

per click is automatically given to the Plaintiff, other candidate, any political party or PAC who (a) is the only bidder for a keyword or (b) is assigned last place in the list of multiple advertisements served to a searcher by Google (with no lower bidder for the keyword);

(iii) Google stops requiring the elimination of abbreviations and requiring other changes in lawful copy as to the advertisements of Plaintiff, other candidates, and any political parties or PAC's;

(iv) Google stops terminating the ads of Plaintiff, other candidates or any political parties or PAC's for allegedly failing to meet the clickthrough rate or other standards or requirements of Google: [and]

(v) Google provides notice and an opportunity for Plaintiff, other candidates, and any political parties or PAC's to participate in any special deals Google makes available to any favored advertisers, such as eBay.

2. A copy of my Complaint, filed June 19, 2006, is annexed hereto as **Exhibit A**.

Google was served with a copy of a summons and my complaint at its office in this District, 1440 Broadway - 21st Floor, New York, NY, on June 26, 2006.

3.. During late December, 2005, I decided to run for New York Attorney General as a Green Party candidate, and during January, 2006 obtained the required number of signatures from members of the Green Party State Committee to make me a candidate for such position.

4.. For two years prior to this time, I advertised with Google's AdWords and saw how a candidate for office could finance his/her candidacy using AdWords, as a significant improvement over the demonstrated success years earlier of MoveOn.Org for Presidential candidate Howard Dean.

Explanation of How AdWords and Pay-Per-Click Advertising Works

5.. Google's AdWords service offers the opportunity for businesses, professionals, non-profit organizations, political candidates, educational institutions and others to place their advertisement before an individual conducting an Internet search using Google, Yahoo or Microsoft's MSN (hereinafter, "MSN") at the very moment of the researcher's expressed interest in a topic, by serving a 3-line "sponsored ad" to the right of the search results. A 4th line in the

ad shows the URL of the advertiser. [Google ads that are positioned on top of the search results have one less line, but with no loss of text.]

6.. The number of ads that can be delivered with the search results is limited, to perhaps 10-15, but often is 1-6 ads, or even none at all, depending on the number of persons bidding to use a specified keyword. Thus, if a user is searching for "elephants" any organizations bidding for the term "elephants" would, if selected by Google as a bid winner (or if nobody else is bidding for use of the term) have its 3-line ad presented with the search results provided to the researcher.

7. Google would be paid by the advertiser only if and when a user clicked on the ad (and thereby jumped to the advertiser's website or "landing page" for such ad). Google has a minimum price of 1 cent per click, and claims that it provides that price to a sole bidder for use of a keyword, or to the last advertiser in a list of ads provided to a user if no other bidder has been rejected.

8. Thus, advertisers have to be concerned with the value of being the first in a list of ads in comparison to the cost of being first (up to \$100 maximum per click) and the additional business expected by reason of being first: the last advertiser in the list automatically gets the bargain price of 1 cent per click if there are no rejected bidders for use of such term. See Exhibit K, p. 14, in which Google's 3/13/06 10-K states: "and Joe would occupy the third ad position and pay the minimum bid of \$0.01 per click".

**My Plan to Run for Statewide Office
Using AdWords (My "AdWords Plan")**

9.. Starting in January, 2006, I developed a series of websites to assist in my candidacy for New York Attorney General, including www.carlperson4NYAG.com, www.americanjobsparty.org and www.lawmall.com/latefees.

10.. My plan is to create a "permissive" email mailing list of 1,000,000 email addresses (with ZIP Codes to know where the person resides) at a low cost per email address

through advertising my three websites (and possibly others I would create) through Google's AdWords at the Google-announced minimum price per click of 5 cents, recently reduced to 1 cent per click.

11.. I plan to use a substantial number of the numerous words not being used by advertisers (*e.g.*, the words "facetious", "jellybean", "bearhug", "inglorious", "unsettling" - used only by Amazon as an apparent advertiser of last resort, and "likeness" - used only by eBay as another apparent advertiser of last resort), as well as keywords having only 1 to 4 advertisers (enabling me to come in as the last advertiser, for the 1-cent minimum). According to Google, the last advertiser in the list of displayed ads gets an automatic 1-cent per-click rate if there is no rejected bidder for that keyword. I could work with any last position, as long as there are no other bidders for the keyword, because in such event I would be paying only 1 cent per click under Google's rules.

12.. On April 7, 2006, I found that 3 of the 12 announced candidates for New York Attorney General were using AdWords to advertise their candidacies (including Republican candidate Jeanine Pirro, Democratic candidate Denise O'Donnell, and Democratic candidate Richard Brodsky).

13.. I believed that, by using the lowest price keywords (available to me, I thought, at 5 cents and now 1 cent per click), I could create an email list of 1,000,000 email addresses (with ZIP codes) of persons living in New York and then use that list, similarly to MoveOn.Org, to finance my campaign, obtain volunteers and volunteer coordinators, set up fund-raising parties and carry out the business of my candidacy. Hereinafter, I refer to this as my "AdWords Plan".

14.. Google, however, had various rules already in place, and then added additional rules, that made my AdWords Plan impossible. I have spelled out these rules in my Complaint (**Exhibit A** hereto).

Google's Unlawful Practices about which I Complain

15.. The following practices of Google have prevented me from implementing my AdWords Plan:

A.. Google does not allow me to have the minimum rate of 1 cent (or previously 5 cents) per click at any time, regardless of the circumstances:

B.. Google does not allow me to use a substantial number of keywords for which there is no demand whatsoever, and for which I would automatically be entitled to the lowest per-click rate under Google's rules;

C.. Google does not give me the lowest (1- or 5-cent per click) price when my ad is allowed by Google to appear (as the last ad) and there is no other advertiser seeking to use the same keyword whose ad does not also appear above my ad: the only way I am allowed to advertise at all. Google tells me when rejecting my low bid, is to increase my bid to much higher levels, such as to \$.50 or \$1.00; thus, when I do this and even if I am the only advertiser, or the last advertiser, I do not get the minimum price of 1 cent per click:

D.. Google stops most of my ads from running within a short period of time (usually within a day or two, upon information and belief) when my ad fails to have a clickthrough rate (i.e., number of clicks per 100 or 1000 impressions) comparable to the clickthrough rate of highly successful, well-known advertisers with strong brand names using Google's AdWords advertising; and Google usually advises me, in the AdWords website, upon my happening to find out that my ads have been stopped, that I can have my ads reactivated by Google if I agree to increase my "nominal bid" [my phrase] from, say 5 cents to 50 cents or 1.00 per click, 50 or 100 times the minimum per-click price I should have been entitled to; [Note: My nominal bids are transformed by Google software into substantially lower bids by a bid adjustment process to prevent my nominal bid, even if it is the highest bid, from winning any advertising position.]

