

1 corporate advertisers; and (iii) to make it difficult for anyone but favored advertisers to  
2 use AdWords to jumpstart traffic to newly-created websites.

3           72.. This practice of pulling perfectly good English words off of the keywords  
4 market to require the Plaintiff and other small businesses to bid for the keywords wanted  
5 by the large corporate, high-volume AdWords advertisers is another predatory,  
6 anticompetitive practice by Google, and misuse of its monopoly of the market for  
7 keyword-targeted Internet advertising.  
8

### 9 10 **Google's AdWords Is an Essential Facility**

11           73.. Google has two primary businesses: (i) selling AdWords advertising to  
12 advertisers; and (ii) using its AdWords system to convert the traffic of selected websites  
13 into money (in amounts established by Google's AdWords auctions), through licensing  
14 the right to place Google AdWords advertising on websites owned by others (such as  
15 MySpace.com) or by developing and purchasing websites (such as YOUTube) and  
16 converting traffic at its own websites into money by running AdWords ads on these  
17 Google websites.  
18

19           74.. Google is able to do for itself what no competitor can do without use of  
20 the Essential Facility, which is to convert or "monetize" website traffic into its monetary  
21 value as established by competition among AdWords advertisers for the placement of  
22 keyword-targeted advertising on the website. Google has agreements with various  
23 leading websites to enable them to monetize or partially monetize their websites through  
24 revenue sharing agreements involving Google's Search Advertising income derived from  
25 the publisher's website, but Google refuses to enter into any agreement with the Plaintiff  
26 for sharing of Google's Search Advertising revenues.  
27  
28

1           75.. Many website owners including the Plaintiff are creating new websites  
2 and attempting to build traffic at their respective websites to be able to monetize the  
3 website traffic in competition with Google, but nobody has been able to build a  
4 monetizing system to compete effectively with Google's system. Only two search  
5 engines are in the running: (i) Yahoo, which is now running backwards or losing ground  
6 at a precarious rate; and (ii) MSN, which has started in competition with Google during  
7 the past year with billions of dollars to spend in its announced effort to try to compete  
8 with Google, but is now relegated to attempting to resist Google's considerable efforts to  
9 take Microsoft's customers away from Microsoft by offering competing products through  
10 Google's plug-in compatible system (starting with a free word processing program, and a  
11 free spreadsheet program).

14           76.. There are no other companies or individuals or governments anywhere  
15 that have any presently-perceived possibility of catching up to Google and becoming a  
16 significant and growing competitor to Google. During the 3<sup>rd</sup> Quarter of 2006, Yahoo's  
17 net earnings dropped 60% while Google's net earnings quadrupled. During Q3 2006,  
18 Google's revenues were \$2.69 billion, increased 70% compared to 3Q 2005; whereas  
19 Yahoo's revenues were \$1.58 billion, up only 19% from 3Q 2005. Google-owned  
20 websites generated \$885,000,000 in revenues during this 3Q 2006. Google's 4Q 2006  
21 earnings tripled on a revenue increase of 67% over 4Q 2005. Yahoo's 4Q 2006 net  
22 earnings declined 67% from 4Q 2005, mostly attributable to a one-time backdated option  
23 charge. See 1/22/07 Forbes.com article "Yahoo!'s Quarter to Forget".

26           77.. Google is in a position to under pay for (or steal) the work of all website  
27 developers for a pittance because Google alone can convert the website hits into their  
28

1 competitive market value (as determined by AdWords auctions). Other search engines  
2 cannot do this and are not even in a position to acquire high-traffic websites for this  
3 purpose because they lack the stock price, cash reserves and huge anticipated market-  
4 value cash income to make the purchase (in competition with Google), and could not use  
5 their own search engines to make as much money as the acquisitions are worth (at market  
6 value) when a company such as Google acquires the website. This explains how a startup  
7 organization, YOUTube, with no record of earnings, was acquired by Google during  
8 October, 2006 for \$1.65 billion, with a possible \$4 billion more depending on increased  
9 hits; and Google's August, 2006 payment of \$900,000,000 to Rupert Murdoch's  
10 MySpace.com for the privilege of putting AdWords before MySpace visitors or hits for a  
11 3-1/2 year period. Murdoch bought a 100% interest in MySpace for \$580,000,000 during  
12 July, 2005, only 13 months earlier, showing that a website is more valuable to Google  
13 than to its owner or other sophisticated internet companies because of Google's  
14 monopoly power with its Essential Facility and resulting unique ability to "monetize"  
15 traffic (i.e., convert website traffic or hits into actual market value in a huge competitive  
16 market for keyword-targeted advertising), giving Google more prospective income and  
17 stock price to outbid any competitor or other person trying to buy a specific website.

21 78.. On February 11, 2007, the Plaintiff observed no Google ads at the moment  
22 of visiting MySpace.com and Google.com but, upon searching the MySpace website for  
23 "gardens" (using a search engine "powered by Google"), 8 AdWords "sponsored links"  
24 appeared (for Shopping.MSN.com, gardeners.com, superpages.com, eBay.com,  
25 move.com, michiganbulb.com, VirtualPlantTags.com and cotswoldheritagetours.co.uk)  
26 together with 231,000 MySpace links related to the keyword "gardens", showing how  
27  
28

1 Google is able to run AdWords ads on sites not owned by Google. At the same time,  
2 when searching for “gardens” on Google’s search website, 26 AdWords “sponsored  
3 links” appeared for the “gardens” keyword together with 99,600,000 garden-related links.  
4

5 79.. Google’s AdSense is different. AdSense ads appear, if at all, at the  
6 moment of visitation to the website homepage or other pages of the website. For  
7 example, on February 11, 2007, the Plaintiff visited Kinderstart.com and (without  
8 conducting any search) saw 3 “Ads by Google”, for AreYouASlackerMom.com,  
9 TutorTime.com and NYSC.com, together with a Google notice “Advertise on this site”  
10 with a link to Googlesnydication.com. When searching the website for “gardens”, no  
11 “sponsored links” appeared, only a Google AdSense ad (raftforkids.com, occupying the  
12 same space previously occupied by the 3 ads described above), together with 75  
13 Kinderstart garden-related links. Google is not running any AdWords ads on  
14 Kinderstart.com, only AdSense ads, which are not keyword-targeted ads in response to  
15 any search term.  
16

