

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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**TRADECOMET.COM LLC,**

**Plaintiff**

v.

**GOOGLE INC.,**

**Defendant**

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CIVIL ACTION NO. 09-cv-1400(SHS)

**Declaration of Daniel J. Howley**

I, Daniel J. Howley, being over 21 years of age, and under penalty of perjury, declare as follows:

1. I am an associate in the law firm of Cadwalader, Wickersham & Taft LLP, which represents the plaintiff, TradeComet.com LLC (“TradeComet”) in the above captioned matter.

I submit this declaration in support of TradeComet’s opposition to Defendant’s motion to dismiss pursuant to Rules 12(b)(1) and 12(b)(3). I make this declaration on the basis of personal information.

2. Attached hereto as Exhibit 1 is a true and correct copy of the AdWords Agreement, dated August 22, 2006, that Google alleges that TradeComet assented to on August 29, 2006 (the “8/29/06 Agreement”);

3. Attached hereto as Exhibit 2 is a true and correct copy of the standard AdWords Agreement, dated April 19, 2005;

4. Attached hereto as Exhibit 3 is a true and correct copy of the standard AdWords Agreement, dated May 23, 2006;

5. Attached hereto as Exhibit 4 is a true and correct copy of the complaint, dated June 19, 2006, filed by Carl Person against Google in *Person v. Google*, 06-CV-4683 (S.D.N.Y.);

6. Attached hereto as Exhibit 5 is a true and correct copy of Google's Memorandum of Law in Support of Its Motion to Dismiss, dated July 27, 2006, as filed in *Person v. Google*, 06-CV-4683 (S.D.N.Y.);
7. Attached hereto as Exhibit 6 is a true and correct copy of Google's Reply Memorandum of Law In Support of Its Motion to Dismiss, dated August 31, 2006, as filed in *Person v. Google*, 06-CV-4683 (S.D.N.Y.);
8. Attached hereto as Exhibit 7 is a true and correct copy (with exhibits) of the Declaration of David DiNucci in Support of Defendant's Motion to Dismiss, dated August 28, 2006, as filed in *Person v. Google*, 06-CV-4683 (S.D.N.Y.);
9. Attached hereto as Exhibit 8 is a true and correct copy of email correspondence, dated January 24-25, 2006, between Dan Savage of TradeComet and Tina Parris of Google;
10. Attached hereto as Exhibit 9 is a true and correct copy of an excerpt from the transcript of the March 17, 2009 status conference in above captioned matter;
11. Attached hereto as Exhibit 10 is a true and correct copy of excerpts from the transcript of the April 13, 2009 deposition of Heather Wilburn in the above captioned matter;
12. Attached hereto as Exhibit 11 is a true and correct copy (with exhibits) of the Declaration of Heather Wilburn, filed March 31, 2009 in the above captioned matter;
13. Attached hereto as Exhibit 12 is a true and correct copy (without exhibits) of the Declaration of Annie Hsu as filed in *Feldman v. Google*, No 06-cv-2540 (E.D. Pa.).

Date: April 15, 2009

s/ Daniel J. Howley  
Daniel J. Howley