E. Google is doing a variety of things to raise bids, and is manipulating the market as a result; another practice is to advise all advertisers what price they should bid, and this price is

determined by Google to be higher than any other bidder; and the next bidder for the same keyword is advised to bid higher than this earlier bidder, and so on, which keeps artificially increasing the bid price for the keyword in question. See complaint that AdWords Discounter is a sham, at **Exhibit R**, from <http://www.searchguild.com/tpage18379-0.html>, showing how Google manipulated the price of the keywords.

F.. One of the main problems faced by me and other small-business users of AdWords is Google's total interference with the writing of copy for the ads, an interference that destroys the momentum started when spending a few hours working on the AdWords campaign, only to see Google reject most of the copy as well as keywords and bids, totally emasculating the attempt to use AdWords. Google requires me to rewrite perfectly lawful copy and to eliminate abbreviations (thereby enabling my message to say less in the fixed number of characters for any AdWords ad – 25 heading characters and 70 additional characters), which interferes with the effort in putting together an advertising campaign: see Google's Editorial Guidelines at **Exhibit B** hereto: there are difficulties in trying to sell a new product, service or company, and AdWords requires the advertiser of a new product, service or company to be as successful within 24 hours or so as a company that achieved its present success over a period of decades, or be terminated from Google advertising directly or by an increase (adjustment) in the bid price per click to a level that cannot be justified by any possible advertising results; Google admits that it is terminating ads with low CTR's as a way to maximize Google's profits. Google's 10-K, **Exhibit K**, p. 46. Also, Google tells its remaining advertisers that the termination of the low-performing ads will make their advertising more profitable for them. See **Exhibit K**, p. 14, under "Google AdWords Auction System".

G.. Google evaluates my websites and landing pages and ad content in some unknown way (**Exhibit C**, "Google AdWords Landing Page and Site Quality Guidelines" and Google's "Program Comparison") and forces me to increase my nominal bid or be excluded from the bidding market (even when my nominal bid is the highest bid). Google refers to this as "Site

Quality" and "Landing Page" analysis. but all that this does is shelter Google's large, successful, high-volume advertisers by taking advertisers like me out of the market (by making me increase my nominal bid to an amount far higher than I or my offering can afford) or by artificially creating a demand for already-demanded keywords to manipulate the auction price by forcing more people into participating in auctions for keywords they really don't want because Google deprives them (including me) of being able to bid for and get the lower-priced keywords that nobody else wants at this time.

H.. Google has taken a large number of keywords off of the market with no justification other than to force me and others to bid for the remaining, higher-priced words. See ¶¶ 11 above and 16 below.

I.. Google's policy is to make me and other less successful advertisers pay the same price per impression as successful advertisers by increasing the per-click price to me (and the others), thereby manipulating the whole auction process and requiring me and others to pay, often, 50 to 100 or more times the per-click price of a high-volume advertiser. This price increase removes me and others from the market and provides the major advertisers with less competition for the keywords desired by them, and makes their advertising more profitable for them while denying any profit at all to me or an estimated one million other small-business advertisers.

16.. Unknown to me at the time, Google did not allow just anybody to obtain its lowest per-click rate (of 5 cents or then 1 cent). This lowest rate was being given only to the higher volume advertisers, such as eBay and apparently Amazon, various financial organizations and others who generated a high volume of Pay-Per-Click advertising for Google through a higher clickthrough rate (or "CTR") than advertisers such as myself, with a new, untried idea, product or service to try to sell, such as a political candidacy based on new ideas for voters. Examples of favored eBay advertising (at or below the minimum rate of 1 cent per click) are seen

3/24/06 when using Google to search for "busybody", "expensive" and then "matters". in 3 separate searches.

17. Google's AdWords system for pricing ads is not an auction at all. When I and other hopeful advertisers offer to pay, say, 5 cents or even 50 cents per click (as our nominal bid), Google then evaluates the content of my website, the content of my landing page, the content of my ad, the clickthrough rate I may be allowed to experience for several days, my prior CTR with prior, unrelated ads, the clickthrough rate of high-volume advertisers also seeking to use the same keyword, their websites and landing pages and ad content, and "other relevancy factors" that Google does not disclose, to determine that my bid is unacceptable and that the lower bid by a high-volume advertiser gets to run its ad instead. Google states:

"Quality Score: Quality Score is the basis for measuring the quality of your keyword and determining your minimum bid. Quality Score is determined by your keyword's clickthrough rate (CTR), relevance of your ad text, historical keyword performance, and other relevancy factors. The higher your Quality Score, the lower your minimum bid and price you'll pay per click." [Emphasis supplied.]
[Source: <http://www.google.com/adwords/learningcenter/text/print-18910.html>]

18. Google takes my nominal bid and converts it into a substantially lower bid which at the adjusted price is so low that I fail to win any position in the auction and am requested to increase my nominal bid if I want my ad to appear (possibly for only a day or so before Google removes it anyway).

19. I wound up realizing that with all the work I had put into my websites and candidacy, Google was not going to allow me or any other unknown person or company make uses of the AdWords keywords at the low rates (as low as 1 cent, even lower for eBay) Google was permitting high-volume advertisers and others with a well-known name to place their pay-per-click ads with Google.

20. In addition, Google continually interfered with my efforts to write copy I found appropriate by rejecting my ads until changes were made (such as eliminating abbreviations, or making other changes in wording dictated by Google's software or human editors) so that I could

never count on being able to run an advertising campaign through Google without interruption or cessation most of the time. See Google's Editorial Guidelines at **Exhibit B** hereto.

21. The problem of anyone trying to create and market a new product, service, company or political idea is that it takes a lot of changes of copy, changes of terms of any offer, price, and many other factors to succeed, but Google does not allow this at all because it terminates right away (within hours or several days) the advertising of advertisers that do not measure up to the successful standards of well-known, major advertisers with great name and brand recognition, and will not allow use of AdWords by many persons to create name or brand recognition or a market for a new product or service or idea.

22. As applied to political parties, candidates and political ideas, Google is providing heavy financial support to the main parties (Democratic and Republican) by allowing them to advertise without the same interference, upon information and belief, and denying the opportunity to me and other unknown candidates, parties and political ideas to advertise with Google Pay-Per-Click keyword-targeted advertising to find their smaller markets.

23. This activity of Google is the use of its corporate assets as contributions to the main political parties and their candidates in apparent violation of various campaign financing and reporting laws.