17 80.. AdWords is an “Essential Facility” because it has not been able to be  
18 duplicated, competitively, by Yahoo or MSN, and the cost of even trying to do so is an  
19 estimated \$25-\$50 billion dollars (with Google having spent \$7-\$8 billion in acquisitions  
20 so far) and having reached in excess of \$10 billion in revenues for 2006. MSN  
21 (Microsoft) announced that it was setting aside almost \$2 billion to attempt to compete  
22 with Google’s AdWords. See ¶¶ 49-A to 49-II above for an analysis of the barriers to  
23 entry. Specifically, (i) the Plaintiff competes with Google and Google controls  
24 AdWords, an Essential Facility; (ii) the Plaintiff cannot duplicate that facility, nor can  
25 anyone else over the past years; (iii) Google has denied Plaintiff reasonable, non-  
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1 discriminatory use of the Essential Facility for the purchase of keyword-targeted ads by  
2 the Plaintiff, at non-discriminatory prices fixed by auction (and not by Google)) and has  
3 denied Plaintiff and (upon information and belief) all other website owners (other than  
4 AOL and MySpace) any use of the Essential Facility for the website owner to sell and  
5 place keyword targeted ads by third-party advertisers on the owner's own website(s) for  
6 visitors conducting website or Internet searches from the websites; and (iv) Google could  
7 feasibly have granted Plaintiff the use of the Essential Facility for both desired uses on a  
8 reasonable, non-discriminatory basis.  
9

10  
11 81. Unless Google is required to let users use its Essential Facility on equal  
12 terms, Google will be depriving Plaintiff and other website owners of the opportunity of  
13 building their internet businesses (such as Plaintiff's classified advertising websites,  
14 myclads.com and attydb.com, Plaintiff's late-fee avoidance website, now located at  
15 lawmall.com/latefees and other websites for creating traffic) and other website-supported  
16 interests (such as Plaintiff's efforts to run for and obtain political office).  
17

18 82.. Not only does Google prevent Plaintiff from bidding for keyword-targeted  
19 advertising on a non-discriminatory (and wholly prohibitive basis), Google also prevents  
20 Plaintiff and other website owners from selling AdWords to their visitors and makes  
21 them settle for letting Google place its low-value, low-income AdSense ads on the  
22 website. This means that when Google owns a website, it can and does use its AdWords  
23 system to extract huge amounts of money for itself from the traffic created by the  
24 website, but when the same website is owned by someone else, such as Kinderstart.com,  
25 Google pays a mere fraction of the revenue to Kinderstart.com for placing AdSense ads  
26 on Kinderstart.com.  
27  
28

1           83.. Google is engaged in two types of exclusion of the Plaintiff and other  
2 website owners from use or non-discriminatory use of Google's AdWords Essential  
3 Facility. The first is Google's refusal to let Plaintiff and (upon information and belief)  
4 about 95% or more of all other PPC advertisers from using AdWords on a non-  
5 discriminatory basis. Google is charging most of its AdWords customers prohibitively  
6 high prices as alleged above, for the reasons set forth above. Secondly, AdWords is not  
7 permitting website owners to turn their website traffic into money at (competitively-  
8 created values) through sale and placement of ads on the owners' websites using the  
9 AdWords Essential Facility, where the advertising revenues are huge, being based on  
10 competition among advertisers for use of highly-specific, targeted keywords. Instead, the  
11 website owners have to settle for a small fraction of the market-value amount obtained by  
12 Google on its AdWords ads, by having to accept the lower-paying, less-effective, non-  
13 targeted AdSense, banner or context ads.  
14

15  
16           84... Google's purpose in not giving Plaintiff and others reasonable access or  
17 any access to its AdWords Essential Facility is to foreclose competition in the business of  
18 developing website traffic and monetizing (or converting to market-value revenue) the  
19 website traffic for the benefit of the website owner, and to reduce the value of websites to  
20 their owners and enable Google to purchase or otherwise acquire them at less than their  
21 fair market value in a non-monopolized market.  
22

23           85.. Because Google's AdWords facility is an Essential Facility, the Plaintiff is  
24 entitled to make use of it on reasonable, non-discriminatory terms.  
25

26           86.. Plaintiff has been denied this access, both as to **non-discriminatory**  
27 **purchase (through AdWords auction) and placement of keyword-targeted ads**  
28

1 displayed with the results of Google searches on websites owned by others, and as to the  
2 sale and placement of keyword-targeted AdWords ads on Plaintiff's websites, using the  
3 AdWords Essential Facility, with Plaintiff as the seller of the key-word targeted  
4 advertising (and recipient of revenue on a reasonable, non-discriminatory basis.  
5 comparable to the income being received by MySpace.com).  
6

7 87.. Google's withholding of both types of use (on reasonable terms) of its  
8 Essential Facility is a violation of § 2 of the Sherman Act.

