

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP
 Margret M. Caruso (Bar No. 243473)
 2 Cheryl A. Galvin (Bar No. 252262)
 555 Twin Dolphin Drive, 5th Floor
 3 Redwood Shores, California 94065-2139
 Telephone: (650) 801-5000
 4 Facsimile: (650) 801-5100
 5 Attorneys for Defendant Google Inc.

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UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA

HANGINOUT, INC.,
 Plaintiff,
 vs.
 GOOGLE INC.,
 Defendant.

CASE NO. 13-CV-2811 AJB NLS
**DECLARATION OF MATTHEW
 LESKE IN SUPPORT OF
 GOOGLE'S OPPOSITION TO
 HANGINOUT'S MOTION FOR
 PRELIMINARY INJUNCTION**
 Date: April 25, 2014
 Time: 2:00 p.m.
 Courtroom 3B
 Judge: Hon. Anthony J. Battaglia

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DECLARATION OF MATTHEW LESKE

I, Matthew Leske, hereby declare:

1. I am currently employed as the product manager of Hangouts by Google Sweden AB, the beneficial owner of which is Google Inc. (“Google”). I make this declaration in support of Google’s Opposition to Hanginout’s Motion For Preliminary Injunction. I am over the age of eighteen. I know the facts below based on my own personal knowledge. If called to testify as a witness, I could testify about them and would do so competently and under oath.

2. As part of my duties as product manager, I am familiar with, and assist in the creation, development, and maintenance of, Google’s Hangouts product. I am also familiar with consumer use of Hangouts.

Announcement and Use of Hangouts

3. On June 28, 2011, Google publicly announced Hangouts as part of the launch of Google+. Google+ is a social layer that connects and enhances many of Google’s products. It is sometimes referred to as a social network. Hangouts enabled real-time, live video conferencing between two individuals or among up to 10 individuals at once. The June 28, 2011 Google+ announcement can be viewed at <http://googleblog.blogspot.com/2011/06/introducing-google-project-real-life.html>.

A true and correct print out of that announcement is attached as Exhibit 1. A true and correct copy of the Hangouts video embedded in the announcement is attached as Exhibit 2. Records that Google maintains in the ordinary course of its business show that the blog post announcement was viewed 461,437 times before June 30, 2011 and 1,005,217 times by December 31, 2011.

4. According to records Google maintains in the ordinary course of its business, Hangouts had more than 50,000 unique users in the United States on June 28, 2011—the day it launched; only 10 days later, on July 8, 2011, Hangouts had more than 150,000 users in the United States.

1 5. According to records Google maintains in the ordinary course of its
2 business, users have initiated more than ■ billion Hangouts video conferences
3 since Hangouts launched in June 2011. In the past 30 days alone, there were over ■
4 million unique users of Hangouts video conferences in the United States.

5 6. Google has continuously used the name “Hangouts” in connection with
6 its video conferencing featuring since June 2011. In May 2013, Google also
7 launched new instant messaging/communications features under the Hangouts
8 name. At that time, Google also launched the mobile device app version of
9 Hangouts for the Android and iOS/Apple platforms. According to records Google
10 maintains in the ordinary course of its business, the Hangouts mobile app is
11 currently installed on ■ million mobile devices.

12 7. As of the time Google launched the mobile device app version of
13 Hangouts in May 2013, I had never heard of a company or app called “Hanginout.”

14 **Functionality of Hangouts On Air**

15 8. Google has a product called Hangouts On Air (or “HOA,” for short),
16 which it introduced in September 2011. This product is described at
17 <https://www.google.com/+/learnmore/hangouts/onair.html> and
18 https://support.google.com/plus/answer/2553119?hl=en&ref_topic=2553242. A
19 true and correct copy of printouts of the webpages found at those two links are
20 attached as Exhibit 3. Hangouts On Air has a separate team that works on it than the
21 Hangouts team.