Google's Monopoly

24. No other advertising medium would enable the Plaintiff to build the desired email list of 1,000,000 email addresses (with ZIP Codes).

25. Newspaper, radio, television, cable and billboard advertising is too costly to be able to advertise throughout New York State as is necessary for my statewide candidacy. There is also the higher cost involved in converting responses from these types of media into a list for email use. Only Internet advertising is useful for this purpose.

26. The cost of advertising per 1,000 impressions ("CPM" advertising) on Internet is similar to newspaper, radio, cable or television advertising. The advertiser pays in advance for what he/she hopes will be an adequate response, but has no assurance with such advertising that anyone would be interested in and respond to the message.

27. This is the reason that Pay-Per-Click (PPC) advertising was created (as a more cost-effective advertising system for advertisers than CPM advertising), to enable advertisers to advertise but only pay when someone on the Internet clicks on the advertisement, for a set price of say 5 cents (or now 1 cent) per click, at Google's lowest cost, where the keywords used are not in any significant demand: and higher for keywords in greater demand (up to Google's stated maximum of \$100 per click).

28. A \$1,000 ad in a newspaper might find 20 interested persons with email addresses at a cost of \$50 per name so acquired, which is 5,000 times more expensive than the lowest price of 1 cent per click that Google is offering with its AdWords. The difference in price is so dramatic that there is no choice for me or others similarly situated. We have to use Google or do without. Newspaper, television, radio, cable and billboard advertising is delayed, too costly, and with non-economical results.

29. As alleged in my Complaint, there are many good reasons that compel a Pay-Per-Click Internet advertiser to use Google. See "Why Yahoo!, MSN & Ask.com Will Fail in the Pay-Per-Click Game" (5/24/06 from News, Technology & The Web, Opinion & Self Improvement, annexed as **Exhibit D**). Reasons include Yahoo's system is cumbersome to use: Yahoo requires a monthly minimum of \$25 (whereas Google has no monthly minimum expenditure requirement): Yahoo's network doesn't get as much traffic as Google does and therefore cannot deliver the number of impressions needed by advertisers: Yahoo requires a \$100 sign-up fee in contrast to Google's \$5 fee: Google's system is simple for users: Google depends on AdWords as its main source of revenue, whereas Yahoo is not dependent on its PPC revenue and fails to remain *competitive* as a result.

30. The numerous search websites are all powered by Google or Yahoo, except for MSN which started its own in-house search engine in May, 2006. See Chart "Who Powers Whom?" in Exhibit E, 6/21/06 in "Search Engine Marketing" printout from website of Editors Design Group, URL www.theeditors.com/search.htm. MSN is new and untried and less attractive as a result.

31. Some additional reasons for selection of Google over Yahoo's Overture are that Overture always charged more per click than Google (at least during the past two years). Today, Yahoo's minimum per-click price is \$.10 whereas Google's minimum price is 1 cent per click. See Exhibit F, printout from website of Search Engine Marketing, 2/10/03 newsletter article entitled "Overture Doubles Keyword Price with no Notice to Advertisers", from minimum of 5 cents up to the new minimum of 10 cents per click. Google at this time had a 5-cent minimum price per click, but later dropped to 1 cent per click. Chapter 1, page 17 of *Search Engine Optimization Book* (Exhibit G hereto) states that "in the past Google had a 5 cent minimum bid price and only allowed ads to display if their Google clickthrough rate was above 0.5%, but in August of 2005 they shifted to a quality based minimum pricing. This means that if your ad is deemed exceptionally relevant, you can get clicks for as low as 1 cent, depending on how competitors are bidding."

32. Another reason is that Google has more than 3 times as many web pages as Yahoo in its indexed database for searchers and is a faster search engine, so that many more searchers use Google than any other search engine, and Google's advantage keeps increasing. Google has 8.1 billion pages, compared to Microsoft's 5.0 billion pages, Yahoo's estimated 4.2 billion pages and Ask Jeeves' or Ask's 2.5 billion pages [Source: <http://blog.searchenginewatch.com/blog/041111-084221>].

33. Google has technology within its ownership team (founders Larry Page and Sergey Brin) [www.google.com/corporate/execs.html] that apparently cannot be matched by Yahoo or MSN enabling Google queries to respond more quickly (in a fraction of a second) to

most search requests. apparently far faster than Yahoo or Google and with more pages being searched. Google's superior set of parallel servers (450,000 or so) and Google's superior search or indexing algorithms sets Google apart and compels users and advertisers to select Google when putting together the information required to make an intelligent selection of search engines. Google reports that searches from start to completion require about one-half a second, including the query to Google's web server, which sends the query to the index servers, then to the documents servers that get the relevant documents, then the results go to the user, together with the selected AdWords ads (after determining the ads and position through Google's alleged auction system). Source: [www.google.com/corporate/tech.html.]

34. Although Overture pioneered this market (for keyword-targeted Internet advertising, on a pay-per-click basis), and then was purchased by Yahoo, Google came from behind and has left Yahoo in the distance with every likelihood of increasing this distance because of technical superiority and focus, among other factors. See 6/14/06 *New York Times* article "Hiding in Plain Sight, Google Seeks More Power", **Exhibit H** hereto. Google is wholly dependent on its income from AdWords, whereas a small part of Yahoo's income is derived from its Yahoo pay-per-click advertising, causing Yahoo to increasingly fall behind Google.

35. In order to create further distance, Google during the past week or two announced that it is creating a new plant for the future which presumably will raise the barriers to entry for others (including MSN) and make it less possible for Yahoo to continue its competition with Google. See 6/14/06 *New York Times* article "Hiding in Plain Sight, Google Seeks More Power", **Exhibit H** hereto.

36. Upon information and belief, based on my analysis of the financial statements for Google and Yahoo, Google has about 72-75% of the market (based on revenues) for keyword targeted Internet advertising, and growing. See my estimates and calculations in subparagraphs H-J of paragraph 71 of my Complaint (**Exhibit A** hereto).

37. Upon information and belief, Google (together with Yahoo) have caused a loss of substantial advertising revenue to the nation's large daily newspapers (Exhibit P, p. 1), and have forced many of them to try to recreate themselves as online newspapers where they can sell advertising similarly, and specifically without the space and limitations inherent in their present hard-copy form. A 9/26/05 article in www.hollywoodreporter.com entitled "The News for Newspapers" (Exhibit I) states in part:

The Internet has had an impact on the all media channels, including the television and magazine publishing industries. But it has had even more profound effects on the newspaper industry. It undercuts newspapers' revenue sources: Instead of subscription and purchase, people are turning to the Net or TV for up-to-the-nanosecond news. They tend to go online to research products and compare prices from multiple retailers instead of reading newspapers' display ads. And they are listing items for sale and looking for items to buy on electronic counterparts of the classifieds section. In areas where two-way digital television becomes a force, it too is likely to cause consumer usage of newspapers to decline.