9 88.. News Corp. / Fox Interactive Media (FIM) and its wholly-owned website  
10 MySpace.com, and substantially all of the nation's other 2,500 largest corporations,  
11 including media companies Time Warner and NBC Universal, which are victims of  
12 copyright infringement by Google (upon its acquisition of YouTube), but are intimidated  
13 by Google's internet monopoly (the Essential Facility) from bringing infringement  
14 lawsuits against Google for fear of losing the possibility of monetizing their website  
15 traffic, which because of Google's monopolizing activities now require Google's consent  
16 (as was recently given to News Corp.'s FIM/MySpace.com interests); but by agreeing to  
17 permit Google to infringe their copyrights, these corporations are giving up the value of  
18 their copyrights for the opportunity to obtain monopolist Google's consent to and  
19 participating in the monetizing of the huge existing website traffic. This is an  
20 anticompetitive consequence of Google's monopolistic activities.  
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### 25 **PLAINTIFF'S INJURIES AND DAMAGES**

26 89.. By reason of Google's activities as alleged above, the Plaintiff (and each  
27 of others similarly situated) has suffered the following antitrust injuries and damages:  
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**Plaintiff's Antitrust Injuries**

A.. Denial of Google's AdWords facility to monetize Plaintiff's 10 Community Search Websites (with damages being the loss of money from website traffic; the loss of capital value for the websites; the loss of borrowing power for the websites; the reduction of compound growth effect for the websites; and the loss of market share for Plaintiff in the market of monetizing Community Search Websites; and a decline in Plaintiff's willingness to innovate with additional websites if the ability to adequately monetize their traffic is not available);

B.. Google's removal of low-priced keywords from the keywords available to Plaintiff, even though most or all of such keywords were available for less than 1-cent per click to ebay (with damages being the inability to obtain website traffic and a permissive email list at Google's stated low price of 1-cent per click; Google had no business justification for holding back such key words other than to force Plaintiff and others into bidding for higher-cost keywords, which was an illegal controlling of the price of keywords);

C.. Google's requirement that Plaintiff pay up to 50 times or more Plaintiff's desired 1-cent bid, even though ebay was paying less than 1-cent per bid for low-value keywords; and the related requirement by Google that Plaintiff have the same clickthrough rate as ebay to be able to be able to obtain Google's advertised lowest 1-cent per click price; Google had no business justification for its ad quality and landing page requirements because it is not possible for many advertisers to have better advertising copy; the user clicking on an ad does not see the landing page until after the clickthrough takes place; and Google's stated reason to provide a better quality experience for persons



1 clicking on Google ads rings hollow because as long as the advertisers pays Google the  
2 demanded tribute Google will allow the alleged low quality experience to take place.

3 D.. Google's systematic failure to include all advertisers bidding for use of a  
4 keyword, by routinely leaving one or more of the lowest bidders (such as the Plaintiff) off  
5 the list of bidders whose search advertisements are displayed together with the keyword  
6

1 developed website traffic at the monopolistic rate enjoyed by Google) after paying  
2 Google for building the traffic;

3 G.. Deprived of a market to sell successful (high-traffic websites) at the value  
4 they represent to Google because the only company that can monetize website traffic at  
5 such high rates is Google, so that Google has the ability to outbid any possible purchaser  
6 and prevent the development of a market for monetizing websites. In fact, to suppress  
7 such market, Google acquired during April, 2007 the number one competitor  
8 (DoubleClick.com) in the market of monetizing websites through the substantially  
9 inferior system of context or display (or banner) advertising.  
10  
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12  
13 **Plaintiff's Damages** (in addition to damages described in A-G above)

14 H.. Moneys paid to Google by the Plaintiff as an AdWords advertiser  
15 (\$1,466.67):

16 I.. Moneys paid by the Plaintiff to develop various websites and create  
17 website traffic using AdWords and other search services (approximately \$15,000);  
18

19 J.. Ongoing loss of the monetary value of website traffic for Plaintiff's 85 to  
20 90 websites (\$10,000,000 or more, depending on the success of Plaintiff's 10 Search  
21 Websites starting with myclads.com and attydb.com); and

22 K.. Loss of the value of an email list of 1,000,000 members that could have  
23 been built by Plaintiff under his business plan to use low-demand Google keywords, at a  
24 cost of 1 cent per click, but for the illegal activities of Google (estimated at more than  
25 \$1,000,000).  
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1           90.. Upon information and belief, the total provable damages suffered by  
2 Plaintiff amount to more than \$11,000,000, and will be proven with certainty at the time  
3 of trial.  
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5  
6                           **PRELIMINARY AND PERMANENT INJUNCTION**

7           91.. The activities of the defendant are continuing and threaten to prevent  
8 Plaintiff from being elected as the New York Attorney General during the November  
9 2010 elections, and any other political offices the Plaintiff may seek between now and  
10 2010.  
11

12           92.. If the Plaintiff is not able to enjoin Google from its predatory pricing  
13 activities, as alleged, the Plaintiff will suffer irreparable injury by not being able to  
14 compete for (or win) the election for New York Attorney General or any other offices  
15 which the Plaintiff plans to seek.  
16

17           93.. Plaintiff is entitled to (i) a preliminary injunction to enjoin Google from its  
18 alleged predatory practices during the pendency of this litigation; and (ii) a permanent  
19 injunction to enjoin Google from the same predatory practices, as part of the relief in the  
20 final judgment in this action. Specifically, without limiting the injunctive relief being  
21 sought, Plaintiff seeks an injunction or mandatory injunction  
22

23           A.. Requiring Google to provide access to Google's AdWords system (the  
24 Essential Facility) on reasonable, non-discriminatory terms, as to both the purchase and  
25 placement of AdWords keyword-targeted Internet, pay-per-click advertisements, as well  
26 as the sale and placement of AdWords keyword-targeted, pay-per-click advertisements  
27 on Plaintiff's own websites (in response to Google-powered website and web searches  
28

1 conducted by visitors from Plaintiff's websites) with Plaintiff receiving a reasonable.  
2 non-discriminatory percentage of the revenues derived from such advertising.

3 B.. Requiring Google to let Plaintiff and other advertisers pay the lowest  
4 available price per click as determined by Google's auction process without any  
5 adjustment of the price by Google to reflect "quality", "landing page", clickthrough rate  
6 of the advertiser or any other advertisers using the same or similar keyword;  
7

8 C.. Requiring Google to charge the same price or same position price (either  
9 per-click price or price per 1,000 impressions) to all advertisers seeking to use a specific  
10 keyword;  
11

12 D.. Requiring Google to let advertisers use any English words (other than  
13 illegal words due to obscenity, copyright, trademark, secrecy or similar laws); and

14 E.. Requiring Google to list in its website all words not available to any  
15 AdWords advertiser.  
16

17  
18 **OTHER RELIEF SOUGHT**

19 94.. The Plaintiff is entitled to an award of treble damages.

