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15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**
17 **SAN JOSE DIVISION**

18
19 PALOMA GAOS, an individual, on behalf of herself
20 and all others similarly situated,

Plaintiff,

v.

GOOGLE INC., a Delaware Corporation,

Defendant.

Case No. 5:10-cv-04809-EJD

**JOINT CASE MANAGEMENT
STATEMENT**

1 In accordance with the Court's April 25, 2011 Reassignment Order, plaintiff Paloma
2 Gaos ("Plaintiff") and defendant Google Inc. ("Defendant" and collectively with Plaintiff, the
3 "Parties") hereby submit this Joint Case Management Statement.

4 **I. FILING DATE**

5 Plaintiff filed her initial Complaint on October 25, 2010, and filed her First Amended
6 Complaint on May 2, 2011.

7 **II. DESCRIPTION OF PARTIES**

8 Plaintiff Paloma Gaos is a natural person and a resident of San Francisco County,
9 California.

10 Defendant Google Inc. is a Delaware corporation with its headquarters and principal
11 place of business located in Mountain View, California.

12 **III. SUMMARY OF CLAIMS**

13 According to Plaintiff's First Amended Complaint, this putative class action
14 involves all Google users who submitted search queries at Google.com and clicked on any link
15 displayed by Google in its search results page at any time after October 25, 2006. In short, Plaintiff
16 claims that Defendant transmitted its users' search queries, which contained allegedly sensitive
17 personal information, to third parties without authorization and in violation of Defendant's Privacy
18 Policy and federal law. Plaintiff, on behalf of the class, alleges (1) violation of the Stored
19 Communications Act; (2) fraudulent misrepresentation; (3) negligent misrepresentation; (4) public
20 disclosure of private facts; (5) violation of Cal. Civ. Code §§ 1572 & 1573; (6) breach of contract;
21 and (7) unjust enrichment.

22 Defendant Google denies liability as to all causes of action by Plaintiff.

23 **IV. EVENTS UNDERLYING THE ACTION**

24 Plaintiff's case relates to Google's free Internet search engine. To use Google
25 Search, users enter search terms into the search bar and submit the search request to Google by
26 hitting Enter on the keyboard or clicking the Search button. Each Google search results page has a
27 unique URL that includes the search terms used to generate the search result. Plaintiff contends this
28

1 is by deliberate design by Google. Users then can go to the desired web page by clicking the links
2 provided on the search results page, which will redirect the user to the desired destination web page.
3 In the normal course of web browser operation, the user's web browser (*e.g.*, Internet Explorer)
4 transmits what is known as Referrer Header information to the operator of every destination
5 webpage the user visits. The transmission of Referrer Header information is a standard and default
6 web browser function. The Referrer Header information includes the URL of the web page the user
7 last visited—it informs the requested website how the user got to the page.

8 Plaintiff alleges that, from at least October 2006 to the present, Google has systematically
9 designed its search engine services to transfer its users' search queries to numerous third parties. In
10 particular, Plaintiff alleges that each time a user enters a search query at Google.com, through
11 *deliberate* design by Google, the user's entire search query appears in and is transferred via the URL
12 of the subsequent Google search results page. Accordingly, Plaintiff alleges that each time a user
13 clicks on a link from Google's search results page, the owner of the website that the user clicks on
14 will receive from Google the entire URL of the search results page, which includes the user's full
15 search query. Plaintiff further alleges that Google could easily design Google.com so that search
16 queries are not forwarded, but chooses not to do so.

17 Plaintiff alleges that she conducted a number of Google searches during the relevant time
18 period, including so-called "vanity" searches that she alleges revealed sensitive personal
19 information, and that her search queries were unlawfully shared with third parties. Moreover,
20 Plaintiff alleges that existing and emerging technologies allow third parties who receive seemingly
21 anonymous search queries to "deanonymize" such searches and tie them to an individual's actual
22 identity.

23 V. RELIEF SOUGHT AND DAMAGES

24 A. Plaintiff's Statement

25 Plaintiff seeks the following relief:

- 26 • An order certifying the Class, directing that this case proceed as a class action, and
27 appointing Plaintiff and their counsel to represent Plaintiff and the Class;

- 1 • An order declaring that Google’s actions constitute violations of each cause of action
2 alleged;
- 3 • An order awarding injunctive relief and/or declaratory relief as necessary to protect
4 the interests of Plaintiff and the Class;
- 5 • An order awarding damages, including statutory damages where applicable, to
6 Plaintiff and the Class;
- 7 • An order awarding all economic, monetary, actual, consequential, and compensatory
8 damages caused by Google’s conduct, and if its conduct is provide willful, exemplary damages to
9 Plaintiff and the Class;
- 10 • An order awarding restitution against Google for all money to which Plaintiff and the
11 Class are entitled in equity;
- 12 • An order awarding Plaintiff and the Class their reasonable litigation expenses and
13 attorneys’ fees;
- 14 • An order awarding Plaintiff and the Class all pre- and post-judgment interest, to the
15 extent allowable;
- 16 • An order awarding such other relief as equity and the law may require.