Source:

http://www.hollywoodreporter.com/thr/pwc/talking_display.jsp?vnu_content_id=1001181077

Barriers to Entry

38.. Barriers to entry exist as to the Keyword-Targeted Internet Advertising market in the United States (and geographic submarket New York State), as discussed in the subparagraphs below:

a.. Although there are more than 1,000 Internet search engines available in the United States [source: <http://home.inter.net/takakuwa/search/usa/index.html>], only three of them are significant competitors in the offering of the Keyword-Targeted Internet Advertising market (Google, Yahoo and MSN): barriers to entry have excluded more than 99% of the companies already owning or licensing a search engine from competing with Google, Yahoo and MSN in such market:

b. According to Nielsen//NetRatings, Google has twice the number of web searches (46%) as second-place Yahoo (with 23%), with MSN a distant 3rd (at 11%). Exhibit O. portion

of page entitled "PPC Pay Per Click Search Engines"; companies that have no search engine are unable to compete in the Keyword-Targeted Internet Advertising market except as feeders of business to Google, Yahoo or MSN. See Exhibit P. "FAQ: Using PPC (Pay-per-Click) Google Adwords & Overture", at p. 3 under "Distribution of Google Adwords" and "Distribution of Yahoo Overture" for identities of search engine partners with Google and Yahoo, who permit Google and Yahoo to place PPC ads on their search results for a percentage of the PPC income received by Google and Yahoo:

c. The only competitors in the keyword-targeted Internet advertising market happen to be the search engines with the largest market share of web searches: Google (49.81%), Yahoo (12.86%) and MSN (7.58%). **Exhibit Q**, SEOWebguide, pp. 2-3. Google has about 4 times the number of web searches as Yahoo and 6 times the number of MSN. Google is steadily pulling ahead. Google had 48.62% in March, 2006 and 47.05% in February, 2006; Yahoo is declining, with 12.77% in March, 2006 and February, 2006; MSN is declining with 8.66% in March, 2006 and 9.0% in February, 2006. See **Exhibit Q**, pp. 4-6.

c. To compete, a competitor would have to purchase 400,000 to 800,000 servers or more (see **Exhibit H**), at an estimated one-time cost (including routers, peripherals, interconnections and installation) of an estimated \$5,000 each or an initial outlay ranging between \$2 billion and \$4 billion. See **Exhibit J**, ACM Queue article September 2005 by Luiz Andre Barroso, of Google. "An Economic Case for Chip Multiprocessing" (saying Google uses low-end servers, cost of approximately \$3,000 or \$4,000). MSN announced in May, 2006 that it plans to acquire 800,000 servers to compete with Google (and presumably Yahoo) (**Exhibit H**, last page).

d. Yahoo has a team of 3 technical persons who are responsible for the development of Google; two of these team members are founders of Google each with a sizable stock interest in Google (Larry Page and Sergey Brin); because there are so few competitors, the skill is acquired on the job and Yahoo and MSN have not demonstrated that any team they have put together is able to compete effectively with the Google team.

e. The Google team know-how consists of creating and using crawlers. updates. databases. 75 billion pages of information. indexes. arrays and algorithms, routers, getting hundreds of thousands of servers to separate information processing requests and have parts of a single overall search done by multiple computers within a fraction of a second. with the results assembled and merged with the AdWords auction taking place during the search and causing the results of the search and auction to be displayed on the searcher's computer, all within a fraction of a second in many instances. Source: [www.google.com/corporate/tech.html.]

f. Microsoft/MSN with its experience as a partner of Yahoo (until May, 2006) and its dedicated effort. billions of dollars available to spend. technological know-how with computers, software and internet, and other resources. up to this moment, has not been able to purchase or develop any team capable of effectively competing with Google's search-engine business and related AdWords Keyword-Targeted Internet Advertising business. See 6/14/06 *New York Times* article "Hiding in Plain Sight. Google Seeks More Power", **Exhibit H** hereto.

g.. Yahoo was an investor and partner in and licensee of Google until 2/17/04 (www.monash.com/spidap2.html and www.seobook.com/relevancy/#yahoo); in 2002, Yahoo had purchased the Inktomi search engine and in July 2003 purchased Overture. and has combined technologies to create its own in-house search engine (www.seobook.com/relevancy/#yahoo): this means that Yahoo will not be able to compete with Google unless it solves the problem faced by Microsoft (of creating a team able to compete with Google's team).

h.. Google has the fastest search engine of all competing search engines with indexes, algorithms. software and systems to deliver the search results (and accompanying AdWords ads) substantially faster than any other search website can locate and display its search results:

i.. Google has 46.3% of all internet searches conducted at more than 60 search sites [source: <http://searchenginewatch.com/reports/article.php/2156451>];

j.. Google has the world's largest and most comprehensive collection of information online - 8.1 billion pages, compared to Microsoft's 5.0 billion pages, Yahoo's estimated 4.2 billion pages and Ask Jeeves' or Ask's 2.5 billion pages [Source: <http://blog.searchenginewatch.com/blog/041111-084221>]. On 6/16/06 I performed a Yahoo search for "movie cameras", which reported finding 26,200,000 pages, whereas at the same time, I did a Google search using the same phrase, and Google reported finding 86,800,000 pages or more than 3 times as many pages;

k.. Overture (purchased by Yahoo in July, 2003) created the keyword-targeted Internet advertising market but lost its initial domination of the market to Google, because of superiority of Google's databases and software development and other factors;

l.. Google's capitalization during late 2005 was \$126.7 billion (\$428/share) in comparison to Yahoo's capitalization, of \$59.7 billion (\$42/share), making Google more than twice as valuable as Yahoo. This capitalization indicates a rough estimate of the cost of trying to put together a company to be able to compete effectively with Google.

m..Google states in its 10-K Annual Report filed March 16, 2006 (Exhibit K, at p. 20 under "Risk Factors") that Google's primary competitors are Microsoft and Yahoo, and that if they prove "successful in providing similar or better web search results compared to our or leverage their platforms or products to make their web search services easier to access than ours, we could experience a significant decline in user traffic. Any such decline in traffic could negatively affect our revenues." By implication, this has not occurred so far; the absence of any other significant competitors in this huge market is evidence of the effectiveness of the barriers discussed:

n.. The only company publicly stating that it is going to try to challenge Google (and not even mentioning Yahoo) is one of the largest monopolists, Microsoft, showing that there is a need for huge amounts of capital to challenge Google with only 2 challengers for control of Internet.