20 95.. The Plaintiff is entitled to an award of attorneys' fees.

21 96. Plaintiff is entitled to a judgment as to liability against Google for  
22 violation of § 2 of the Sherman Act by reason of the facts alleged in ¶¶ 1 through 93  
23 above.  
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**COUNT II**

**[Violation of § 2 of the Sherman Act, 15 U.S.C.A. § 2 – Attempting to Monopolize – Alternative Allegation to Count I Claims]**

97.. Plaintiff alleges and realleges each of the allegations set forth in ¶¶ 1-96 above, and further alleges, alternatively to Count I above, that Count II is being brought under § 2 of the Sherman Act, 15 U.S.C.A. § 2 for attempted monopolization of the Relevant Markets and Submarket.

**Attempted Monopolization by Google (Alternative Allegation)**

98.. Alternatively, by its actions as alleged, Google demonstrates that it has a dangerous probability of achieving monopoly power (to control prices and exclude competition) in these alleged service markets in the United States geographic market (defined in ¶ 44 above):

- A.. Search Advertising market;
- B.. Submarket of monetizing the traffic of Community Search Websites through use of Search Advertising; and, alternatively, if the market turns out to be “all Internet advertising” and not “Search Advertising”; and
- C.. Market for monetizing the traffic of Community Search Websites through the use of Internet Advertising.

99.. Google has a specific intent to control prices in each of the Relevant Markets and Submarket and to destroy competition and unreasonably restrain trade in such markets, evidenced by

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A.. Google's acquisition of the patents, know-how, software copyrights, management and employees of the following companies listed in **Exhibit A** hereto that related directly to the improvement of Google's search engine, AdWords, AdSense or marketing thereof: acquisition ## 2 (Outride), 4 (Neotonic), 5 (Applied Semantics), 6 (Kaltix), 7 (Sprinks), 10 (Baidu), 13 (ZIPDash), 15 (possibly 15 undisclosed companies

1           102.. Plaintiff suffered causal antitrust injuries by reason of the following  
2 anticompetitive activities of Google: as described in ¶¶ 89A through 89-K above.

3           103.. The only two significant challengers to Google's AdWords business are  
4 Yahoo and Microsoft/MSN, but neither has a database of search pages, or a number of  
5 daily searches, or the dollar amount of advertising revenue or profits to be able to stop  
6 Google's growth and ever-increasing power in the relevant market.  
7

8           104.. Google is engaging in predatory and anticompetitive activities as alleged  
9 in ¶¶ 50-72 and 89-A through 89-K above.

10           105.. The barriers to entry are so high (see ¶¶ 49-A through 49-II above) that  
11 there appear to be only two actual or potential competitors (Yahoo and Microsoft/MSN),  
12 but without any demonstrated ability to put together a team with the know-how to  
13 compete effectively against Google. Google's team consists of Google's founders and  
14 controlling shareholders of Google, people who cannot be purchased with Microsoft's  
15 billions in unused cash reserves. Nobody has the databases to compete with Google and  
16 even if they did they may not have the money to purchase and manage 450,000 servers to  
17 be able to produce search results in a fraction of a second.  
18

19           106.. Through its activities as alleged, Google is attempting to monopolize the  
20 Relevant Markets and Relevant Submarket described in ¶ 98 above, with a dangerous  
21 probability of being able to achieve success in monopolization of the alleged markets and  
22 submarket, in violation of § 2 of the Sherman Act, 15 U.S.C.A. § 2 and during the  
23 relevant period for this litigation actually acquired power over each of such markets.  
24

25           107.. Plaintiff has been damaged as a result and is suffering from continuing and  
26 irreparable damages as alleged in ¶¶ 89-92 above.  
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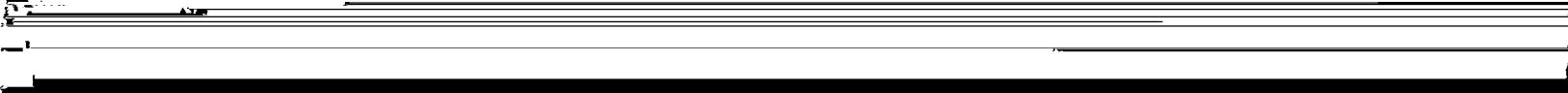


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**Exhibit A**

**(Google's acquisitions from 2001 to 4/13/07)**

- 1.. **Deja.** 2/01 (Usenet archive database consisting of 500 million messages, including threads and poster email addresses. dating back to 1995)
- 2.. **Outride Inc.,** 9/01 (a spin-off from Xerox PARC; Google immediately integrated the technology into Google's search engine; in its 9/20/01 press release Google



1 the stream-of-consciousness set. Pyra's Blogger, with more than a million users,  
2 allows users to write and publish online almost as quickly as a thought strikes.

3 As yet the only statement from Google has been a few terse sentences. "Blogs are  
4 a global self-publishing phenomenon that connect Internet users with dynamic,  
5 diverse points of view while also enabling comment and participation. \* \* \*"  
6 [source: [http://www.forbes.com/2003/02/18/cx\\_ah\\_0218google\\_print.html](http://www.forbes.com/2003/02/18/cx_ah_0218google_print.html)]

6 4.. **Neotonic Software**, 4/03 (to bring Google's Customer Relationship Management (or  
7 "CRM") technology in-house; CRM software with application for customizing  
8 homepages, to automate and manage customer followup);

10 5.. **Applied Semantics**, 4/03, \$102 million (eventually becoming Google AdSense;  
11 context-sensitive ad company integrated into Google's AdWords/AdSense to enable  
12 Google to compete with Yahoo's Overture). In its 4/23/03 press release "Google  
13 Acquires Applied Semantics - New Technologies and Engineering Team  
14 Complement Google's Content Targeted Advertising Programs", Google announced:  
15

16 that it acquired Applied Semantics, a Santa Monica, Calif.-based producer of  
17 software applications for the online advertising, domain name and enterprise  
information management markets. Applied Semantics' products and engineering  
team will strengthen Google's search and advertising programs, including its first

1 "Google Acquires Kaltix Corp. - New Technologies and Engineering Team  
2 Complement Google Search Engine", Google announced:

3  
4 ... it acquired Kaltix Corp., a Palo Alto, Calif.-based search technology start-up.  
5 \* \* \* "Google and Kaltix share a common commitment to developing innovative  
6 search technologies that make finding information faster, easier and more  
7 relevant." said Larry Page, co-founder and president of Products at Google.  
8 "Kaltix is working on a number of compelling search technologies, and Google is  
9 the ideal vehicle for the continued development of these advancements."