22 9. Hangouts On Air offers users the ability to host interactive
23 conversations with people around the world by live streaming—essentially,
24 broadcasting— for free live in HD. Unlike Hangouts, which is limited to 10
25 participants at a time and is private among those who are invited to participate in a
26 given video conference, Hangouts On Air enables the public to view the video
27 conference, too. It is not limited to just the video conference-linked
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1 participants. Rather, Hangouts On Air allows users to broadcast live to as many
2 viewers as watch the Hangout On Air. In addition to the live-streamed broadcast of
3 a Hangouts on Air session, the broadcast is recorded and automatically saved on the
4 host's Google+ page and YouTube channel, where it can be edited and shared.

5 YouTube is a Google product that allows users to post, share, and view pre-
6 recorded videos.

7 10. According to records Google maintains in the ordinary course of its
8 business, since Hangouts on Air launched, users have created more than ■ million
9 Hangouts on Air.

10 11. In September 2013, Google announced a new app for Hangouts On Air
11 called "Live Q&A for Hangouts On Air." Hangouts On Air hosts can turn this app
12 on or off before beginning a Hangouts on Air broadcast by clicking on the Q&A
13 App icon on the Hangouts On Air events page. Enabling this app allows the host of
14 a particular Hangout on Air to solicit questions from up to a million concurrent
15 viewers and then select the questions that will be answered live. If the host enables
16 the app, viewers of a live HOA session can submit questions by typing and posting
17 them and vote on other users' questions (except mobile device users have view-only
18 access; they cannot submit or vote on questions). The text of the submitted
19 questions is displayed in a list on the side of the Hangout on Air. The vote tally is
20 displayed next to the questions. The host can also view the questions and vote
21 tallies, and select which ones to answer. Before and during the broadcast of the
22 Hangout On Air, viewers can type in a question. More information about this app is
23 viewable at <https://support.google.com/plus/answer/2660854?hl=en>. A true and
24 correct printout of that webpage is attached as Exhibit 4. Later, if the host enabled
25 the Q&A app and marked the points at which viewers asked each question during
26 the broadcast, then viewers of the recorded Hangout On Air session can also see

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1 the list of questions answered and jump to specific answers in the video. There is no
2 Q&A App for Hangouts.

3 **Changing the Name of Hangouts and/or Hangouts On Air Would Be**
4 **Expensive, Burdensome, and Disruptive**

5 12. I estimate based on my knowledge and experience that by the time it
6 was introduced, Hangouts was the culmination of Google's investment of more than
7 \$■ million and the efforts of more than ■ years of work by more than ■
8 engineers.

9 13. If Google was required to change the name of Hangouts, it would have
10 to devote significant technical resources to attempting to push out a new version of
11 its product to its existing users, and significantly invest in creating new explanatory
12 and support materials to the newly branded product and revising the extensive
13 references to Hangouts across Google's many interconnected products, such as
14 Google+, Gmail, YouTube Live, Helpouts, and the Android Operating System.

15 Changing the name of Hangouts also would require significant technical resources
16 and engineering time. For example, the Hangouts application is installed on more
17 than ■ million mobile phones and tablets globally. To update these devices,
18 Google would have to send a notification to each user, but those users would then
19 need to elect to update their application. This is a difficult process to manage.
20 Indeed, since the launch of the mobile device app version of Hangouts in May 2013,
21 Google still has millions of users who have not updated their app and are using the
22 old app every month.

23 14. Changing the name of Hangouts also would likely be damaging to the
24 third-party developers of the more than 20 apps offered to be used with Hangouts.
25 These developers are likely to lose the benefit of all marketing, promotion, and
26 goodwill currently associated with their products, and they will likely have
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1 change their marketing and advertising, if not also the code of their apps, to reflect
2 their usability with the re-branded product.

3 15. If Google is required to change the name of Hangouts, I would expect
4 that the number of users of the product, and the rate of new user adoption, could
5 drop significantly, as they try to figure out whether the newly-named product offers
6 the same functionality, or they read or hear about “Hangouts” and are unable to find
7 a rebranded product. They could also become frustrated by the change, or reduction
8 in apps, and switch to or adopt a different video conferencing product.

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10 I declare under penalty of perjury that the foregoing is true and correct.

11 Executed on March 21, 2014 at Stockholm, Sweden.

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