o.. Google states at page 16 in its Form 10-K filed on March 16, 2006 (**Exhibit K**) that it has a variety of intellectual properties upon which its technology is based, including patents, trademarks, copyrights, and trade secrets, backed by numerous secrecy agreements: this also includes the know-how in finding, indexing and storing web pages and using hundreds of thousands of servers to speed up information processing and distribution by simultaneous use of many interconnected computers for a single search.

p.. Failure of Yahoo to use the anticompetitive practices used by Google (as described in ¶¶ 12, 13, 13A, 19, 25-34 and 45-70 of the Complaint) indicates Yahoo's fear of losing customers to Google if Yahoo employed the same anticompetitive practices employed by Google:

q.. Google was able to build its AdWords business based on its existing search business, and to do so without any significant advertising by Google, indicating the need to have a search engine to be able to consider entering the Keyword-Targeted Internet Advertising market:

r. Google is building a computer center in The Dalles, Oregon as big as two football fields, with twin cooling plants protruding four stories into the sky – as Google's "weapon in its quest to dominate the next generation of Internet computing" (**Exhibit H, 6/8/06 NYT art.**)

s. Such new plant "heralds a substantial expansion of a worldwide computing network handling billions of search queries a day and a growing repertory of other Internet services". (**Exhibit H, 6/8/06 NYT art.**)

t. The new plant "is the backdrop for a multibillion-dollar face-off among Google, Microsoft and Yahoo that will determine dominance in the online world in the years ahead". (**Exhibit H, 6/8/06 NYT art.**)

u. Microsoft and Yahoo have announced that they are building big data centers upstream in Wenatchee and Quincy, Wash., 130 miles to the north. But it is a race in which they

are playing catch-up. Google remains far ahead in the global data-center race, and the scale of its complex here is evidence of its extraordinary ambition. (Exhibit H, 6/8/06 NYT art.)

v. Even before the Oregon center comes online "Google has constructed the biggest computer in the world, and it's a hidden asset," (Exhibit H, 6/8/06 NYT art.)

w. Microsoft stunned analysts last quarter when it announced that it would spend an unanticipated \$2 billion next year. much of it in an effort to catch up with Google. (Exhibit H, 6/8/06 NYT art.)

x. Google is known to the world as a search engine, but in many ways it is foremost an effort to build a network of supercomputers, using the latest academic research, that can process more data — faster and cheaper — than its rivals. (Exhibit H, 6/8/06 NYT art.)

y. "Google wants to raise the barriers to entry by competitors by making the baseline service very expensive." (Exhibit H, 6/8/06 NYT art.)

z. In March 2001, when the company was serving about 70 million Web pages daily, it had 8,000 computers.... By 2003 the number had grown to 100,000. (Exhibit H, 6/8/06 NYT art.)

aa. Today ... [t]he best guess is that Google now has more than 450,000 servers spread over at least 25 locations around the world. (Exhibit H, 6/8/06 NYT art.)

bb. Microsoft's Internet computing effort is currently based on 200,000 servers, and the company expects that number to grow to 800,000 by 2011 under its most aggressive forecast, according to a company document. (Exhibit H, 6/8/06 NYT art.)

cc. Yet it is the way in which Google has built its globally distributed network that illustrates the daunting task of its competitors in catching up. (Exhibit H, 6/8/06 NYT art.)

dd. [S]aid Milo Medin, a computer networking expert ... "I know of no other carrier or enterprise that distributes applications on top of their computing resource as effectively as Google." (Exhibit H, 6/8/06 NYT art.)

ee. *The Wall Street Journal* reported on 4/21/06 that:

eBay is in talks with both Yahoo and Microsoft to see which one (or possibly both) is a "worthy ally" to compete against the all-mighty Google. Currently eBay spends a ton on Google AdWords. pretty much any search you do on Google, you get an ad for eBay in the sponsored results. [Source: <http://blog.searchenginewatch.com/blog/060421-085252>]

ff. Google's 1st Quarter 2006 revenues (quarter ending 3/31/06) increased 79% over the 1st Quarter of 2005, and its 4th Quarter 2005 revenues (ending 12/31/05) increased 17% over the 4th Quarter of 2004 [mistakenly stated as 2005 in Google's Form 8-K filed April 20, 2006]. A copy of pages 4-5 of the 13 page filing is annexed hereto as **Exhibit T**. Also, Google's own sites generated a 97% increase in revenues over 1st Quarter 2005 and an 18% increase over 4th Quarter 2004 revenues. Exhibit T, page 5.

Irreparable Injury

39.. The office of New York Attorney General is the one elective office in New York for which I am highly qualified, by reason of my 40 years of professional experience, including antitrust, other commercial and civil rights litigation. Also, because I reside in New York, the Office of the New York Attorney General is the only elected Attorney General position in the United States available for my candidacy.

39A.. The opportunity to run for New York Attorney General in New York occurs once every four years, and November, 2006 is the next election, only 4-1/2 months away.

40.. I have been running for such office since late December, 2005.

41.. Voters today are more ready to listen to and vote for a candidate not sponsored by the Republican Party or Democratic Party than any time during the past 10 years or so because of the Iraq War and events leading up to it: a broad-based perception of a continuing decline in the standard of living for Americas and a reduction of high-quality employment opportunities: employment and business problems relating to outsourcing and globalization; perceived widespread political corruption among elected legislators and others: the Administration's failure

to provide the level of financial assistance believed necessary in light of existing terrorist threats; the Administration's failure to properly investigate what may be perceived by voters as the worst tragedy (commonly referred to as "9/11") to occur in New York and elsewhere in the US; the two main political parties are ever-increasingly perceived as bought and paid for by the major corporations and their controlling individuals: dissatisfaction with the Administration's handling of the oil or energy crisis and high prices for gasoline; the growing perception that the Republican and Democratic parties and their candidates are quite similar in being able to prevent legislation needed by the citizens of the United States; the unchecked plundering and financial scandals by corporations such as Enron, Adelphia, Global Crossing, Tyco and some of their highest officers, with professional assistance from their auditors in such cases (such as Arthur Andersen); a failing educational system being overtaken by third-world countries such as India with its world-class technology institutes: among other reasons.

42.. A non-traditional candidate under such circumstances appears to have a stronger chance of winning a statewide election in New York if his/her message can be heard, especially if his/her message would solve some major problems and is believable.

