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Attorneys for Plaintiff Ric Benitti

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

MATTHEW BERLAGE, AARON  
LINSKY and JAMES FAIRBANKS, on  
behalf of themselves and all others similarly  
situated,

Plaintiffs,

v.

GOOGLE, INC., a Delaware corporation,  
  
Defendant.

RIC BENITTI, on behalf of himself and all  
others similarly situated,

Plaintiff,

v.

GOOGLE, INC., a Delaware corporation,  
and DOES 1 through 1000, inclusive,

Defendants.

Case No. CV 10-02187 JW

**CLASS ACTION**

**ADMINISTRATIVE MOTION TO RELATE  
THE *BENITTI* CASE PURSUANT TO  
CIVIL LOCAL RULE 3-12**

The Honorable James Ware

Case No. CV 10-03297 PVT

**CLASS ACTION**

The Honorable Patricia V. Trumbull

**ADMINISTRATIVE MOTION TO RELATE THE *BENITTI* CASE**

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that plaintiff Ric Benitti ("Plaintiff") submits this  
3 administrative motion, pursuant to Civil Local Rule 3-12, to relate *Benitti v. Google, Inc.*, Case  
4 No. CV 10-03297 PVT ("*Benitti*") to *Berlage, et al. v. Google, Inc.*, Case No. CV 10-02187 JW.  
5 A copy of the *Benitti* complaint is attached as Exhibit A to the Declaration of J. Paul Gignac.  
6

7 **A. THE RELATED ACTIONS**

8 The cases listed below are related to the *Benitti* action:

- 9 1. *Berlage, et al. v. Google, Inc.*, Case No. CV 10-02187 JW ("*Berlage*");  
10 2. *Stokes, et al. v. Google, Inc.*, Case No. CV 10-02306 JW ("*Stokes*"); and  
11 3. *Sedita v. Google, Inc.*, Case No. CV 10-03286 JW ("*Sedita*").

12 *Sedita*, like *Benitti*, was originally assigned to the Honorable Patricia V. Trumbull, but recently  
13 was related to *Berlage* and reassigned to this Court in an order entered on August 11, 2010.

14 **B. RELATIONSHIP OF THE ACTIONS**

15 This administrative motion is made on the grounds that both *Berlage* and *Benitti*, as well  
16 as *Stokes* and *Sedita*, are cases that involve a substantially similar subject matter -- namely: an  
17 alleged violation by defendant Google, Inc. ("Google") of the Electronic Communications  
18 Privacy Act of 1986, 18 U.S.C. § 2511, *et seq.* (the "Federal Wiretap Act").  
19

20 Civil Local Rule 3-12 provides that actions are related when:  
21

- 22 (1) The actions concern substantially the same parties, property, transaction or event;  
23 and  
24 (2) It appears likely that there will be an unduly burdensome duplication of labor and  
25 expense or conflicting results if the cases are conducted before different Judges.

26 The cases sought to be related by this administrative motion satisfy both criteria of Rule  
27 3-12. Both *Berlage* and *Benitti*, as well as *Stokes* and *Sedita*, are cases alleging that Google  
28 violated the Federal Wiretap Act by engaging in the unauthorized interception of electronic

1 communications in connection with the gathering of information for use in Google's "Street  
2 View" program. The primary remedies that are sought in each of the cases are the same:  
3 injunctive relief and statutory damages. The defendant in each case (Google) is the same.  
4 Therefore, there likely will be an unduly burdensome duplication of labor, as well as the  
5 potential for conflicting rulings on the same issues, if these cases remain assigned to different  
6 judges.  
7

8 Moreover, *Benitti* is a potential "tag-along action" in the matter of *In re: Google, Inc.*  
9 *Street View Electronic Communications Litigation*, MDL No. 2184, which was recently ordered  
10 assigned to this Court. It is expected that the Judicial Panel on Multidistrict Litigation ("JPML")  
11 will be issuing a Conditional Transfer Order for the purpose of consolidating or coordinating  
12 *Benitti* with the eight (8) other cases that are the subject of the JPML's August 17, 2010 Transfer  
13 Order. Therefore, an administrative order relating *Benitti* to *Berlage* should be issued by this  
14 Court in advance of and in anticipation of the JPML's Conditional Transfer Order.  
15

16 **C. CONCLUSION**

17 *Benitti* and *Berlage*, as well as *Stokes* and *Sedita*, satisfy the criteria of Civil Local Rule  
18 3-12. Therefore, Plaintiff respectfully requests that *Benitti* be deemed related to *Berlage* and that  
19 *Benitti* be reassigned to the Honorable James Ware.  
20

21 Dated: August 25, 2010.

Respectfully submitted,

22 ARIAS OZZELLO & GIGNAC LLP

23 By: \_\_\_\_\_ /s/  
24 J. Paul Gignac  
25 and

26 CHITWOOD HARLEY HARNES LLP

27 Attorneys for Plaintiff  
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