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 6 Google Inc.

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 8 **UNITED STATES DISTRICT COURT**
 9 **NORTHERN DISTRICT OF CALIFORNIA**
 10 **SAN JOSE DIVISION**

12 PALOMA GAOS, an individual, on behalf
 13 of herself and all others similarly situated,

14 Plaintiff,

15 v.

16 GOOGLE INC., a Delaware Corporation,

17 Defendant.

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

**DECLARATION OF JEAN B. NIEHAUS
 IN SUPPORT OF GOOGLE INC'S
 MOTION TO DISMISS PLAINTIFF'S
 FIRST AMENDED COMPLAINT
 PURSUANT TO RULES 12(b)(1) AND
 12(b)(6)**

Hearing Date: October 28, 2011
 Time: 9:00 a.m.
 Place: Courtroom 1, 5th Floor
 Judge: Hon. Edward J. Davila

1 I, Jean B. Niehaus, declare as follows:

2 1. I am a member in good standing of the Bar of the State of California and an
3 associate with the law firm of O’Melveny & Myers, LLP, counsel for defendant Google Inc. in
4 this matter. I submit this Declaration in support of Google’s Motion to Dismiss Plaintiff’s First
5 Amended Complaint Pursuant To Rules 12(b)(1) and 12(b)(6). I make this declaration of my
6 own personal knowledge and, if called as a witness, would testify to the matters set forth below.

7 2. Attached hereto as **Exhibit 1** is a true and correct copy of the Google
8 Privacy Policy, dated October 3, 2010 and printed on May 16, 2011 from Google’s website. It is
9 available at <http://www.google.com/intl/en/privacy/privacy-policy.html>. The October 3, 2010
10 Privacy Policy is referenced in paragraph 22 of the Complaint. The language quoted from the
11 October 3, 2010 Privacy Policy in Google’s Motion to Dismiss, filed herewith, is identical to the
12 language in the October 14, 2005 Privacy Policy referenced in paragraph 20 of Plaintiff’s First
13 Amended Complaint (“FAC”).

14 3. Attached hereto as **Exhibit 2** is a true and correct copy of the Google
15 Privacy Center Privacy FAQ, printed on May 16, 2011 from Google’s website. It is available at
16 <http://www.google.com/intl/en/privacy/faq.html>. The Google Privacy Center Privacy FAQ is
17 referenced in paragraph 21 of Plaintiff’s FAC.

18 4. Attached hereto as **Exhibit 3** is a true and correct copy of the Order
19 Granting In Part And Denying In Part Defendant’s Motion To Dismiss in *In re Facebook Privacy*
20 *Litigation*, Case No. 5:10-cv-02389-JW, Dkt. No. 91 (N.D. Cal. May 12, 2011), printed on May
21 16, 2011 from the Public Access to Court Electronic Records (“PACER”) website.

22
23 I declare under penalty of perjury under the laws of the United States and the State
24 of California that the foregoing is true and correct. Executed on May 16, 2011 in San Francisco,
25 CA.

26
27 /s/ Jean B. Niehaus
Jean B. Niehaus