43.. My political message is just that. For example, if elected I would investigate the causes of destruction of 7 WTC on 9/11 (in light of the ever-increasing public debate that 7 WTC had to have been destroyed through pre-planned controlled demolition); I would audit state prosecutors at random to cure what is perceived by the public to be wholesale prosecutorial abuse to obtain convictions, starting with prosecutions for murder (with DNA proof of many wrongful convictions) and obviously as to lesser prosecutions: I advocate scaled gas prices at the pump, to be determined from a bar code affixed to each car providing the car's fuel efficiency, with the most fuel efficient cars getting the lowest price (say, \$1 per gallon) and the least fuel efficient cars (such as Hummers) paying perhaps \$10 or \$20 per gallon, with other incentives for fuel efficient car drivers, such as use of HOV lanes with any number of car occupants, elimination of fees for state licenses and registrations; 5% tuition reduction at state universities (see my press

release attached as **Exhibit S** hereto). Also, most importantly, which is the main reason I was able to get 40% of the Green Party nominating convention votes. I advocate a decentralization of power of the New York Attorney General through the appointment in every one of New York's 1,800 towns and villages what I call a "Town Attorney General" to go into court for residents and small businesses of the town or village to enforce their rights as law enforcement officials looking after the rights of individuals, as distinguished from trying to enforce criminal laws against individuals. A list of my 46 "election issues" is published at www.carlperson4NYAG.com/campaign_issues/campaignIssues.htm, a copy of which I annex hereto as **Exhibit L**.

44.. The convention-nominated candidates for New York Attorney General from the Republican Party (Jeanine Pirro) and the Democratic Party (Andrew Cuomo) have no litigation experience (as in the case of Andrew Cuomo) or have the wrong type of experience needed for Attorney General (Jeanine Pirro, whose background as a criminal prosecutor is precisely what New York does not need – more criminal prosecutions, prisons, inmates, and abuse as distinguished from the enforcement of the civil rights of individual New Yorkers). My candidacy is based on new ways to promote the rights of individuals, not more ways to deprive New Yorkers of their liberty and property.

45.. My candidacy, with appropriate publicity through my envisioned email list of 1,000,000 New Yorkers (available through AdWords advertising if I am able to get the 1-cent per-click rate and use the unused and little-used keywords), has a much better chance of winning than any other independent candidates at any other time in the past, and these factors suggesting that I could win now probably will not be available four years from now. I believe I have a fighting chance today to win the election for New York Attorney General, more so than in prior years, with no reason to believe that my chance would be as good 4 years from now.

46.. Another factor to be considered is the low quality of the two main opposing candidates (Jeanine Pirro and Andrew Cuomo) for the office at issue. A more qualified

Republican or Democratic candidate for New York Attorney General would make my candidacy more difficult. Andrew Cuomo is apparently far less qualified than Jeanine Pirro from the standpoint of courtroom experience and will ride in on the coattails of Eliot Spitzer unless a third-party or independent candidate can run a campaign against Cuomo on the basis of superior qualifications, better campaign ideas, and freedom from domination by the major corporate interests; and I can provide the needed candidacy to win against Cuomo, if I have the email list needed to promote and finance my candidacy.

47.. On May 20, 2006, at the Green Party nominating convention in Albany, New York, I (as a comparatively unknown newcomer and interloper) received 40% of the convention vote, but lost to a long-time and popular Green Party leader (Rachel Treichler), who received 60% of the votes.

48.. My candidacy will continue through gathering petitions as an independent candidate, requiring a minimum of 15,000 signatures, of which at least 100 signatures are required from each of at least 16 Congressional Districts of New York's 31 Congressional Districts, plus a substantial increase over such numbers to ensure survival of any challenge. **Exhibit M**, Official Political Calendar 2006 published by the NYS Board of Elections.

49.. The petitioning period for the November 7, 2006 election is 6 weeks long, starting July 11, 2006 and ending August 22, 2006 (the last date for filing petitions). **Exhibit M**, Official Political Calendar 2006 published by the NYS Board of Elections.

50.. My AdWords Plan for winning the election in November, 2006 as an independent candidate for New York Attorney General is dependent on building and using an email list of New York residents, including their email addresses and ZIP Codes, and perhaps other information of use in my campaign.

51.. Any email list to avoid spam charges requires that the persons on the list give their approval for emailings to them, and to ensure any dissatisfied list members are able to get

off the list with ease each emailing to the list should have a simple, hopefully one-click way to be removed from the list.

52.. The cost of building the list is the key consideration in whether the creation of my envisioned list is feasible. Knowing that AdWords had a minimum per click cost of 1 cent during 2005-2006, I realized that AdWords provided a way to build my desired list, but I needed to be able to encourage people to respond to my AdWords ads.

53.. Even though I pay AdWords only when a person clicks on my ad, I need to have an offer sufficiently attractive to encourage people to join my email list. Accordingly, I conceived and developed several websites to provide such attraction needed to build my desired list. One of them is my new website www.lawmall.com/latefees, which enables anyone who becomes a member of my permissive email mailing list to receive notices by email from me (i.e., my website) advising them of the number of days left before they will become liable for late fees on any of their credit cards, leases, mortgages, taxes, or other financial dealings. Together with my permissive-type email notices will go my message supporting my candidacy, or providing information about political issues, or whatever else I believe needs to be said to get as many of the list members as possible to support my candidacy by volunteer work, contributions, holding of fund-raising events, by helping me get publicity or schedule meetings or other events, coordinating volunteers, or other things that need to be done in a political campaign.

54.. A list of 100,000 or 1,000,000 email addresses of persons who in varying degrees are supportive of my candidacy can be expected to provide a million dollars or more in contributions as well as volunteer work, organizing volunteers to distribute information about my candidacy, volunteers to monitor and expand my AdWords advertising campaign, and quite importantly to raise contributions for my campaign. Assuming a 10% return (after repeated mailings to the list), a list of 1,000,000 members would have 100,000 contributors, and assuming a \$50 average contribution, I would be able to raise \$5,000,000.

55.. However, Google has prevented my AdWords Plan from being implemented because Google has been stopping my ads because they do not have a high clickthrough rate: my website and/or landing page does not meet Google standards: my website, ad or landing page does not have content acceptable to Google or because Google demands a per-click price up to 50 or 100 times more than the lowest price being paid by Google's high-volume advertisers: and because Google does not allow me to use keywords not being used or wanted by anyone else: and various other reasons known only to Google.

56.. Because of this total interference by Google. I am being deprived of the opportunity of running for New York Attorney General and the public is being deprived of political issues needed by them in making appropriate political choices.

57.. I am 70 years old and may not be able to run for Attorney General of New York four years from now.