10 Kaltix Corp. was formed in June 2003 and focuses on developing personalized  
11 and context-sensitive search technologies that make it faster and easier for people  
12 to find information on the web.

13 7.. Sprinks, 10/03 (acquired to enhance Google's AdWords and AdSense programs). In  
14 a 10/24/03 article entitled "Google Acquires Sprinks: Gains Access to Advertiser  
15 Base and Ad Placement on About.com and Primedia Online Publications",  
16 traffick.com stated [source: [http://www.traffick.com/2003/10/google-acquires-  
17 sprinks-gains-access.asp](http://www.traffick.com/2003/10/google-acquires-sprinks-gains-access.asp)]:

18 Sprinks, an innovator in the pay-per-click keyword-targeted ad space, is no more,  
19 following an acquisition by category leader Google, Inc.

20 Sprinks ads currently show up on 450 topic-specific About.com Guide Sites as  
21 well as 127 magazine-related websites targeting readers of major Primedia  
22 publications.

23 As part of the deal, Google has signed a four-year revenue-sharing agreement to  
24 show ads on these sites.

25 In the area of so-called contextual pay-per-click ads (ads near relevant content,  
26 not triggered by search results), Sprinks had been a recent thorn in the side of the  
27 industry leaders, Google, Overture, and Findwhat. Its ContentSprinks offering  
28 gave advertisers superior "channel control" than the often unpredictable  
contextual ads shown by its competitors. It's not clear if the acquisition will lead  
Google to rethink how it shows some of its contextual ads.

According to Marshall Simmonds, Director of Search for Primedia and  
About.com, the two parties have set a 45-day integration schedule to integrate  
Sprinks staff into Google and after which Google AdWords ads will begin  
showing on Sprinks' former network.

1 As for how the integration might affect Google's approach to contextual  
2 advertising, Simmonds says: "It's difficult to speculate. The main thing is that  
3 Google will now have access to our large network of topically-relevant sites."

4 8.. **Genius Labs**, 10/03 (a second weblog provider)

5 9.. **Ignite Logic**, 4/04 (a company building websites for law firms, adding to Google's  
6 expertise in distributed computing and extending Google's distributed computing  
7 platform)  
8

9 10.. **Baidu**, 6/04, \$5 million (2.6% ownership in the leading web search firm in China, a  
10 .competitor of Google; China is the 2<sup>nd</sup> largest internet market; sold for \$60 million in  
11 6/06)  
12

13 11.. **Picasa**, 7/04 (picture management tools for *Blogger*)  
14

15 12.. **Keyhole**, 10/04 (to provide the core mapping capabilities in Google Earth)  
16

17 13.. **ZipDash**, 9-12/04 (to develop and launch Google Ride Finder). A 3/30/05  
18

19 SiliconBeat article in the *Mercury News* discussing Google's secret, non-reported  
20 acquisition revealed:  
21

22 Zipdash "... tackles highway congestion by providing individuals with real-time,  
23 accurate traffic information." Some of the technology is/was intended to allow  
24 mobile phone users to get real-time traffic info using the GPS in their phones.

25 **UPDATE:** A Google spokesman got back to us to confirm both acquisitions,  
26 which he said were made because of the companies' "talented engineers and great  
27 technology." He declined to comment further.  
28

14.. **Where2 LLC**, 9-12/04 (to provide the core mapping capabilities in Google Maps)

1 15.. 9 companies and substantially all of the assets of another 6 companies, during  
2 2005, for a combined purchase price of \$131 million (according to Google's 10-K  
3 filing)  
4

5 16.. 2Web Technologies, 2004/2005 (spinoff of ITK Software, key part of Google's plan  
6 to develop and launch Google Spreadsheets to compete with Microsoft; acquired  
7 spreadsheet team)  
8

9 17.. Urchin Software Corporation, 3/05, \$30 million (web analytics and statistics  
10 technology used to develop and launch Google Analytics). In John Battelle's  
11 3/28/05 Searchblog, Battle quoted from Google's press release and commented on  
12 the acquisition [source: <http://battellemedia.com/archives/001360.php>]:  
13

14 ... [the release stated that Google] "has agreed to acquire Urchin Software  
15 Corporation, a San Diego, California based web analytics company.

16 "Urchin is a web site analytics solution used by web site owners and  
17 marketers to better understand their users' experiences, optimize  
18 content and track marketing performance. Urchin tools are available as  
19 a hosted service, a software product and through large web hosting  
20 providers. These products are used by thousands of popular sites on the  
21 Internet.

22 "Google plans to make these tools available to web site owners and  
23 marketers to better enable them to increase their advertising return on  
24 investment and make their web sites more effective.

25 "We want to provide web site owners and marketers with the  
26 information they need to optimize their users' experience and  
27 generate a higher return-on-investment from their advertising  
28 spending," said Jonathan Rosenberg, vice president of product  
management, Google. "This technology will be a valuable addition to  
Google's suite of advertising and publishing products." [end of release]

So this is interesting on a number of levels. Urchin was a third party system that  
many used to understand their Google ads, among others. As part of a Google  
suite of tools, it will take on a decidedly different cast. More as the word trickles  
out. BTW, I was told by the tipster that the price was \$30 million.

