pdq.net](mailto:howardr@pdq.net)  
914 Waters Avenue, Suite 20  
Aspen, Colorado 81611  
Tel: (832) 715-2788

16  
17  
18  
19 SMITH & VANTURE, LLP  
Brian W. Smith  
[bws@smithvanture.com](mailto:bws@smithvanture.com)  
1615 Forum Place, Suite 4C  
West Palm Beach, Florida 33401  
Tel: (800) 443-4529  
Fax: (561) 688-0630