

1 DAVID H. KRAMER, State Bar No. 168452
 2 JACOB T. VELTMAN, State Bar No. 247597
 3 WILSON SONSINI GOODRICH & ROSATI
 Professional Corporation
 4 650 Page Mill Road
 Palo Alto, CA 94304-1050
 Telephone: (650) 493-9300
 Facsimile: (650) 565-5100
 5 Email: dkramer@wsgr.com
 Email: jveltmann@wsgr.com

6 Attorneys for Nonparty
 7 Google Inc.

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

12 LEGALZOOM.COM, INC.,
 13 Plaintiff,
 14 v.
 15 ROCKET LAWYER INC.,
 16 Defendant.

CASE NO.: 5:15-mc-80003-NC
 DECLARATION OF JACOB T.
 VELTMAN IN SUPPORT OF
 NONPARTY GOOGLE INC.'S
 OPPOSITION TO
 LEGALZOOM.COM, INC.'S
 MOTION TO COMPEL
 COMPLIANCE WITH SUBPOENA
 Before: Hon. Nathanael M. Cousins

20
21
22
23
24
25
26
27
28

1 I, Jacob Veltman, declare as follows:

2 1. I am an attorney at Wilson Sonsini Goodrich & Rosati (“WSGR”), counsel for
3 nonparty Google Inc. (“Google”) in this case. I make this Declaration in support of Google’s
4 Opposition to Plaintiff LegalZoom.com, Inc.’s (“LegalZoom”) Motion to Compel Compliance
5 with Subpoena. I have personal knowledge of the facts set forth in this Declaration. If called as a
6 witness, I could and would testify competently to the matters set forth herein.

7 2. Attached hereto as Exhibit 1 is a true and correct copy of a subpoena from
8 LegalZoom to Google in connection with its litigation against a company called Rocket Lawyer
9 Inc. (“Rocket Lawyer”) served on or about November 17, 2014.

10 3. On November 26, 2014, LegalZoom served a similar subpoena on Michael
11 Margolis, a Seattle-based employee of Google Ventures, a Google subsidiary. The subpoena
12 purported to require Mr. Margolis to produce documents and attend a deposition on December 4,
13 2014. On December 8, 2014, LegalZoom served a second subpoena on Michael Margolis
14 renoting the deposition noticed in the November 26 subpoena. On December 16, 2014,
15 LegalZoom served a similar subpoena on Google Ventures.

16 4. On November 26, 2014, I served Google Inc.’s response to the subpoena it
17 received, a copy of which is attached as Exhibit 2, via email and my assistant served a copy via
18 mail. Mr. Margolis served responses to his subpoena that same day.

19 5. I did not hear back from LegalZoom’s counsel regarding Google’s objections until
20 December 3, 2014. That day, Aaron Allan, counsel for LegalZoom, contacted my colleague
21 David Kramer and asked to speak about the subpoenas as soon as possible.

22 6. I called Mr. Allan back later that afternoon to inquire about the underlying lawsuit
23 and why Google and a Google Ventures employee had been subpoenaed and specifically why
24 LegalZoom was broadly demanding that Google produce all documents relating to Rocket
25 Lawyer’s use of the word “free” in any advertising activity. Mr. Allan told me LegalZoom had
26 learned in discovery that employees of Google Ventures (specifically, Mr. Margolis), had
27 conducted a usability analysis for Rocket Lawyer of its website and that Google Ventures had
28 created a report for Rocket Lawyer setting forth the results (which included discussion of the use

1 of the term “free” on the site). He also said that employees of Google Inc. had corresponded with
2 Rocket Lawyer regarding possible violations by Rocket Lawyer of Google advertising policies
3 over use of the word “free.”

4 7. During the December 3 call, I highlighted several objections to the subpoenas,
5 specifically noting that (a) the documents sought by the subpoenas were presumptively in the
6 possession of Rocket Lawyer; and (b) absent mention of specific issues, specific individuals and
7 specific time periods, it would be extremely burdensome for Google to search throughout the
8 company for “any and all” documents in its possession relating any use by Rocket Lawyer of the
9 word “free” in its advertisements.

10 8. Mr. Allan was unhelpful. He could not or would not explain why the documents
11 were being sought from Google instead of Rocket Lawyer and did not propose any meaningful
12 limitations on the subpoena’s demands by, for example, identifying specific custodians, or
13 locations to be searched.

14 9. At the end of the call, I told Mr. Allan that I needed to confer with Google
15 regarding the subpoenas and determine what documents were available to be produced and what
16 the associated burden and cost would be before committing to anything further.

17 10. The next day, December 4, 2014, I emailed Mr. Allan and requested that he provide
18 a copy of the report in question so that I could determine what relevance it had, if any, to the
19 litigation and what documents Google and Mr. Margolis might possess relating to the study.

20 11. I received a copy of the report the next day. A few hours later, I received a
21 voicemail from Mr. Allan insisting that I provide a final answer as to what documents and
22 testimony Google and Mr. Margolis were willing to provide. As I had just received the material I
23 requested, I did not yet have an answer for him. I therefore responded to Mr. Allan via email:

24
25 Thanks for sending over the study. I received your voicemail. I don’t have an
26 update for you right now other than that we’re still discussing this internally. I
understand that you’re in somewhat of a hurry to wrap up discovery, and will get
back to you with a substantive response as soon as I can.