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18.. **Dodgeball**, 2/05 (a 2-person cell phone social networking software provider for mobile devices)

19.. **Current Communications Group**, 7/05 (Google together with Goldman Sachs and Hearst Corporation invest \$100 million; an investment in a company which provides broadband services through power lines)

20.. **Akwan Information Technologies**, 7/05 (part of plan to open an R&D office and expand Google's presence into Latin and South America) [one of 3 companies acquired by Google for \$22.5 million]

21.. **Reqwireless**, 7/05 (web browser and mobile email software developer for wireless devices, as part of Google's initiative to develop a version of Gmail for the mobile device) ) [one of 3 companies acquired by Google for \$22.5 million]

22.. **Android Inc.**, 8/05 (software provider for mobile devices) ) [one of 3 companies acquired by Google for \$22.5 million]

23.. **Time Warner's AOL division**, 12/05, \$1 billion (for 5% stake, in a competitor of Google, which also enabled Google to run its Search Advertising alongside the search results for AOL website visitors; an example of how Google is monetizing the website of a competitor (in which Google purchased a 5% interest) and could monetize Plaintiff's websites if it chose to do so;

- 1 24.. **DMarc Broadcasting**, 1/06, \$102 million plus additional maximum of \$1.136  
2 billion (creator and operator of an automated platform that lets advertisers more  
3 easily schedule, deliver and monitor their ads over radio, and radio broadcasters to  
4 automate schedules and advertising spots)  
5
- 6 25.. **Measure Map**, 2/06 (from Adaptive Path, a product to help with Blog analytics). On  
7 his first day at work for Google, the acquired team leader stated:  
8
- 9       Our goal has been to use the power of web analytics to help bloggers feel that  
10       same sense of connection with their audience. Today, as the Measure Map team  
11       joins Google, our mission remains the same: to build the best possible user  
12       experience so people can understand and appreciate the effect their blogs - their  
13       words and ideas - can have. \* \* \*  
14
- 15 26.. **Writely**, 3/06 (company with online word processing program of same name, to  
16 enable Google to offer a free application to undermine competitor Microsoft's  
17 market share for word processing programs)  
18
- 19 27.. **Sketchup**, 3/06 (using a plugin, this program allows one to place 3D models into  
20 Google Earth)  
21
- 22 28.. **Orion, an advanced text search algorithm**, 4/06 (from inventor Ori Allon, an  
23 Israeli-born student at the University of New South Wales in Australia; The  
24 advanced text-search algorithm...will make searches much less time-consuming;  
25 instead of finding pages on the net that contain keywords, then providing links, the  
26 new search engine will provide expanded text extracts which will eradicate the need  
27  
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1 to open every link. Orion has sparked interest from the likes of Google and Yahoo,  
2 with Google acquiring the rights to the algorithm)

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4 29.. **GTalkr**, 5/06 (web-based, Flash-based IM client focused exclusively on interfacing  
5 with Google's GTalk)

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7 30.. **Neven Vision**, 8/06 (company that specializes in biometric identification, to make it  
8 easier for Google's Picasa to organize and search for photos)

f \_\_\_\_\_



1 33.. **YouTube**, 11/06, \$1.65 billion in stock (online video sharing website, with company  
2 retaining its brand), an example of Google using its Essential Facility to monetize  
3 YouTube's traffic, but only after it was acquired by Google; upon information and  
4 belief, the agreement eliminated \$ billions of copyright infringement liability or  
5 potential liability that YouTube.com had to FIM/Murdoch;

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8 34.. **Endoxon**, 12/06, \$28 million (an Internet and mobile mapping solutions developer)

9 35. **Xunlei**, a Chinese company, 1/07, non-disclosed price (buys a stake in company, a  
10 person-to-person file sharing service);  
11

12 36.. **Adscape**, 2/07, \$23 million (video game advertising);  
13

14 37.. **Trendalyzer**, 3/07, undisclosed price (data visualization software as a management  
15 tool for use with AdWords and by AdWords advertisers, upon information and  
16 belief); 3/16/07 blogspot.com stated:

17  
18 Google decided to acquire the technology from Gapminder. "Gathering data and  
19 creating useful statistics is an arduous job that often goes unrecognized. We hope  
20 to provide the resources necessary to bring such work to its deserved wider  
21 audience by improving and expanding Trendalyzer and making it freely available  
22 to any and all users capable of thinking outside the X and Y axes." says Marissa  
23 Mayer.

24 38.. **DoubleClick**, 4/07, \$3.1 billion (the leading online advertising company with annual  
25 revenues of \$300 million, enabling its customers to turn website traffic into money  
26 through labor intensive online display advertising, but to a much lesser extent than  
27 Google is able to do with Google's Search Advertising system with an 8% cost of  
28 sales; with an auction market for online advertising; Google outbid Microsoft;  
enables Google to move into online advertising market where Google had no

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presence; purpose of acquisition is to stifle Microsoft's competition; see 4/14/07 *NY Times* article which states "Acquiring DoubleClick expands Google's business far beyond algorithm-driven ad auctions into a relationship-based business with Web publishers and advertisers. Google has been expanding its AdSense network into video and display ads online and is selling ads to a limited degree on television, newspapers and radio."). Google's own lengthy FAQ concerning the acquisition [published at [http://216.239.57.110/blog\\_resources/DC\\_FAQ.pdf](http://216.239.57.110/blog_resources/DC_FAQ.pdf)] is compelling evidence supporting Plaintiff's allegation that content advertising is a different

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combine our business with the complementary capabilities DoubleClick has to offer. Doubleclick and Google will be able to offer a better, more comprehensive experience than either company could offer alone. For