58.. I have demonstrated that I am a legitimate candidate for New York Attorney General by reason of the 40% vote I received from the State Committee members of the New York Green Party at its May 20, 2006 nominating convention in Albany, New York, as well as my candidacy website, at www.carlperson4NYAG.com, which lists and fully explains 46 election issues, many of which are novel. For example, if elected, I would audit the state criminal prosecutors on a random basis to ensure that their convictions were not obtained through prosecutorial abuse. See my four websites on prosecutorial abuse at www.lawmall.com/abuse: www.lawmall.com/criminal: www.lawmall.com/forfeit: and www.lawmall.com/pleabarg.

59.. I do not have personal assets to enable me to run for statewide office (for the New York Attorney General position) and need to raise money from thousands of persons to make my candidacy possible. Using Google's AdWords was my AdWords Plan, and only plan, because AdWords with its per-click pricing and now 1-cent minimum price per click gives me the opportunity to create an email mailing list of New York residents and voters (because of Google's option to restrict ads to email addresses having a high probability of belonging to New York State

residents) at a cost ranging from a minimum of \$10,000 to \$50,000 for 1,000,000 names, depending on the attractiveness of the offer to induce people to sign up once they had clicked on my ad.

60.. It should be noted that shortly after the list is started (say, with 1,000 email addresses), email to the list itself (as it keeps growing in size) will provide the money needed to pay Google as a first priority and the rest to finance my election campaign.

61.. For this purpose of building my desired email list, I am offering a free PDF copy (to be sent by email or downloaded by the new member) of any of my three full-length non-fiction books (self published in late 2004) entitled, respectively, (i) *Saving Main Street and Its Retailers*; (ii) *Self-Employment – to Avoid the Evil Economic Trio of Outsourcing, Globalization and Declining Standard of Living*; and (iii) *A Law Career Is the Smart Way – To Avoid the Evil Economic Trio of Outsourcing, Globalization and Declining Standard of Living*. In addition, my AdWords Plan for encouraging clicks is to (a) sign up people for getting free email notices to avoid late fees (which should enable me to convert most clicks into list members) and (b) use some or all of my 46 election issues to interest Google searchers to click on my AdWords ad to obtain more information of interest to them (if they joined my list). The breadth of my 46 election issues, three books and three websites (listed above) give me the opportunity to make use of almost any keyword not wanted by anyone else, and thereby enable me to advertise for the 1-cent or 5-cent minimum. The minimum today is 1 cent, and the cost of building my list of 1,000,000 persons could be slightly more than \$10,000, but certainly no more than \$50,000, mostly to be paid by contributions from the persons on my email list.

62.. By Google's interference and unwillingness to allow me to use unwanted keywords or to use little-used keywords for the 1-cent (or 5-cent minimum) per click price, or even 5 or 50 times as much, Google has made it impossible for me to build my envisioned list and, as a consequence, to run for New York Attorney General.

63.. The election campaign is taking place right now, and I need to have an injunction providing me the relief described in paragraph 1 above, to enable my candidacy to have any possibility. Without such relief, I cannot continue with my candidacy.

**Public Debate Over the New Ideas Offered by Me and My Candidacy
Requires an Injunction for the Benefit of All Candidates, Parties and PAC's**

64.. My request for a preliminary injunction is to make AdWords available during the pendency of this lawsuit for myself, my opponents, and all political parties and political action committees (PAC's) in the United States. I make this request to ensure that my candidacy obtains no financial benefit not available to others seeking political office or promoting candidates for office. Also, my candidacy requires robust public debate to win, and providing all candidates, political parties and PAC's with the benefits of minimum-price keyword-targeted Internet advertising will encourage the debate I need to have my 46 election ideas disseminated, debated, accepted by some candidates and many voters, and attributed to me and my candidacy. My candidacy needs the benefits of competition to prevail, and AdWords is the only affordable medium available to all candidates, parties and PAC's to provide the competition for ideas that I believe is needed for my candidacy to succeed.

65.. The issues I raise (see Exhibit L) are issues of national concern and there is an interaction between my candidacy and the candidacies of other persons running for office. Through broad dissemination of my ideas and adoption and discussion by others in the political process, my candidacy has a better chance of succeeding, and this can happen only if everyone in the political process has access to the low-cost dissemination of ideas available through the minimum price per-click keyword-targeted Internet advertising available through Google's AdWords.

Secret Written Agreement by All Advertisers with Google

66.. When I started as an AdWords advertiser during November, 2003, I was required (by checking my agreement in a box supplied for that purpose) to agree to the terms and conditions Google imposed on its advertisers. Google requires that I not disclose the terms of such agreement (even though it is available at Google's AdWords website to advertisers after they log on with their password). This agreement creates a vast body of advertisers tied together in their obligation to accept whatever Google plans for them. High-volume advertisers are favored and know this: and low-volume advertisers such as myself are disfavored by Google and are painfully aware of it: most of us, whether favored or not, are able to see how Google favors the favored and prevents most of the disfavored advertisers from using AdWords economically. Google even states in its most recent 10-K that low clickthrough advertisers can negatively impact Google's earnings and that such ads are being removed by Google. **Exhibit K**, p. 46, including my ads.

67. This arrangement in writing to agree to the rules imposed by Google is an unlawful contract, combination and conspiracy in restraint of trade, and results in unlawful price fixing of the prices at which keywords are used by advertisers: there is no real auction: what is claimed to be an auction by Google is a pricing scheme dictated and managed by Google to move the top bids even higher by forcing small-business advertisers to bid for keywords they do not want. This is done by preventing them from having the lower-priced, less-wanted keywords they would like to have. Google is helping the nation's monopolies get larger, and participating in their growth through its AdWords pricing scheme.

68. Also, it becomes clear to advertisers who also do searches using Google that eBay is favored by Google with placement of its ads for many keywords having little or no demand by others (see ¶¶ 11 and 16 above): and that eBay receives the minimum price of 1 cent per click or lower because of the enormous volume of eBay ads involved. Such volume amounts to an estimated 20 million ads per day (1% of 2 billion daily searches) with a daily per-click value

(at the minimum PPC rate of 1 cent) of \$200,000 or \$73 million annually. This is not made available to any other member of the advertising community with the possible, partial exception of Amazon.