27 A true and correct copy of this email is attached hereto as Exhibit 3.
28

1 12. On December 9, 2014 (two business days later), Mr. Allan sent a letter to me in
2 which he demanded “confirmation from your office that the production is proceeding” within 24
3 hours. A true and correct copy of that letter is attached hereto as Exhibit 4. I replied that I
4 thought LegalZoom was being unreasonable. At this point only seven business days had elapsed
5 since the Margolis Subpoena had been served, and I had only received the report in question two
6 business days earlier. I explained that while I had conferred extensively with Google’s legal
7 department in the short period between the December 3 and December 9,

8 Google is an extremely large corporation and ascertaining what documents are
9 available to be produced, what the burden associated with that production would
10 be, and whether there are privacy or confidentiality concerns relating to those
11 documents takes time, particularly given that Google is a third party and had no
12 familiarity with this dispute until our conversation last week. . . . [W]e will
13 respond to you as soon as possible, and within a reasonable time frame.

14 A true and correct copy of my letter to Mr. Allan is attached hereto as Exhibit 5.

15 13. Rather than afford Google a few additional days to evaluate LegalZoom’s
16 requests, Mr. Allan responded with a letter demanding that we conduct a formal meet-and-confer
17 call required under the Central District of California’s local rules as a precursor to a motion to
18 compel.

19 14. Although the Central District of California’s rules were inapplicable given
20 Google’s residence here, Mr. Kramer and I met with Mr. Allan telephonically on December 18 at
21 his insistence. I attempted to discuss Google’s remaining objections and what Google was
22 willing to produce, but Mr. Allan would not address our objections or offer any compromise. It
23 felt as if Mr. Allan was only participating in the call as a procedural prerequisite to filing a
24 motion to compel. When Mr. Kramer expressed our frustration at the one-sided nature of the
25 discussion, Mr. Allan demanded that we submit a proposal detailing the information Google was
26 willing to provide, and then ended the call. He followed immediately with an email containing a
27 slanted summary of the call, again offering no substantive response to the concerns we had
28 raised.

 15. I responded that day with a letter in which I rejected Mr. Allan’s summary of the
call. A true and correct copy of that letter is attached hereto as Exhibit 6.

1 16. Several hours later, I sent a second letter to Mr. Allan containing the proposal he
2 demanded. A true and correct copy of that letter is attached hereto as Exhibit 7. I explained that
3 although we believed the Subpoenas were objectionable for numerous reasons, Google would be
4 willing to search for documents relating to the Google Venture report if it would resolve the
5 subpoenas and avoid motion practice. I also explained that Google would provide the contact
6 information for the person using the <katherine.k@google.com> email address (without any
7 corresponding concession from LegalZoom) once it was able to confirm the identity of that
8 person. Although Mr. Allan had constantly imposed deadlines and demanded immediate
9 responses from Google, he ignored our proposal for nearly three weeks.

10 17. On January 5, 2015, Mr. Allan informed me via a terse email that our proposed
11 compromise was rejected. He did not provide any explanation for the rejection, nor did he
12 submit a counter-proposal. A true and correct copy of that email is attached hereto as Exhibit 8.
13 Later that day, Mr. Allan filed this motion to compel.

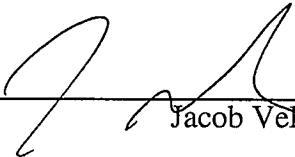
14 18. On January 8, 2015, Mr. Allan's colleague Barak Vaughn suggested via email
15 that we meet and confer regarding yet another subpoena LegalZoom had served, this time to
16 Google Ventures. I responded via email that given the prior meet and confer, we believed it
17 would be helpful if Messrs. Allan and Vaughn addressed Google Ventures' core objections in
18 writing before having another call. A true and correct copy of that email is attached hereto as
19 Exhibit 9. To date, LegalZoom's counsel has not responded.

20 19. On January 9, 2015, I provided the name and contact information to Mr. Allan via
21 email of Katherine Kramer, the former Google employee who had communicated with Rocket
22 Lawyer using the email address <katherine.k@google.com>. Due to privacy considerations, a
23 copy of that email is not attached hereto. On January 13, 2015, LegalZoom's counsel served me
24 with a copy of a subpoena addressed to Ms. Kramer.

25 20. LegalZoom's adversary, Rocket Lawyer, also served a subpoena on Google in
26 this matter. Like LegalZoom, Rocket Lawyer asked for information about the advertising by its
27 counterpart on Google's service. In response to similar objections from Google regarding
28 overbreadth and burden, Rocket Lawyer's counsel narrowed the requests, specified what it was

1 seeking and agreed to a compromise resolution. In its motion, LegalZoom insinuates that
2 Google is “stonewalling” LegalZoom because of connections between Google Ventures and
3 Rocket Lawyer. That is baseless. Rocket Lawyer has received no more favorable treatment
4 from Google in this process than that available to LegalZoom. Any difference in outcome is
5 owing to Rocket Lawyer’s good faith effort to meet and confer, contrasted with LegalZoom’s
6 refusal to do so.

7 I declare under penalty of perjury that the foregoing is true and correct. Executed this 20th
8 day of January 2015 at Palo Alto, California.

9
10 
11 _____
12 Jacob Veltman
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28