1 At Last Software GmbH : Germany  
2 allPAY GmbH : Germany  
3 bruNET GmbH : Germany  
4 bruNET Holding AG : Germany  
5 bruNET Schweiz GmbH : Switzerland  
6 Endoxon Ltd. : Switzerland  
7 Endoxon (India) Private Ltd. : India  
8 Endoxon Prepress AG : Switzerland  
9 Endoxon (Deutschland) GmbH : Germany  
10 Google (Hong Kong) Limited : Hong Kong  
11 Google Advertising and Marketing Limited : Turkey  
12 Google Akwan Internet Ltda. : Brazil  
13 Google Argentina S.R.L. : Argentina  
14 Google Australia Pty Ltd. : Australia  
15 Google Belgium NV : Belgium  
16 Google Bermuda Limited : Bermuda  
17 Google Bermuda Unlimited : Bermuda  
18 Google Brasil Internet Ltda. : Brazil  
19 Google Canada Corporation : Nova Scotia, Canada  
20 Google Chile Limitada : Chile  
21 Google Czech Republic s.r.o. : Czech Republic  
22 Google Denmark ApS : Denmark  
23 Google Finland OY : Finland  
24 Google France SarL : France  
25 Google Information Technology Services Limited Liability Company :  
26 Hungary  
27 Google Germany GmbH : Germany  
28 Google India Private Limited : India  
Google International GmbH : Austria  
Google Ireland Holdings : Ireland  
Google Ireland Limited : Ireland  
Google Israel Ltd : Israel  
Google Italy s.r.l. : Italy  
Google Japan Inc. : Japan  
Google Korea, LLC. : Korea  
Google Limited Liability Company - Google OOO : Russia  
Google Mexico S. de R.L. de C.V. : Mexico  
Google Netherlands B.V. : The Netherlands  
Google Netherlands Holdings B.V. : The Netherlands  
Google New Zealand Ltd. : New Zealand  
Google Norway AS : Norway  
Google Payment Ltd. : United Kingdom  
Google Payment Hong Kong Limited : Hong Kong  
Google Payment Singapore Pte. Ltd. : Singapore  
Google Poland Sp. z o.o. : Poland  
Google Singapore Pte. Ltd. : Singapore

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Google South Africa (Proprietary) Limited : South Africa  
Google Spain, S.L. : Spain  
Google Sweden AB : Sweden  
Google Switzerland GmbH : Switzerland  
Google UK Limited : United Kingdom  
Neven Vision KK : Japan  
Neven Vision Germany GmbH : Germany  
Leonberger Holdings B.V. : The Netherlands  
Reqwireless Inc. : Ontario, Canada  
Skydocks GmbH : Germany

## Exhibit B

### CARL E. PERSON, ATTORNEY AT LAW

325 W. 45<sup>th</sup> St. - Suite 201  
New York NY 10036-3803  
Phone 212-307-4444  
Fax 212-307-0247  
carlpers@ix.netcom.com

REGISTERED MAIL RRR

April 15, 2007

Eric Schmidt, Chief Executive Officer  
Google, Inc.  
1600 Amphitheatre Parkway  
Mountain View CA 94043

Dear Mr. Schmidt:

This letter is being sent to you pursuant to (a) § 1782(a)(2) of the California Civil Code and (b) judicial decisions concerning the antitrust “Essential Facilities” doctrine under § 2 of the Sherman Antitrust Act, which require that a demand be made as a condition to pursuing certain claims against Google, Inc. (“Google”). Simultaneously, I am sending a copy of this letter to your attorneys, Messrs. Wilson Sonsini Goodrich & Rosati (David H. Kramer, Esq.).

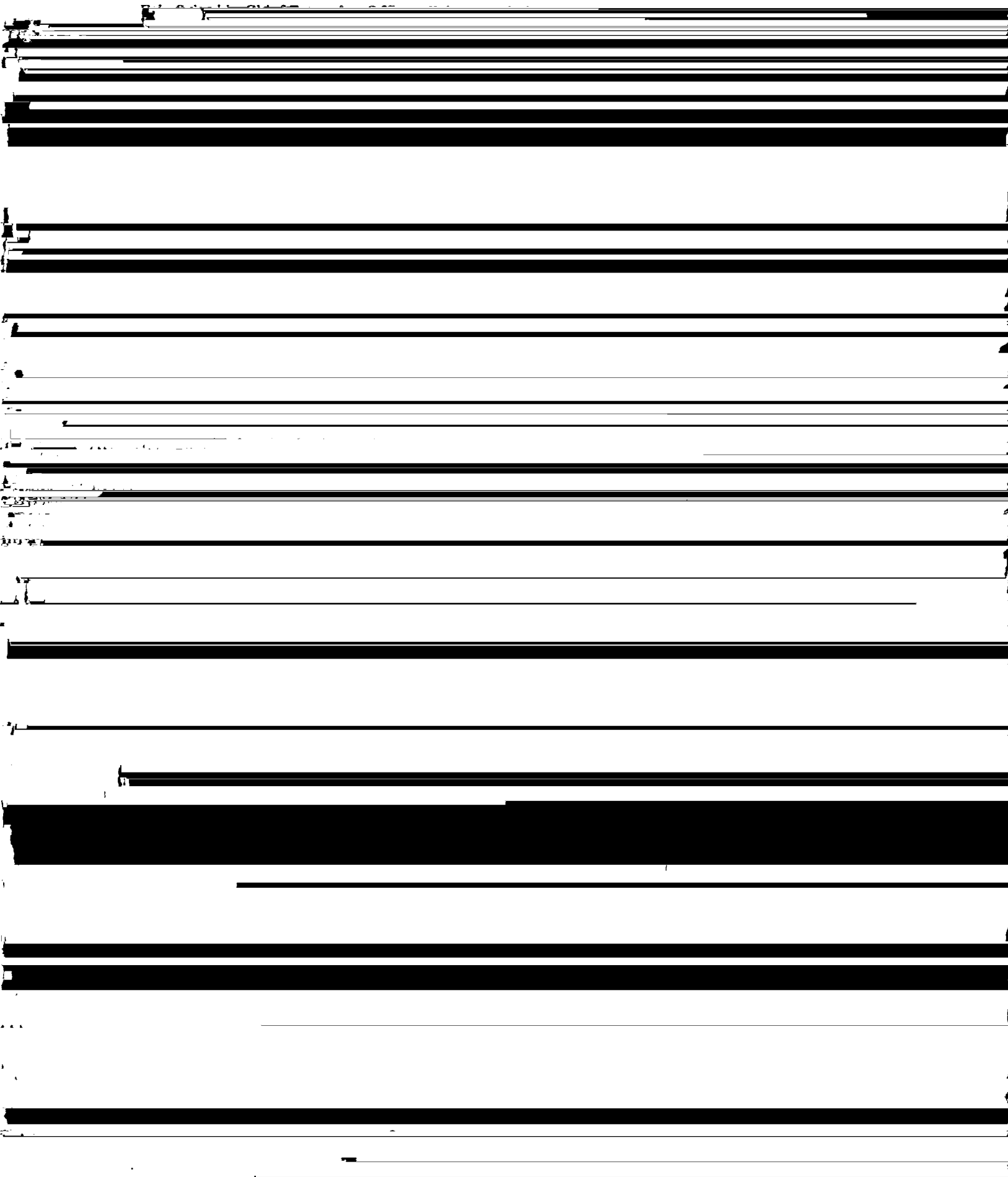
**The first of my two demands**, made pursuant to § 1782(a)(2) of the California Civil Code, is that Google, Inc. cease all of the following activities of Google prohibited by § 1770 of the California Civil Code [contained in ¶ 228 of my revised proposed amended complaint – not yet served, in *Person v. Google*]:

(1) Google’s intervention in the bidding process to require the Plaintiff [and other disfavored advertisers] to bid amounts determined by Google. Such activity is the “passing off services” [of Google] as those of another [Person].”

(2) Google’s intervention in the bidding process to require the Plaintiff [and other disfavored advertisers] to bid amounts determined by Google. Such activity is “misrepresenting the source, sponsorship, approval [and] ... certification of ... services [*i.e.*, Plaintiff’s or other advertiser’s bid].”

(3) Google’s intervention in the bidding process to require the Plaintiff [and other disfavored advertisers] to bid amounts determined by Google. Such activity is “misrepresenting the affiliation, connection, or association with, or certification by, another” as to the relationship between Google as auctioneer and Plaintiff as a bidder.

(5) Google’s intervention in the bidding process to require the Plaintiff [and other disfavored advertisers] to bid amounts determined by Google. Such activity is “misrepresenting the source, sponsorship, approval [and] ... certification of ... services [*i.e.*, Plaintiff’s or other advertiser’s bid].”



advertisers] to bid amounts determined by Google. Such activity is falsely "representing that services [*i.e.*



Eric Schmidt, Chief Executive Officer, February 12, 2007, page 2.

(19) By requiring the Plaintiff [and other disfavored advertisers] to commence their lawsuits against Google in Santa Clara County, California as a condition to using Google's AdWords, Google has "Insert[ed] an unconscionable provision in the contract." Also, by subject advertisers to making ad and landing-page changes to obtain, possibly, lower per-click rates, when Google is comparing ads and landing-page performances of wholly different types of businesses (such as sale of live elephants v. sale of books on elephants), Google has "Insert[ed] an unconscionable provision in the contract." Google is fully aware that a seller of live elephants cannot sell as many elephants as a book seller can sell books on elephants, and as a result that the efforts to change ads and landing pages put many advertisers, including the Plaintiff [and other disfavored advertisers], through needless and useless expense chasing an objective (the same clickthrough rate for different types of business wanting to use the same keyword) that Google knows cannot be obtained.

(20) Through Google's intervention in the bidding process to require the Plaintiff [and other disfavored advertisers] to bid amounts determined by Google, Google is "advertising that a product is being offered at a specific price plus a specific percentage of that price unless (1) the total price is set forth in the advertisement..." This is so because Google is advertising that an AdWords advertiser with the best landing page and ad will be able to obtain the lowest per-click price for a given keyword. Yes, this is not true because the best ad and landing page for the sale of live elephants will not be able to outsell the best ad and landing page for a book on elephants.

**As my second demand** [drawn from ¶ 248 of my proposed amended complaint], I hereby demand that Google provide me with reasonable, non-discriminatory use of Google's search engine and related AdWords advertising system (collectively, the "Essential Facility") for the purchase of keyword targeted ads by me, at non-discriminatory prices fixed by auction (and not by Google) as well as the use of the Essential Facility (including Google's advertiser database) by me, as an owner of various active websites (and additional websites under active development), to sell and place keyword-targeted ads by third-party advertisers on my websites for visitors conducting website or Internet searches from my websites. I want to have the same type of AdWords "sponsored-link" advertising appear on my website as Google is placing on www.myspace.com and on www.google.com, with the revenues paid to me on terms comparable to the terms provided in Google's agreement with the owners of MySpace.com. Also, I demand that Google license me to use the same patents Google licensed to the owners of MySpace.com on no less favorable terms.

Very truly yours,



Carl E. Person

cc:

David H. Kramer, Esq.  
Wilson Sonsini Goodrich & Rosati  
650 Page Mill Road  
Palo Alto CA 94304-9300

1 CARL E. PERSON, Plaintiff, *Pro Se*  
2 325 W. 45<sup>th</sup> Street – Suite 201  
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6 carlpers@ix.netcom.com

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

10 CARL E. PERSON, )  
11 )  
12 Plaintiff, )  
13 )  
14 v. )  
15 )  
16 GOOGLE INC., )  
17 )  
18 Defendant. )

CASE NO.: C 06-7297 JF (RS)  
**CERTIFICATE OF SERVICE  
VIA MAIL AND EMAIL**

19 I, Carl E. Person, declare:

20 I am the plaintiff in this action and fully familiar with the facts stated herein, and make this  
21 declaration to certify that on April 15, 2007, I served by U.S. Postal Express for postal express  
22 delivery on

23 David H. Kramer, Esq.  
24 Wilson Sonsini Goodrich & Rosati  
25 Professional Corporation  
26 650 Page Mill Road  
27 Palo Alto CA 94304-1050

28 addressed as per above and to David H. Kramer, Esq. by email as to the following document: **2nd**  
**Amended Complaint dated April 15, 2007.**

Executed under the penalty of perjury.

Dated: April 15, 2007

  
Carl E. Person