Features of Keyword-Targeted Internet Advertising Making It Not Reasonably Interchangeable with Traditional Advertising Media

69.. The Keyword-Targeted Internet Advertising market is unique because of the existence of many features not available for the most part (or at all) in any other form of advertising. These features are:

- 1.. The ads are all online at the moment of display.
- 2.. It allows advertisers to reach persons searching for a product, service or supplier at the same moment of a potential customer's searching for a supplier or contact, through the presentation of a 3-line ad alongside the search results for the keyword used for the search.
- 3.. The searcher, if interested, clicks on the ad and, by hyperlink in the online ad, jumps to the website or landing page of the advertiser.
- 4.. The advertisers (in proportion to the information provided in their ads) get an immediate, highly-qualified lead (qualified by the lead himself/herself) for whatever the advertiser is selling or offering (such as airplanes, elephants, political candidacy, job information or advice, legal services, imported diapers, carbon dioxide or anything else anyone might be interested in acquiring or learning about).
- 5.. All this at a minimum price of \$.01 per click (as to Google) or \$.10 per click as to Yahoo. This price difference is a competitive factor that prevents any meaningful competition by Yahoo.
- 6.. The Google AdWords advertiser is able to go online with advertising in minutes: the Yahoo advertiser has to wait 7 days, unless willing to pay a \$199 fee for Yahoo's "Fast Track" service, to use Yahoo employees to prepare advertising copy and thereby shorten

the review procedure to 3 days. This difference is another competitive factor that prevents meaningful competition by Yahoo.

7.. There usually is no production cost for the ads [but see Yahoo's "Fast Track" service].

8.. The price for the ad is supposedly by auction.

9.. Copy testing can take place accurately and within hours.

10.. The efficiency of the ad is determined accurately and near instantaneously.

11.. The advertiser only pays when someone responds to his/her ad (by clicking on the ad).

12.. Can place advertising on AdWords at any time, 24 hours per day, including holidays. Yahoo. Yahoo takes longer because of its human review process, a competitive factor that prevents meaningful competition by Yahoo.

13.. Advertising [with Google] is place by computer without human intervention.

14.. Payment is made by credit card without human intervention or decision.

15.. No telephone calls or Internet communications are made with any salesperson.

16.. The advertisers come from virtually every one of the 18,500 towns, villages and cities in the United States, an estimated one million advertisers for Google (and far fewer for Yahoo and MSN).

17.. Thousands of these advertisers can place their order with Google, Yahoo or MSN at the same time because of the system and software developed for this type of advertising.

18.. An instant ad is created for the customer, going online in seconds (for Google ads).

19.. The advertiser is provided tools to track the efficiency of each of the advertiser's ads.

20.. There is alleged bidding for use of keywords and for the placement of the advertiser's ad in relation to other advertisers (or prospective advertisers) bidding for use of the same keyword: in the case of Google, the auction process is manipulated by Google to fix prices at higher levels than the auction would otherwise provide and Google removes keyword inventory to increase the bids for the remaining keywords.

21.. The advertiser is given access to the most relevant searches from the billions of searches taking place each day (within the search engine system selected, *i.e.*, Google, Yahoo or MSN).

22.. Google advertisers can have a budget as low as \$.01 per day with no minimum monthly expenditure required: whereas, Yahoo has a monthly minimum required expenditure of \$20 (even if Yahoo provides an insufficient number of impressions and clicks).

23.. The market never runs out of space for an ad because of the pricing mechanism (alleged auctions) to increase the price per click until the weaker advertisers stop bidding or stop increasing their bid. *E.g.*, on 6/24/06 Yahoo displayed 58 ads for the keywords "hybrid automobiles"

24.. The auction takes place for the keyword within a fraction of a second and is decided within a fraction of a second from the time a user uses the keyword in a search.

25.. The advertising reaches into every town, village, county, block in the U.S. to display the advertiser's ad to any web searcher using the advertiser's selected keyword.

26.. A single advertiser's ads are displayed one at a time to reach 10,000, for example, instead of a single time to reach 10,000 (such as a single TV spot, radio spot, or newspaper or magazine ad).

27.. The advertiser's ad is put on the same page being viewed by the searcher as the search results are being displayed to him/her (with ads beyond number 10 or so carried over to the next page).

28.. Prior sales (or sold out inventory) are non-existent; you can bump an earlier advertiser by bidding a higher price (in absence of Google's practices of changing the bid).

29.. The ad appears the same (as to size, number of characters and size of characters in the heading, number of characters in the 2nd and 3rd lines; a link to a website or landing page of the advertiser; and the same color scheme as the competing ads of major, well-known high-volume advertisers; however, there are now options to permit use of graphics in keyword advertising:

70.. Taken individually, newspaper, cable, magazine, radio, television and billboard advertising lack most of these characteristics, and are losing advertisers to this new medium still in its infancy. These features combined in one advertising medium make such medium not reasonably interchangeable with any of the traditional advertising media. Keyword-targeted Internet advertising has opened up a new form of advertising for individuals, businesses, candidates for office, non-governmental organizations and governmental agencies that were not able to use advertising of the traditional type and, in addition, is causing an increasing movement of advertisers away from newspapers, particularly or most noticeably.

Miscellaneous Fact Sources

71.. The following facts are substantiated at the indicated sources: (a) Google's disapproval of proposed ads and Google's notification of such disapproval published in Google's website within the advertiser's campaign information.

<https://adwords.google.com/support/bin/answer.py?answer=6129&topic=26>

(b) Google's form of advertiser's agreement dated 5/23/06.

<https://adwords.google.com/select/TCUSbilling0406.html>;

(c) GoTo.com 9/10/01 press release published at <http://www.corporate->

ir.net/ireye/ir_site.zhtml?ticker=OVER&script=412&layout=-6&item_id=236312]; and (d) *San Francisco Chronicle* 6/23/06 article, entitled ““Merrill Lynch analyst says Microsoft should buy Yahoo – Report says merger would help in battle against rival Google””.

Request for Evidentiary Hearing

72.. I have the need to call witnesses to testify at an evidentiary hearing to offer further proof of Google's monopoly; the market share of Google, Yahoo and MSN; the competitive position of each; Google's anticompetitive practices as alleged; Google's "auction" procedure for pricing and running AdWords ads and the discriminatory practices that result; the amount of Google's income derived from its alleged anticompetitive practices; and how Google's competitors (Yahoo and MSN) expect to be able to compete with Google during the next few years.

73. The witnesses would be subpoenaed from Google, Yahoo, MSN and from several users, advertising agencies and/or consultants experiencing the same difficulties in trying to use Google's AdWords. Also, the financial statements of Google (**Exhibit K**, pp. 41-42) and Yahoo (**Exhibit N**, 10-K filed March 3, 2006, at pp. 3-7) do not disclose the revenues and profits for the pay-per-click, keyword-targeted Internet advertising businesses of Google and Yahoo, and testimony will be needed to obtain this information.

Executed this 26th day of June, 2006, at New York, New York.



Carl E. Person