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 18 Google Inc.

19 UNITED STATES DISTRICT COURT
 20 NORTHERN DISTRICT OF CALIFORNIA
 21 SAN JOSE DIVISION

22 GOOGLE INC., a Delaware corporation,

23 Plaintiff,

24 v.

25 OMAR JACKMAN, an individual; JOHN
 26 DOE "SIMON," an individual; GREGORY
 27 GAVIN, an individual; AMANDA
 28 ODELL, an individual; JOEY PATRON,
 an individual; GINA WYANT, an
 individual; DOES 6-50, individuals,

Defendants.

Case No. CV-10-4264 LHK

**PLAINTIFF GOOGLE INC.'S
 ADMINISTRATIVE MOTION FOR
 RELIEF FROM THE ORDER SETTING
 INITIAL CASE MANAGEMENT
 CONFERENCE AND FOR
 CONTINUANCE OF INITIAL CASE
 MANAGEMENT CONFERENCE**

1 Pursuant to Local Rules 16-2(d), Plaintiff Google Inc. makes this Administrative Request
2 for an Order relieving it from the Court's September 21, 2010 Order Setting Initial Case
3 Management Conference and ADR Deadlines and the Clerk's October 1, 2010 Notice Setting
4 Case Management Conference (collectively, the "Case Management Order").

5 Since filing this action on September 21, 2010, Google has worked diligently to identify,
6 locate and serve defendants. Prior to today, only two of the five named defendants had been
7 served with process. Neither has made an appearance in the case. Google is presently
8 negotiating resolution with one of the served defendants (as to that defendant only). The
9 remaining three named defendants were served just earlier today, after diligent prior efforts.
10 Accordingly, in the interest of promoting judicial economy and efficiency and facilitating
11 productive case management, Google respectfully requests that the Court revise the Case
12 Management Order as follows:

- 13 (1) the initial Case Management Conference is to be held on or after February 28, 2011, as
14 the Court's calendar permits;
- 15 (2) February 14, 2011, is the last day to meet and confer regarding initial disclosures,
16 early settlement, ADR process selection, and the discovery plan per Federal Rule 26(f)
17 & ADR Local Rule 3-5; and
- 18 (3) February 21, 2011, is the last day to: (a) file the parties' Joint Case Management
19 Statement and Rule 26(f) Report; (b) complete Initial Disclosures or state objections to
20 such disclosures in the Rule 26(f) Report; (c) file the ADR Certification signed by the
21 Parties and Counsel per Civil Local Rule 16-8(b) & ADR Local Rule 3-5(b); and
22 (d) file either the Stipulation to ADR Process or Notice of Need for ADR Phone
23 Conference per Civil Local Rule 16-8(c) & ADR Local Rule 3-5(b) & (c).

24 This Motion for Administrative Relief is based upon the following Memorandum of
25 Points and Authorities, the accompanying Declaration of Bobbie J. Wilson ("Wilson Decl."), and
26 the files and records of this action.

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28

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **A. Factual Background**

3 Google operates an advertising network known as AdWords. AdWords is an innovative
4 online advertising service in which advertisers bid on keywords which may trigger the
5 presentation of advertising on the Google search results page. To participate in AdWords, an
6 advertiser must have an AdWords account and agree to certain Terms and Conditions governing
7 the account. These Terms and Conditions provide that the advertiser must comply with Google’s
8 AdWords policies, and they further provide that the advertiser will not use AdWords to advertise
9 anything illegal or engage in any illegal or fraudulent business practice. As alleged in the First
10 Amended Complaint, Defendants have violated these Terms and Conditions by using AdWords to
11 advertise on behalf of online pharmacies, or website businesses, that offer prescription drugs,
12 anabolic steroid products, or other illicit pharmaceutical products for sale online.

13 **B. Procedural Background**

14 On September 21, 2010, Google initiated this action by filing suit against Defendants
15 Omar Jackman, John Doe “Simon,” and Does 2-50. Wilson Decl. ¶ 3; Docket Entry No. (“Dkt.
16 No.”) 1. Google effected service of process on Defendant Jackman on September 29, 2010.
17 Wilson Decl. ¶ 4. Defendant Jackman has not made an appearance in this case. *Id.* ¶ 5.
18 However, Google and Defendant Jackman have been in negotiations regarding resolution of this
19 action (as to Defendant Jackman). *Id.*

20 On October 19, 2010, Google filed its First Amended Complaint to add Defendants
21 Gregory Gavin, Amanda Odell, Joey Patron, and Gina Wyant in place of defendants previously
22 named fictitiously as Does 2-5. Wilson Decl. ¶ 6; Dkt. No. 16. Google effected service of
23 process on Defendant Wyant on November 4, 2010. Wilson Decl. ¶ 7. Defendant Wyant has not
24 appeared or filed a response to the First Amended Complaint. *Id.* ¶ 8. Following weeks of
25 diligent efforts, Google served Defendants Gavin, Odell, and Patron earlier today, and they have
26 not yet appeared in the action. *Id.* ¶¶ 9-10.

1 **C. Good Cause Exists To Continue the Case Management Conference**

2 The Case Management Conference is currently scheduled for December 20, 2010. Good
3 cause exists, though, to continue the conference and the corresponding case management
4 deadlines. That is because until just today only two of the five named defendants had been served
5 with process, despite Google's diligent efforts to locate and serve them. In addition, Google is
6 actively in talks with Defendant Jackman to resolve this action with respect to him. Defendant
7 Wyant has not appeared or responded to the First Amended Complaint. Under these
8 circumstances, Google believes that continuing the Case Management Conference and related
9 obligations would promote more productive case management as well as judicial economy and
10 efficiency.

11 Accordingly, Google respectfully requests that the Court continue the Case Management
12 Order to be held on or after February 28, 2011, and revise the Case Management Order as set
13 forth above.

14 A proposed order accompanies this Motion.

15
16 DATED: December 13, 2010

PERKINS COIE LLP

17
18 By: /s/ Bobbie J. Wilson
Bobbie J. Wilson

19 Attorneys for Plaintiff
20 Google Inc.