17 In connection with her claim under the Stored Communications Act, Plaintiff seeks damages
18 consistent with 18 U.S.C. § 2707(c), which provides for the greater of Plaintiff’s actual damages or
19 statutory damages in the amount of \$1000 for each violation. Moreover, Plaintiff contends that her
20 and Class members’ private search queries contained sensitive personal information, and the
21 disclosure of these private queries caused actual damages. Plaintiff intends to introduce evidence
22 sufficient to quantify the value of the information wrongfully disclosed by Defendant at the
23 appropriate stage in this litigation.

24 **B. Defendant’s Statement**

25 At this time, no counter-claims, cross-claims or third party claims have been filed.
26 Google reserves the right to file such counter-claims.

1 It is Google's position that Plaintiff has failed to state a claim on which relief may be
2 granted and Plaintiff has failed to allege damages or that she is entitled to any relief as a result of the
3 alleged actions.

4 **VI. DISCOVERY**

5 Pursuant to Federal Rule of Civil Procedure 26(f), the Parties participated in a
6 telephonic meeting on February 11, 2011. At that time, the Parties did not fully establish a
7 discovery plan, but agreed to confer again on the subject pending the Court's ruling on Defendant's
8 outstanding motion to dismiss. The Honorable Judge Ware has since granted Google's motion to
9 dismiss Plaintiff's Complaint, with leave to amend, for lack of facts sufficient to establish Article III
10 standing. Plaintiff then filed her First Amended Complaint, filed May 2, 2011.

11 No substantive discovery has yet occurred in this action, and the Parties have not yet agreed
12 to any discovery deadlines.

13 **VII. PROCEDURAL HISTORY**

14 Plaintiff filed her Class Action Complaint on October 25, 2010. On February 10, 2010,
15 Defendant filed a motion to dismiss the Complaint under Fed. R. Civ. P. 12(b)(1) (with respect to all
16 claims) and 12(b)(6) (with respect to all claims except Plaintiff's claim under the Stored
17 Communications Act). On April 7, 2011, Judge James Ware entered an order granting Google's
18 motion to dismiss under Rule 12(b)(1) without prejudice and with leave to amend, finding that the
19 Plaintiff had failed to demonstrate that she had standing to assert her claims against Defendant.
20 Plaintiff filed her First Amended Complaint on May 2, 2011. In her First Amended Complaint,
21 Plaintiff dropped her claims for (1) violation of California Civil Code Section 1750 *et seq.*, (2)
22 violation of California Business and Professions Code Section 17500 *et seq.*, and (3) violation of
23 California Business and Professions Code Section 17200 *et seq.*, and added claims for (1) breach of
24 contract, (2) fraudulent misrepresentation, and (3) negligent misrepresentation.

25 **VIII. OTHER DEADLINES**

26 Because Plaintiff filed her First Amended Complaint on May 2, 2011, the current deadline
27 for Defendant to answer or otherwise respond is May 16, 2011.

1 Previously, a Joint Case Management Conference was scheduled for June 6, 2011, and a
2 Joint Case Management Statement was due on May 27, 2011. Pursuant to Paragraph Six of the
3 Court's Reassignment Order, the Parties understand that the previously scheduled Case
4 Management Conference has been vacated.

5 **IX. MODIFICATION OF DATES**

6 To the extent that the Reassignment Order does not address the Parties' deadline to file a
7 Joint Case Management Statement in advance of the now-vacated June 6, 2011 Case Management
8 Conference, the Parties propose that the May 27, 2011 deadline be vacated and a new date be set
9 seven days in advance of any rescheduled Case Management Conference, pursuant to Local Rule
10 16-10.

11 **X. CONSENT TO MAGISTRATE JUDGE FOR TRIAL**

12 The Parties do not consent to proceed before a Magistrate Judge for trial.

13 **XI. CASE MANAGEMENT CONFERENCE**

14 The parties do not believe that an immediate need exists for a case management conference
15 to be scheduled in this action.

16
17 Respectfully submitted,

18 Dated: May 6, 2011

NASSIRI & JUNG LLP

19
20 By: /s/ Kassra P. Nassiri
21 Kassra P. Nassiri
22 Attorneys for Plaintiff Paloma Gaos

23 Dated: May 6, 2011

EDELSON MCGUIRE LLC

24
25 By: /s/ Michael J. Aschenbrener
26 Michael J. Aschenbrener (*pro hac vice*)
27 Attorneys for Plaintiff Paloma Gaos

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By: /s/ Brynly R. Llyr
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Attorneys for Defendant Google, Inc.

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